

1 International Criminal Court
2 Trial Chamber VI - Courtroom 1
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
8 Thursday, 24 September 2015
9 (The hearing starts in open session at 9.37 a.m.)
10 THE COURT USHER: All rise.
11 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 We are in open session.
19 PRESIDING JUDGE FREMR: Now, appearances please, as usual starting with
20 Prosecution.
21 MS SAMSON: Good morning, Mr President, your Honours. The Prosecution
22 today is represented by Mr Eric Iverson, trial lawyer; Mr James Pace, assistant trial
23 lawyer; Ms Selam Yirgou, case manager; and myself, Nicole Samson, senior trial
24 lawyer.
25 PRESIDING JUDGE FREMR: Thank you.

1 Defence.

2 MR BOURGON: (Interpretation) Good morning, your Honours. Good morning
3 to everyone here in the courtroom. Representing Mr Bosco Ntaganda, who is
4 present today, we have Ms Berta Casas Rochel, one of our trainees;
5 Ms Margaux Portier, case manager; Isabelle Martineau, William St-Michel; and myself,
6 Stéphane Bourgon. Thank you, your Honour.

7 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

8 Legal Representatives of Victims.

9 MR SUPRUN: (Interpretation) Good morning, your Honours. The victims of the
10 attacks against civilians are represented by the OPCV, Anne Grabowski, associate
11 counsel, and myself, Dmytro Suprun, counsel.

12 PRESIDING JUDGE FREMR: Thank you, Mr Suprun.

13 MR ABDOU: (Interpretation) Good morning, your Honours. The former child
14 soldiers are represented by myself, Mohamed Abdou, associate counsel at the OPCV.

15 PRESIDING JUDGE FREMR: Thank you very much Mr, Abdou.

16 At the moment we don't have Mr Bahougne, but I think it's because even Mr Witness
17 is not with us, so I guess they will come together soon.

18 The reason why we would like to start without witness, and it is also the reason why
19 we are a little late, because I would like to apologise for that, otherwise we were
20 ready to enter at half past 9, but we had still some ongoing deliberations on the issue
21 of the audio that had been tendered by Prosecution.

22 And in order to decide properly, we would like maybe to get some further
23 clarification. Ms Samson, just maybe you -- a couple of or a few quick questions on
24 that issue. The first one: You said, if my recollection is right, that you would like
25 this audio would be admitted as a whole. Does it mean that you would like to admit

1 it, not only the excerpts that had been played during our session, but the whole
2 content of the audio?

3 MS SAMSON: Yes, your Honour, that's correct.

4 PRESIDING JUDGE FREMR: In this connection, may we know why you didn't
5 submit us with the transcript?

6 MS SAMSON: Yes, your Honour. Perhaps due to oversight I didn't provide the
7 transcript to the Judges because I wanted the witness to advise the Court what was on
8 the audio without itself seeing the transcripts. I can certainly provide the transcripts,
9 which you may already have access to via eCourt, using the ERNs that I provided last
10 week.

11 PRESIDING JUDGE FREMR: So now it's for 99 percent clear, even to me, but to be
12 100 percent sure, so the purpose of tendering this evidence is not just to prove that
13 witness was able to recognize voices that he understood and was familiar with this
14 kind of communication, but also as concern content, meaning all sentences and words
15 expressed during this conversation or communication?

16 MS SAMSON: Yes, your Honour, that's correct.

17 PRESIDING JUDGE FREMR: And the last issue I would like to clarify, you said that
18 the origin of this audio is -- it comes from witness, I just forgot the number, but you
19 don't intend, I understood, to call this witness. Could you maybe be more specific
20 about the origin of this audio in order to increase authenticity of that.

21 MS SAMSON: Yes, your Honour. I had prepared an email, which I haven't yet
22 sent, with further details because I recognize that the submission on Monday may not
23 have been perfectly clear.

24 The witness who provided the audio cassette and other documents, including some of
25 the photographs that we've viewed with Witness P-805 of the (Redacted), that

1 witness was interviewed by the Office of the Prosecutor in July 2005. Subsequently,
2 after Mr Ntaganda's surrender, we have been unable to resume contact with this
3 witness to locate him in order to call him as a Prosecution witness. The witness's
4 number is P-0101.

5 The email that I intend to send will provide further details that I can't give in open
6 session in relation to the identity of the witness, but he is a Lendu male who received
7 the audiotape and the photographs of the (Redacted) on 2 April 2003 from
8 another Lendu male.

9 And the Lendu male who provided him with the audio had recorded it, had
10 identified it as being an audio recording that had taken place during a UPC battle in
11 Lipri, Kobu, Bambu, Buli and Nyangarai in February 2003. This individual told
12 Witness 101 that during the fighting, the Lendu combatants had been able to take
13 control of a radio device of the UPC and could hear the conversations being
14 transmitted, which they recorded at the time.

15 Thereafter, in 2005, Witness P-101 provided the audio recording to the Office of the
16 Prosecutor and provided some of the photographs that your Honours admitted
17 through Witness P-0805. And as I said, I can supplement in the course of the email
18 that I intend to send.

19 In relation, your Honour, to the photographs that came from Witness P101, which
20 were admitted via Witness P-805, the source of the documents was not an issue
21 during the admission of those photographs. P-805 himself was not present when the
22 photographs were taken; however, he was able to authenticate the photographs
23 because he was at the site in question shortly before the photographs were taken and
24 he recognized the images and the individuals in the photographs. Thank you.

25 PRESIDING JUDGE FREMR: Thank you very much, Ms Samson, for this

1 clarification.

2 Mr Bourgon, do you want to react in anyway?

3 MR BOURGON: Indeed, Mr President, very quickly. I believe that the information
4 that was just given is information that shows why it is important to have more
5 information on the record as evidence before this audio recording can be admitted.

6 What the Prosecution intends to do with the recording is the key here.

7 The only thing I will say is the issue of reliability is an issue that goes to admissibility.

8 Evidence can only be reliable when we know where it comes from, especially if we're
9 talking about an audio recording, an audio recording of an event and that is now

10 recognized by someone who was not present during this event.

11 So for all these reasons I urge you respectfully, Mr President, to wait until the end of
12 cross-examination before rendering your decision as you had previously decided.

13 Thank you, Mr President.

14 PRESIDING JUDGE FREMR: Thank you very much, Mr Bourgon.

15 Now I think we can continue with testimony so -- no. Ms Samson you have the
16 floor.

17 MS SAMSON: A clarification on a different matter, your Honour. Mr Bahougne, I
18 believe, Rule 74 counsel for the witness, I believe he does not intend to be in the
19 courtroom today or tomorrow. That was what he had advised me on Tuesday.

20 PRESIDING JUDGE FREMR: Thank you very much.

21 Yes, now I got -- thank you very much, Ms Samson. Now I got the same
22 confirmation from the court officer. So just for the record I am repeating that
23 Mr Bahougne will not be present in the courtroom, but is available by phone for his
24 client.

25 So we have now that in the record and we can really continue with the witness.

1 So, court officer, please escort the witness. But before that we have to go to closed
2 session for that purpose, please.

3 (Closed session at 9.49 a.m.) *(Reclassified entirely in public)

4 THE COURT OFFICER: We are in closed session, Mr President.

5 PRESIDING JUDGE FREMR: Thank you.

6 (The witness enters the courtroom)

7 PRESIDING JUDGE FREMR: Good morning, Mr Witness. I hope that you got
8 some rest yesterday and that you are feeling a little bit better than on Tuesday. Is it
9 the case?

10 WITNESS: DRC-OTP-P-0901 (On former oath)

11 (The witness speaks Swahili)

12 THE WITNESS: (Interpretation) Yes, I feel fine.

13 PRESIDING JUDGE FREMR: I'm glad to hear it.

14 Today we will continue with your testimony, concretely Mr Bourgon will continue
15 with your cross-examination. So it is my obligation to remind you as usually that
16 you are still under oath and you are requested to speak the truth and nothing but the
17 truth. And please, we are very satisfied with the way, with the manner how you
18 testified before. You waited for -- you made some pauses before responding, you
19 responded clearly. So please continue in the same manner.

20 Now, Mr Bourgon you may proceed.

21 MR BOURGON: (Interpretation) Thank you, your Honour.

22 QUESTIONED BY MR BOURGON:

23 Q. Good morning, Mr Witness.

24 A. Good morning.

25 MR BOURGON: I hope that the technical equipment is working well and that you

1 can hear me, Mr President, because I think there might be a problem with the
2 microphone.

3 PRESIDING JUDGE FREMR: Maybe just a question to the interpreters and reporters,
4 is everything okay on your part?

5 THE INTERPRETER: Message from the interpreters: The French and English
6 booths can hear the Defence counsel.

7 PRESIDING JUDGE FREMR: So I got a message everything was okay, so you may
8 proceed.

9 MR BOURGON: (Interpretation) Thank you, your Honour.

10 Q. Now, Mr Witness --

11 MR BOURGON: Well, if we could go into open session first, your Honour.

12 PRESIDING JUDGE FREMR: Good point. Let's move to open session, please.

13 (Open session at 9.53 a.m.)

14 THE COURT OFFICER: We are in open session, Mr President.

15 PRESIDING JUDGE FREMR: Thank you.

16 You may proceed, Mr Bourgon.

17 MR BOURGON: (Interpretation)

18 Q. Mr Witness, I'd like to hark back to the time when a group of people was sent to
19 Kyankwanzi for military training, namely in the month of January 2001. I would put
20 it to you, Mr Witness, that at that time the aim of the people who were sent to Uganda
21 to be trained, to receive military training, was to receive such training and then come
22 back to Bunia so that they could protect their families. Would you agree with that
23 statement?

24 A. As far as I'm concerned, well, I'm really not in a purpose -- in a position, rather,
25 to know what the aim of the training was.

1 Q. You've already given testimony, sir, about the songs that were sung by the
2 various recruits at the time they were in Kyankwanzi. I think you know which song
3 I'm talking about, don't you?

4 A. I don't know. There were many songs.

5 Q. Witness, I'd like to repeat your very words, page 60 of transcript 30, lines 19 to
6 21. You said the following: You said that the recruits who were leaving Bunia on
7 their way to Kyankwanzi, all the recruits were calling out the name of Afande
8 Ntaganda, Bosco. That's what they were calling out.

9 A. Yes, there were some songs during which his name was mentioned or sung.

10 Q. I would put it to you, Witness, that the reason for singing his name is that the
11 recruits thought that Afande Bosco was the military leader who could protect them,
12 them and their families, thanks to his courage?

13 A. We were singing those songs to say that he was our leader.

14 Q. I would put it to you, sir, that the song really stressed the courage of
15 Bosco Ntaganda and his ability to protect your families?

16 A. I said that we were singing these songs and that he was our leader, and that if
17 the enemy saw him, they would tremble. That was the content or the back story, if
18 you will, of that song.

19 Q. Indeed. This is the very point of my next question. Can you confirm that
20 already, even at that time, Afande Bosco Ntaganda had a reputation of being a
21 courageous military leader who was feared by his enemies?

22 A. He was our leader and he was the one who we thought of as our chief, our
23 leader. I know that he was our leader, and that is why we were singing that he was
24 our Afande, and if the enemy saw him, they would tremble. That is what we were
25 singing about him.

1 Q. Thank you, Mr Witness. Now let me move on to the time when you were in
2 (Redacted). You've already given testimony and you said --

3 PRESIDING JUDGE FREMR: Ms Samson.

4 MS SAMSON: Thank you, Mr President. I'm just noting that much of this was
5 elicited in private session previously, and it may be best to continue that.

6 PRESIDING JUDGE FREMR: Mr Bourgon, maybe this question is on you. Do you
7 think that you will try to elicit facts that could reveal identity of Mr Witness or you
8 will just stay in a general, at the general level, it depends?

9 MR BOURGON: (Interpretation) Up until that question, I think I've been fairly
10 general, because according to the testimony more than 900 people went to
11 Kyankwanzi for training. But now indeed I would like to go into private session for
12 these next questions. Thank you.

13 PRESIDING JUDGE FREMR: Otherwise I would agree with you that until now it
14 was at a general level.

15 So now we will have to move to private session. Court officer, please.

16 (Private session at 10.00 a.m.) *(Reclassified partially in public)

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

18 PRESIDING JUDGE FREMR: Thank you.

19 Mr Bourgon, you may proceed.

20 MR BOURGON: (Interpretation) Thank you, your Honour.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

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21 (Redacted)

22 PRESIDING JUDGE FREMR: Ms Samson, please.

23 MS SAMSON: Your Honour, I object on the basis of the relevance of the questions to
24 the charges.

25 PRESIDING JUDGE FREMR: Objection sustained.

1 MR BOURGON: (Interpretation) May I react, your Honour?

2 PRESIDING JUDGE FREMR: Please do.

3 MR BOURGON: (Speaks English) Mr President, I'm presently conducting
4 cross-examination. I believe that this question has a direct bearing on the credibility
5 of the witness and that I should be allowed to ask the question.

6 (Trial Chamber confers)

7 PRESIDING JUDGE FREMR: After silent deliberation, we're ready to maybe
8 reconsider, but first of all we would like to know how this question relates to the
9 credibility of witness.

10 MR BOURGON: (Interpretation) Thank you, your Honour.

11 (Speaks English) I prefer to move on to another question in order to avoid wasting
12 the time of the Court, Mr President.

13 PRESIDING JUDGE FREMR: Appreciate it. You may proceed, Mr Bourgon.

14 MR BOURGON: (Interpretation) Thank you, your Honour.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted) what I'm interested in is the new political

20 position in January 2002 in Bunia. You have told us that the political situation was
21 not a good one. So in my next questions I would like to explore with you the
22 political situation at the time.

23 I would like to ask you, first of all, if you can confirm that the RCD-K/ML was still in
24 place? Do you agree with that statement?

25 A. (Redacted) in Bunia and the RCD-K/ML was there and the APC the army that

1 functioned there. (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. So what I'm interested in, as I said a moment ago, is the political situation. Can
5 you confirm that at that time Thomas Lubanga was minister of defence within the
6 RCD/K-ML? Do you agree with that?

7 A. Yes, indeed, he was the minister of defence.

8 Q. And the Thomas Lubanga that we're referring to is the same who was a member
9 of the civilian committee and who negotiated the departure of the Chui mobile forces
10 with Uganda; is that correct?

11 A. Well, those who contributed to the departure of the Chui mobile force, I don't
12 know them, but I know that there were negotiations with the Ugandan authorities.
13 Who exactly negotiated? I don't know because I was not amongst them.

14 Q. Another matter of a political nature. You know that at that time
15 Wamba Dia Wamba was no longer in position because Mbusa had taken over control
16 of the RCD/K-ML. Are you aware of that?

17 A. (Redacted), Wamba Dia Wamba was still the president of
18 the RCD-K/ML. (Redacted) we learned that
19 Wamba Dia Wamba was no longer president and it was now Mbusa Nyamwisi who
20 was the president.

21 Q. And if I said to you that Mbusa carried out actions in order to get rid of
22 Wamba Dia Wamba, do you know that?

23 A. I think Wamba Dia Wamba did not leave voluntarily. There was fighting.
24 But I wasn't on site. I know that there was fighting, and Wamba Dia Wamba left,
25 and Mbusa remained on site.

1 Q. Let me go back to January of 2002. If I were to say that the tensions between
2 the civilian population and the RCD-K/ML were even fiercer at that point in time and
3 that the situation was worse than (Redacted) a year earlier, would you agree
4 with that statement?

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 (Redacted)

18 (Redacted)

19 (Redacted) In other words, there was tension between the APC and the Hema
20 population. (Redacted), Claude Kiza and the APC commanders, they
21 cooperated with the Hema population.

22 THE INTERPRETER: Your Honour, would you be so kind as to ask the witness to
23 slow town when he gives his answers. This is a message from the Swahili booth.

24 PRESIDING JUDGE FREMR: Witness, message from Swahili interpreters' booth,
25 please kindly slow down a bit, okay? Otherwise we appreciate that you provide us

1 with such a narrative, but slightly slow down, please. Thank you.

2 You may proceed, Mr Bourgon.

3 MR BOURGON: (Interpretation) Thank you, your Honour.

4 (Redacted)

5 Can you confirm that the PPU is the Presidential Protection Unit; is that correct?

6 A. The PPU, which was led by Claude Kiza, was the -- was Mbusa's unit in Bunia.

7 Q. (Redacted) in January 2002 in Bunia, (Redacted)

8 (Redacted), and if I were to put to you that at that time you

9 knew that the problems within the APC between the officers of the various ethnic

10 groups had not been resolved and, in fact, these tensions had been -- had become

11 more serious, would you agree with that?

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 I don't know whether there had been discrimination on the part of the Hema

18 authorities within the APC. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. Thank you. One last question regarding the situation in January of 2002. Are

23 you able to confirm, thanks to the conversations you had with your comrades in

24 training as well as the officers that you were with, (Redacted), that in

25 January 2002 there were still attacks being carried out by the APC and by Lendu

1 soldiers against non-Lendus, in particular the Hema? Can you confirm that?

2 A. Well, for example, where? I don't remember.

3 Q. Well, I'll try to make my question more precise. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Did you hear at that time, hear that there had been attacks carried out by the APC

8 with Lendu combatants against the civilian population?

9 A. I don't know.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. Thank you, Witness. I'd like to refer now to your statement, the statement you

22 gave to the investigators of the OTP, and the document I'm referring to is

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 Next question: "And who were you fighting against exactly?"

3 "We -- us, rather, the APC against the Lendu combatants."

4 Can you confirm that statement that you made to the investigators at that time?

5 A. I don't see any difference between what you've just read and what I've just said
6 here in the courtroom.

7 Q. I'm merely asking you to confirm, yes or no, whether this is your -- whether you
8 stand by this statement?

9 A. Well, what you've read is what I declared, yes.

10 Q. Thank you, Witness. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted) Is that your testimony?

14 A. Yes, that's what I said.

15 (Redacted)

16 (Redacted)

17 (Redacted)

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Trial Hearing

(Private Session)

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Trial Hearing

(Private Session)

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13 (Redacted) can you confirm that at that time

14 Mongbwalu was inhabited by people from many ethnic groups, including the Nyalis,

15 the Nandes, the Alurs, and the majority were the Hemas? Can you confirm that?

16 A. Yes, at that time there were many ethnic groups living in Mongbwalu.

17 PRESIDING JUDGE FREMR: Ms Samson, please.

18 MS SAMSON: Yes. Your Honour, I just wanted to check. I think the transcript

19 may have an error in it on page 21, line 24. (Redacted)

20 (Redacted)

21 (Redacted)

22 PRESIDING JUDGE FREMR: Mr Witness, have you heard Ms Samson now?

23 THE WITNESS: (Interpretation) (Redacted)

24 PRESIDING JUDGE FREMR: So point clarified. Thank you very much.

25 Mr Bourgon, you may proceed.

1 MR BOURGON: (Interpretation) I would like to thank my learned colleague for
2 this point, which is very important.

3 Q. Mr Witness, do you want me to repeat the question that you -- I asked you?
4 I want to see whether you answered it. I have a follow-up question, I'm referring
5 here to page 20, line 22 of the French transcript. You said there were many ethnic
6 groups living in Mongbwalu at that time. I would like to confirm that the majority
7 ethnic group in Mongbwalu at that time were the Hema?

8 A. I was not part of the administration of the Mongbwalu, (Redacted)
9 but I know that there were many Hema traders in Mongbwalu. I do not know which
10 was the majority ethnic group, but I know that there were many Hema traders in
11 Mongbwalu.

12 Q. And can you confirm, Mr Witness, that traditionally Mongbwalu was inhabited
13 by Hema and there are many Hema businessmen or traders; is that correct?

14 A. I'm not in a position to confirm that to you because I do not know. All I know
15 is that there were Hema traders in Mongbwalu. Regarding population statistics, I
16 cannot tell you which was the majority ethnic group. All I know is that there was a
17 large number of Hema traders in Mongbwalu.

18 PRESIDING JUDGE FREMR: If I may intervene, Mr Witness, I think that the core of
19 the question was, at least in English translation in word "traditionally," which it
20 means whether you said that according to you, there were many Hema traders.
21 But the question probably would like to find out whether it was just something new
22 or whether it was the same in the past, you know, that the Hema traders were many
23 in -- as far as you remember.

24 THE WITNESS: (Interpretation) It had been that way for a long time. (Redacted)
25 (Redacted)

1 PRESIDING JUDGE FREMR: Thank you very much, witness.

2 Mr Bourgon, you may proceed.

3 MR BOURGON: (Interpretation)

4 Q. Mr Witness, can you confirm that the Hema are not only the traders, but the
5 inhabitants of the Hema ethnic group and others were chased out of Mongbwalu in
6 early 2001 by the APC and Lendu combatants? Can you confirm that?

7 A. I know that in 2002, (Redacted), that is if memory serves me
8 correctly, the Hema traders started leaving Mongbwalu. Some of them took flights,
9 there was a flight from Mongbwalu to Bunia. Others went to Ariwara. I do not
10 know whether they were chased out by the APC. I do not know the circumstances
11 under which they left. All I know is that they left Mongbwalu.

12 Q. Thank you for that clarification. I was mistaken. I should have said 2002,
13 not 2001. I very much appreciate your clarification, Mr Witness.
14 You have said that you do not know under which circumstances they were chased
15 out -- whether they were chased out by the APC. Now, were they compelled to
16 leave, or did they leave voluntarily?

17 A. I cannot tell you whether they were forced to leave or not. I simply know that
18 they left because they were afraid.

19 Q. Let me just ask for a clarification here. If you say that the APC and the Lendu
20 combatants had nothing to do with the departure of Hema traders from
21 Mongbwalu -- in fact, is that what you're saying? Is that your testimony here today?

22 A. No one put that question to me. And even if they had asked me that question,
23 I believe that I wouldn't have had the right or correct answer for you.

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

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7 (Redacted)

8 Q. Can you tell us which was the armed wing of the National RCD?

9 A. I do not know.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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Page 24 redacted– Private session.

1 MR BOURGON: Your Honour, I believe this is the time for the break.

2 PRESIDING JUDGE FREMR: You are right, Mr Bourgon. And I thank you for

3 keeping our time schedule.

4 So we will break now and we will reconvene at half past 11. Court is adjourned.

5 THE COURT USHER: All rise.

6 (Recess taken at 11.01 a.m.)

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

8 THE COURT USHER: All rise.

9 Please be seated.

10 PRESIDING JUDGE FREMR: So we will continue with cross-examination of the

11 witness by the Defence. Just one remark, Mr Bourgon. We were told that you

12 asked for an annotated version of a map produced by the witness. It was other, you

13 know, in the last-minute request because this map has been already archived. But

14 I think our court officers are working on that and you will be provided with that soon,

15 so just as regards that.

16 Now you may continue in cross-examination. And important question: Do you

17 want to proceed in private or closed session -- private or open session, sorry?

18 MR BOURGON: (Interpretation) Thank you.

19 (Speaks English) I realise that I could have spent a portion of my last questions in

20 public session, and I will be more vigilant in the future. The questions that I'm about

21 to ask now require still private session.

22 PRESIDING JUDGE FREMR: Maybe for the sake of interest of public, do you have

23 any estimation of how much time you will remain in public or is there any chance

24 that in the close future you will back to open session?

25 MR BOURGON: I believe, Mr President, that I can go for a very short time in private

1 session and to come back into public session thereafter.

2 PRESIDING JUDGE FREMR: Thank you very much, Mr Bourgon.

3 So now we have to move into private session, please, court officer.

4 (Private session at 11.36 a.m.) *(Reclassified partially in public)

5 THE COURT OFFICER: We are in private session, Mr President.

6 PRESIDING JUDGE FREMR: Thank you.

7 Mr Bourgon, you may proceed.

8 MR BOURGON: (Interpretation) Thank you, your Honour.

9 I'd like to thank the Court and the court officer in particular for the exhibit that we
10 have asked for. I thought that it had already been placed in the database. Thank
11 you very much.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 MR BOURGON: (Interpretation) Your Honour, could we go into open session
2 now?

3 PRESIDING JUDGE FREMR: Exactly. I'm just confirming what Mr Bourgon has
4 said.

5 So now let's move into open session.

6 (Open session at 11.38 a.m.)

7 THE COURT OFFICER: We are in open session, Mr President.

8 PRESIDING JUDGE FREMR: Thank you.

9 Mr Bourgon, you may proceed.

10 MR BOURGON: (Interpretation) Thank you, your Honour.

11 Q. Witness, now before the break you answered a question about the situation
12 between Mbusa, the president, and Thomas Lubanga, the defence minister. You said
13 that the situation was not conducive, and you added that Mbusa was of the opinion
14 that Lubanga was placing his trusted men in key positions.

15 My question is thus as follows: On the basis of (Redacted)

16 (Redacted), can you confirm

17 that in actual fact Mbusa did not want Hema officers who might block the APC from
18 supporting the Lendu combatants in their attacks on the civilian population? Can
19 you confirm that?

20 A. I didn't say that Mbusa agreed that Thomas Lubanga would appoint his
21 right-hand men in the document he published. I did not say that.

22 Q. Let me be more specific. I would put it to you that you (Redacted)
23 (Redacted) that

24 the real reason for Mbusa refusing the appointments of Thomas Lubanga, the reason
25 was that he wanted to keep or make sure that Hema officers who could block the

1 APC in supporting the Lendu combatants during their attacks on the civilian
2 population. Can you confirm that?

3 A. I can't confirm that. However, I do know that Mbusa was not in agreement
4 with Lubanga about these appointments of officers. The reason is that in his opinion
5 Lubanga allegedly placed his right-hand men in key positions.

6 When we got there I had not taken part in the meetings or the discussions that had
7 been held amongst them, the meeting between Kisembo, Bosco, Lubanga. When
8 they were talking, I did not take part in their meeting at that time.

9 Q. Thank you, Mr Witness. Now, the group that used to meet or, well, at two
10 places, at Thomas Lubanga's residence and at another residence close by, how many
11 people were in that group at that time?

12 PRESIDING JUDGE FREMR: Just for the record, Mr Witness rose his hand in order
13 to indicate that this response could reveal his identity. It means that we now will
14 have to return back into private session if Mr Bourgon insists on this question, which
15 probably is the case.

16 MR BOURGON: (Interpretation) I must maintain that question, your Honour.

17 PRESIDING JUDGE FREMR: Well, then we have to move into private session,
18 please.

19 (Private session at 11.43 a.m.) *(Reclassified partially in public)

20 THE COURT OFFICER: We are in private session, Mr President.

21 PRESIDING JUDGE FREMR: Thank you.

22 (Redacted)

23 (Redacted)

24 (Redacted)

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Trial Hearing

(Private Session)

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Trial Hearing

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22 MR BOURGON: (Interpretation) Your Honour, I will try to go into open session
23 now.

24 PRESIDING JUDGE FREMR: Court officer, let's move to open session please.

25 (Open session at 11.52 a.m.)

1 THE COURT OFFICER: We are in open session, Mr President.

2 PRESIDING JUDGE FREMR: Thank you.

3 Mr Bourgon, you may proceed.

4 MR BOURGON: (Interpretation) Thank you, Mr President.

5 Q. Witness, can you confirm that we can use the word "ultimatum", the group had
6 been given an ultimatum to set down their weapons. And can you confirm that this
7 ultimatum was refused? Was that what happened?

8 A. The AEO Yango was working with Claude. He was a Hema person. Claude
9 had sent him to the residence where Kisémbó was so that he could tell him that in the
10 afternoon they were supposed to set down their arms, and if they didn't, they would
11 be attacked. And Kisémbó answered saying that he was not going to obey that
12 order.

13 Q. And it was after that conversation that Claude was shot, which what provoked
14 the intense anger of Lompondo; is that not so?

15 A. Yes.

16 Q. And Lompondo's anger gave rise to a conflict. Lompondo's men attacked the
17 group that was at the residence of Thomas Lubanga; is that what happened?

18 A. After Claude died, the soldiers following Claude's orders tried to get his body,
19 and to do that they had to attack. That afternoon they attacked two or three times.
20 And at 7 p.m. they were able to get to the place where the body laid and they took
21 that body away with them.

22 Q. Can you confirm, Mr Witness, that the fighting that was held that day, in
23 particular the three attacks you just mentioned -- in actual fact, the fight was unfair
24 because, you see, Lompondo's men, they definitely had the upper hand. They had
25 far more forces. It was quite an uneven fight, wouldn't you say?

1 A. Well, the numbers of men on each side, Claude versus the escort group, yes, you
2 are right, the number was not equal.

3 Q. I'll try to put my question more simply. Were there -- were Claude's men more
4 numerous than the other group?

5 A. Claude's men were many in number because he had gone to get reinforcements
6 once we got to Bunia. The reinforcements he obtained from Beni.

7 Q. Can you confirm that without the intervention of the Ugandans to end the
8 conflict on that day, it would have been quite likely that the people in Thomas
9 Lubanga's residence would have been beaten and even killed?

10 A. The Ugandans arrived in the morning, not in the afternoon, if I recall correctly.
11 They arrived in the morning.

12 Q. Can you confirm that it was the Ugandans who ended the clashes between
13 Claude's soldiers and the people who were at Thomas Lubanga's residence?

14 A. After Claude died that afternoon, there were clashes. And at night, at about 7
15 in the evening, they were able to get his corpse. And then the people who were at
16 the residence attacked once again. And that is when the Ugandans arrived later, and
17 they took us to the headquarters to disarm the soldiers before the MONUC
18 representatives. That was the next morning.

19 Q. Can you confirm, Mr Witness, that after being disarmed by the Ugandans, as
20 you said, in front of MONUC representatives, in actual fact, after that point in time,
21 the town was divided, at least from a military point of view, between two parties; one
22 part where the military men with Thomas Lubanga and Kisembo, and then the other
23 part with Lompondo's men? Can you confirm that that was the case?

24 A. After the disarmament, there was a negotiating meeting in Uganda between
25 Thomas Lubanga's group and the APC group who had come from Beni. That was in

1 Kasese in Uganda. The outcome of the negotiations was that Thomas Lubanga's
2 men had to go back to Thomas Lubanga's residence, and the others had to go back to
3 where they had come from, and thus the town was controlled by Lompondo's men.
4 And north of the town, towards the large market, that area was controlled by Thomas
5 Lubanga's men.

6 Q. Can you confirm that during that period of time the civilian population could
7 move about freely and they go back and forth between the two areas, it was only the
8 military people who were divided into these two areas? Was that so?

9 A. Because of that event, the Hema, who live near the zone of Lompondo's men,
10 left and they went to the north of the city. And those who were not in security -- in a
11 secure situation because it was occupied by Lubanga's men left that zone and went to
12 the area where Lompondo's men were. And that's how the city was divided at the
13 time.

14 Q. Thank you for that explanation. Can you confirm that the civilian population,
15 even though there had been certain moves, that people could go from one part of
16 town to the other; is that correct?

17 A. I didn't understand your question, I'm afraid.

18 Q. Well, let me rephrase it. You have just answered that following the
19 disarmament and following the negotiations, some Hema people moved over to
20 Lompondo's -- from Lompondo's side to Lubanga's side, and others moved from
21 Thomas Lubanga's side to Lompondo's side. So I would put it to you that even
22 though people did move from one area to another, the truth is civilians could
23 continue living normally and go from one side to the other in spite of the ongoing
24 conflict.

25 A. No. It was civilians could only move around in a limited way. Everybody

1 could move around in their own zone, that is where their own -- where the forces
2 were favourable to them.

3 Q. From that point in time, within the group on Lubanga and Kisembo's side, can
4 you confirm that at that point in time that group was trying to protect itself and in
5 order to do that tried to reorganise the Chui mobile force troops that had come back
6 from training in Uganda? Did you witness that?

7 A. I'm afraid I didn't understand your question. Could you repeat it, please?

8 Q. Yes, of course. As from the point in time where the city was divided in two,
9 I'm referring to the period up until when Lompondo was driven out, you already
10 mentioned this, so during this period I'm suggesting that on the one hand you had
11 Thomas Lubanga and his men, they were on the defensive. So my first question is
12 would you agree with that statement?

13 A. The group that belonged with Thomas Lubanga was not in an offensive position,
14 they were in a defensive position.

15 Q. Well, I'll have additional questions about this later on, but during the period
16 that we're referring to when Afande Bosco Ntaganda went on his way to Mandro to
17 train soldiers to become a member of that group, is that correct, it was during this
18 time?

19 A. He didn't leave Mandro. He went to Mandro.

20 Q. Perhaps my question wasn't clear. I indeed meant to say he went to Mandro,
21 where he was in charge of training of those who were going to join Thomas Lubanga's
22 movement; is that correct?

23 A. Yes, he was in charge of training in Mandro. That, I know.

24 Q. And Kisembo, he stayed in Bunia, where he was involved with the organisation
25 of the movement?

1 A. I know that he was there. When there was an attack he could order the
2 soldiers who were there. But as regards the organisation of the armed groups, I can't
3 confirm that.

4 Q. During that period --

5 MR BOURGON: (Interpretation) And, your Honour, could we go into private
6 session, please.

7 PRESIDING JUDGE FREMR: All right. Court officer, please move into private
8 session now.

9 (Private session at 12.07 p.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: We are in private session, Mr President.

11 PRESIDING JUDGE FREMR: Thank you.

12 Mr Bourgon, you have the floor.

13 MR BOURGON: (Interpretation) Thank you, your Honour.

14 (Redacted)

15 (Redacted)

16 (Redacted)

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Trial Hearing

(Private Session)

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17 MR BOURGON: (Interpretation) We can now go back into open session,

18 your Honour.

19 PRESIDING JUDGE FREMR: Court officer, please, let's return back into open

20 session.

21 (Open session at 12.12 p.m.)

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

23 PRESIDING JUDGE FREMR: Thank you.

24 Mr Bourgon, you may proceed.

25 MR BOURGON: (Interpretation) Thank you, your Honour.

1 Q. Witness, are you able to confirm that during that period, the same period I've
2 been talking about, that is between the division of the town and the fall of Lompondo,
3 the training of the -- the training camp of Lubanga in Mandro was attacked by
4 Lompondo's forces. Can you confirm that?

5 A. Yes, they were attacked once.

6 Q. And that attack on the part of Lompondo's group -- in fact, they destroyed
7 everything that was there in the training camp and they had to move; is that correct?

8 A. I don't know, but I do know that when that training camp was attacked the
9 recruits were moved because they were not yet able to defend themselves, and even
10 the soldiers who were there were not able to defend them. I know that they were
11 moved.

12 Q. Can you confirm that the training resumed in the region of Mandro but in
13 another location; is that correct?

14 A. The training continued, but I don't know when it started, and I don't know
15 when it stopped. I know where the training camp was. I know what the name was.

16 Q. What was the name?

17 A. Saikpa.

18 Q. Now, was this the location before or after the attack?

19 A. I don't know. All I know is that those recruits were trained there.

20 PRESIDING JUDGE FREMR: Sorry to intervene, Mr Witness. Could you just spell
21 for the record the name of the location, just to assure myself that we have proper
22 wording.

23 THE WITNESS: (Interpretation) S-A-I-K-P-A.

24 PRESIDING JUDGE FREMR: Thank you very much, Mr Witness.

25 Mr Bourgon, you may proceed.

1 MR BOURGON: (Interpretation) Thank you, your Honour.

2 Q. The name that you've just mentioned, how far is that place from Mandro?

3 A. I don't know exactly.

4 Q. Can you give us an estimate? Can you give us a number, a distance on the
5 basis of your knowledge?

6 A. It's a bit complicated. I might be mistaken because there is mountains and
7 valleys that you have to go through to get there.

8 Q. Well, it was a place that you went to according to your testimony when you
9 went to Mandro; is that correct?

10 A. I really can't tell you whether it's that same place or not, but that's where I saw
11 the recruits. But I don't know whether it was there that they were trained or
12 whether we met them there because they had come for a different reason to that
13 place.

14 Q. A moment ago I said that in parallel with the attack on the part of Lompondo's
15 group on the training camp, something else occurred. Can you confirm that during
16 that same attack Lompondo's group attacked the centre of the Mandro collectivity
17 where Afande Bosco lived? Can you confirm that?

18 A. When they said they were going to attack Mandro, it wasn't just Mandro.
19 I don't see the difference between this Mandro and the other Mandro. It's one place
20 called Mandro. We said that the APC had attacked Mandro.

21 Q. Can you confirm that the building where the persons in charge of the Mandro
22 collectivity, where Bosco Ntaganda lived, was completely burned down during that
23 attack? Can you confirm that?

24 A. I don't know because I didn't go there. And even after the attack I didn't go
25 there. But it was said that the APC attacked Mandro.

1 Q. You probably remember, Witness, the member of the group with an arm that
2 had been cut off a dead body saying "Here's Bosco's arm. I killed him." Do you
3 remember that?

4 A. I don't remember that. And I know nothing about that because I never heard
5 anyone talk about that.

6 Q. Thank you, Witness.

7 THE INTERPRETER: Correction from the interpreter: It was a member of
8 Lompondo's group that walked around Bunia.

9 MR BOURGON: (Interpretation)

10 Q. I would like to confirm that during the fall of Bunia, it was the Ugandans that
11 attacked Lompondo; is that correct?

12 A. Yes, that's what happened and everyone knew that.

13 Q. In your deposition you stated that there was a group that came from Mandro
14 that was about to attack before the Ugandans attacked. That's what you said, isn't it?

15 A. Yes, that's correct.

16 Q. If I were to put to you, Witness, that the group that came from Mandro wasn't
17 going to Bunia, but was going to Mudzipela, where the Lendu combatants had
18 committed a massacre upon the Hema civilian population, and that's where they were
19 going to Afande Bosco Ntaganda, do you remember that?

20 A. I don't remember. What I do remember is that those soldiers intended to
21 attack Lompondo's residence. And when the Ugandan troops learned about that,
22 they spoke with our commanders, our chiefs, and they asked them not to attack and
23 to leave it to them to do so so that they could attack Lompondo and bring them down.

24 Q. Witness, who provided that information to you?

25 A. (Redacted), and there was no way I would not know

1 what the plan was.

2 Q. Witness, let me come back to Mudzipela for a moment. Can you confirm that
3 the day when the Ugandans drove out Lompondo, that day the Lendu combatants,
4 amongst others, attacked Mudzipela where there were numerous victims? Can you
5 confirm that, numerous people killed?

6 A. I don't know whether the day they attacked Lompondo was the same day when
7 Mudzipela was attacked. I'm not certain of that.

8 Q. But you do have a clear memory of the massacre that occurred and the
9 numerous people who died in Mudzipela; is that correct?

10 A. The attack on Mudzipela occurred on a Sunday. I don't remember the date nor
11 the month. There was one of Lompondo's chauffeurs, his name was Brown, who left
12 with the vehicle he was driving toward -- toward Bunia and, according to rumour, it
13 was in that vehicle that they had hidden weapons, and it was with those weapons
14 that they killed many people in Mudzipela. That's what people were saying, but I'm
15 not certain that that occurred the same day as when Lompondo was driven out of
16 Bunia by the Ugandan troops. The vehicle was going toward Lepe (phon) on the
17 way to Bunia.

18 Q. Was it within the group of Thomas Lubanga, who was present, was it then that
19 it was explained to you what had happened and how it happened?

20 A. The attack on Mudzipela, all I know about it was that it took place on a Sunday.
21 And I have just told you the only version I know regarding the attack on Mudzipela.
22 The people who were killed that day, in fact, there's a mass grave near the cathedral
23 in Mudzipela where those people were buried.

24 Q. Thank you for that additional information. But my question was merely the
25 following: You used the word "rumour", and I'm suggesting that it was the men in

1 Thomas Lubanga and Kisembo's group who gave you that information; unless you
2 tell me, "No, they never gave me that information."

3 A. I didn't say "rumour", I said that what I'm telling you is the version that I'm
4 familiar with. If you say to me that it was Kisembo or Thomas Lubanga's men who
5 told me -- which soldiers are you talking about? It was the people in Mudzipela
6 who talked about this incident.

7 Q. Thank you, Witness. I'm going to go on to another topic. And we're moving
8 along toward along Mongbwalu and the preparations of the attack on Mongbwalu.
9 But before that I'd like to deal with another theme, as I explained yesterday at the
10 beginning of my cross-examination.

11 Witness, I think can we say that (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted).

15 PRESIDING JUDGE FREMR: (Redacted)

16 (Redacted) move to the regime of

17 private session. I guess you will just follow this direction of questioning.

18 (Private session at 12.30 p.m.) *(Reclassified partially in public)

19 THE COURT OFFICER: We are in private session, Mr President.

20 (Redacted)

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Trial Hearing

(Private Session)

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10 Q. According to your traditions, Mr Witness, at what age does one stop being a
11 child?

12 A. In our tradition? Well, I cannot say. Maybe in our country.

13 Q. Based on your experience, based on your life experience, at what age does one
14 stop being a child?

15 A. When someone is older than 18.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. There is no problem with that, Mr Witness. But it is important for the Court to
22 understand where you come from and the specificities of your country.

23 Now, still according to these traditions, at what age can you be considered to no
24 longer be young, that is where you come from?

25 A. I do not know. I'm not in a position to answer that question. Maybe if you

1 ask that question to someone who already has a child of a certain age, he may tell you
2 that at this age he was a child and then he became a young person at such-and-such
3 an age. That is all I can tell you.

4 Q. Now, amongst yourselves, that is when you converse amongst yourselves,
5 when someone is 18 years old, is that person still a young person?

6 A. If someone who is 25 years old is talking with someone who is 30 years old, then
7 the one who is 25 years is younger than the 30 year old.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. In the course of your testimony, Mr Witness, questions were put to you, and I'm
15 referring to Rwampara and Mandro, the word "recruit" was used. In order to avoid
16 all sorts of confusion, I want to confirm that when you use the word "recruit" you
17 were referring to all the recruits who were in Mandro and Rwampara and even in
18 Kyankwanzi; is that correct?

19 A. A recruit is simply a recruit.

20 Q. To clarify, all that you saw in Mandro were recruits from Mandro; is that
21 correct?

22 A. What do you mean by that?

23 Q. You testified that you went to Mandro and there you saw people undergoing
24 training. When you mention the word "recruits", are you referring to those people?

25 A. The term "recruit" is not a new word. It is a transitional stage between a

1 civilian and a soldier. During this period you are referred to as "recruit". I heard
2 that word one day and I have continued hearing it mentioned.

3 Q. Let me be even clearer by repeating a question that was put to you. And I'm
4 referring here to transcript T-29, page 53 of the French transcript, line 26. The
5 question was as follows: "What was the approximate age of the recruits that you
6 saw on that day?"

7 Your answer: "All the recruits who were trained in the FPLC had different ages,
8 whether it was in Rwampara or in Buli. Some were 15 years old and even more than
9 15 years old. There were even some who were 40 years old. There were also
10 recruits who were less than 15 years old."

11 I simply want you to confirm that when you were answering the question, you were
12 referring to all the recruits that you saw on that day; is that correct?

13 A. I simply answered the question that was put to me. And I answered on the
14 basis of what I witnessed.

15 Q. In the course of your testimony you referred to a certain (Redacted) and I'm
16 trying to make an effort to pronounce it correctly here. You mentioned someone
17 called (Redacted)

18 A. Yes.

19 Q. You testified that you did not think he was 15 years old. For my part, I have
20 information to the effect that (Redacted) was not less than 15 years old, that is
21 according to people that I have talked to. Would that surprise you?

22 A. Within the FPLC maybe there were -- there were several (Redacted). How
23 many (Redacted) were there?

24 Q. Mr Witness, I'm referring to the same (Redacted) that you talked about. In
25 your testimony you stated that you did not think that he was 15 years old. And I'm

1 telling you that I talked to some people and they told me that he was obviously not
2 less than 15 years old. Does that surprise you? Is that possible?

3 A. The particular person that I knew -- well, I can say I'm not mistaken about that.
4 There were several (Redacted) within the FPLC. The person who talked to you may
5 have been talking about someone else, but the one I mentioned did not -- was not up
6 to 15 years old.

7 Q. You said you did not think he was 15 years old. Do you mean that you
8 thought he was less than 15 years old?

9 PRESIDING JUDGE FREMR: Ms Samson first.

10 MS SAMSON: Thank you, Mr President.

11 PRESIDING JUDGE FREMR: Ms Samson first and then I will also intervene.

12 Ms Samson now.

13 MS SAMSON: Yes, Mr President, I don't believe it is correct to characterise the
14 witness as changing his testimony.

15 PRESIDING JUDGE FREMR: Yes, I share this view. And moreover, I have a big
16 problem with your, you know, way of questioning, because you just confront witness
17 with your statement, that you talked to some people. If you really want to confront
18 him, you should come with some concrete, you know, concrete facts, not that, okay.
19 So please accommodate your next question to that.

20 MR BOURGON: (Interpretation) Thank you very much, your Honour.

21 Q. I put it to you, Mr Witness, that (Redacted) was not less than 15 years old and
22 that your approximation is incorrect. Do you agree with me?

23 PRESIDING JUDGE FREMR: Mr Witness, you don't need to respond to this,
24 because you have already been asked and you have responded clearly. So I think it
25 is just, you know, an argumentative question.

1 You may proceed, Mr Bourgon.

2 MR BOURGON: (Interpretation) Much obliged, your Honour. I simply wanted
3 to present my case to the witness. Now I will move on to another question,
4 your Honour.

5 Q. During your testimony there were two names that were mentioned, (Redacted)
6 and (Redacted). Do you remember answering questions about (Redacted)

7 A. Yes.

8 Q. According to my information, (Redacted) are one and the same person; do you
9 agree with that?

10 A. I do not agree with you.

11 Q. Can you describe to me the physical differences between (Redacted) and (Redacted)
12 so that we should know who we are referring to?

13 A. (Redacted)

14 (Redacted) And that is the
15 information that I can give you about those two people.

16 Q. How can you physically describe (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. Mr Witness, regarding (Redacted), these people were older than 15 years at that
21 time, during the time of the events; do you agree with me?

22 A. I do not agree with you because, according to what I saw, I gave you an
23 estimate based on what I observed and I believe that these two people are still alive.
24 You may have met with them or with the members of their families. I'm telling you
25 what I saw personally.

1 Q. Mr Witness, I refer to transcript T-29, the French version, page 57, lines 24 and

2 25. You answered as follows:

3 "Yes, I know (Redacted)

4 And the question was: "Can you give us his approximate age?"

5 And your answer was: "He was approximately 14 or 15 years old."

6 That is why I'm putting it to you that at the time of the events they were 15 years old.

7 I'll move on to the next question. And this is the audio recording that you listened to

8 yesterday. You do remember, don't you?

9 A. If it is the recording that was played back to me here, yes.

10 Q. Yes, it is the one that -- it is the one that you listened to and answered questions

11 about. I simply want to be sure that I correctly understood your testimony.

12 According to that testimony, you said that you were able to hear Motorola

13 conversations (Redacted)

14 That is what you said, right?

15 A. Correct.

16 Q. You confirmed that you listened to that conversation (Redacted)

17 (Redacted) is that so?

18 A. Yes.

19 Q. I'm wondering about the sound quality. When you were listening to that

20 audio, audio recording, was it better, similar, or worse, that is when you were

21 listening to that conversation, was it better, similar or worse than the recording that

22 you listened to yesterday?

23 A. What I heard at that time was a direct conversation. I was listening to each

24 person speak. But when you listen to the recordings, sometimes it made it possible

25 for me to identify something that I had already heard and I would be able to say it

1 was this person or this operation.

2 Q. This is for the edification of the Chamber. Is the quality the same as the one
3 that we heard, including the noises from the operation itself?

4 A. I believe I have already answered that question.

5 PRESIDING JUDGE FREMR: Sorry, sorry. A question from my part, Mr Witness,
6 so whether we understood you well. So may I understand then that the quality or
7 the original sound when you heard during the event itself was slightly better than the
8 audio you can hear two days before?

9 THE WITNESS: (Interpretation) (Redacted)

10 (Redacted) I could identify people clearly, and the
11 conversation, I could hear it clearly. The only difference is that there was -- there
12 were some crackles and hissing during the audio recording. But during the time of
13 the events, I could clearly identify the people and that was the same here. And those
14 I could not identify clearly at the time, it was the same that happened when I listened
15 to the recording here.

16 PRESIDING JUDGE FREMR: Thank you, Mr Witness.

17 Mr Bourgon, you may proceed.

18 MR BOURGON: (Interpretation)

19 Q. Personally, Mr Witness, I have listened to this recording several times, and I
20 have had several other people listen to it, and we have realised that in that recording
21 there are conversations from two different operations. We hear words from
22 Mongbwalu and also people speaking from Kobu. Were you able to realise that
23 when you listened to the recording?

24 PRESIDING JUDGE FREMR: Ms Samson.

25 MS SAMSON: Thank you, Mr President. I submit that counsel's personal

1 reflections or conclusions are not appropriate questions to put to the witness.

2 PRESIDING JUDGE FREMR: Mr Bourgon, maybe you should rephrase a bit your
3 question.

4 MR BOURGON: (Interpretation) Much obliged, your Honour.

5 Q. I'm putting it to you, Mr Witness, that listening to the audio recording that you
6 heard yesterday makes it possible to identify conversations, not only from Kobu but
7 also from Mongbwalu; do you agree with me?

8 A. No.

9 Q. Let me move on quickly to *KBL before the break.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted) If you read my statement you will see the same
23 thing. That was my testimony.

24 Q. I'm still in your testimony, Mr Witness, and I'm referring to T-29, page 13,
25 lines 4 and 5. (Redacted)

1 On the basis of this information, Mr Witness, I put it to you that you were not in
2 (Redacted) when the conversations in this recording happened.

3 A. I'm telling you that the operation occurred when I was in (Redacted) because (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 (Redacted)

18 And then it goes on.

19 I would put it to you, Mr Witness, on the basis of your statement, which you have had
20 a chance to look over, and you did not make any corrections to that statement, when
21 you said that you had heard that audio recording (Redacted), you did not tell the truth.

22 A. Unless -- well, if you want me to agree to that, but I said what I said according
23 to what I knew. I was in (Redacted). Salumu (Redacted)

24 (Redacted)

25 MR BOURGON: (Interpretation) Your Honour, I believe this is the time for the

1 lunch-break.

2 PRESIDING JUDGE FREMR: Thank you very much.

3 So now we will break for lunch, which means that the witness is to be escorted out of
4 the courtroom and for that purpose we need to move into closed session to escort him
5 safely.

6 (Closed session at 1.04 p.m.) *(Reclassified entirely in public)

7 THE COURT OFFICER: We are in closed session, Mr President.

8 (The witness stands down)

9 PRESIDING JUDGE FREMR: Thank you.

10 Now let's move for an absolutely short while to open session. I would like to ask

11 Mr Bourgon about your perspective. So please let's move to open session now.

12 (Open session at 1.06 p.m.)

13 THE COURT OFFICER: We are in open session, Mr President.

14 PRESIDING JUDGE FREMR: Thank you.

15 Mr Bourgon, I just got information that until now you used 5 hours and 46 minutes,

16 so as we said we would like to be -- we would like to treat both parties equally, so

17 hypothetically you still have roughly 5 hours more. But you indicated maybe you

18 will not need to utilise all this time. Could you estimate your current perspective of

19 your cross-examination as to the timing?

20 MR BOURGON: (Interpretation) Thank you, your Honour. Yes, this morning I

21 intended when I came here to conclude cross-examination today. Now, as things

22 went along -- (Speaks English) I'm sorry, I'll speak English.

23 As the session was progressing I was looking, I was anticipating your question.

24 Unfortunately, I will need more time than today's session to complete my

25 cross-examination. I will need, I believe, the first session tomorrow in order to

1 complete.

2 The issue, Mr President, I ask for your indulgence, I believe that the Court was able to
3 see that I had to repeat many questions two, three times, and I apologise. But I'd like
4 to have the Court's indulgence for a little more time tomorrow morning,
5 Mr President.

6 PRESIDING JUDGE FREMR: I think it is not about indulgence, because even if
7 now -- I have been corrected, because I got new information that, in fact, you used
8 6 hours, 46 minutes.

9 But still you are fully allowed to use both this afternoon session and tomorrow's
10 session, which would mean 3 hours roughly in total. So no problem.

11 Now we will break and we will resume again at half past 2.

12 Ms Samson would like to add something.

13 MS SAMSON: Yes, your Honour. In terms of timing, I will be making an
14 application to ask several questions in re-examination. I do not anticipate taking a
15 very long time. I will certainly be finished within 20 minutes, if your Honours grant
16 the request.

17 PRESIDING JUDGE FREMR: We will decide after the end of cross-examination.

18 But anyway we appreciate that you have informed us. Thank you.

19 And now we break.

20 THE COURT USHER: All rise.

21 (Recess taken at 1.10 p.m.)

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

23 THE COURT USHER: All rise.

24 Please be seated.

25 PRESIDING JUDGE FREMR: Good morning, everybody. We will continue in

1 cross-examination of the witness, but before doing that I would like to make one
2 announcement concerning tomorrow. Tomorrow we'll not be sitting here in this courtroom,
3 but in courtroom number 2 because of some organisational reasons, which means that it will
4 be a little bit more crowded than here. And if you would like to come in the same
5 composition of teams like is today, it would be okay, but if somebody would like to bring
6 more numbers of your teams it would maybe cause problems. So please take into account.
7 Most of you you know the space available in courtroom number 2, so please bear it in mind.
8 And now we can continue with cross-examination. Mr Bourgon, you have the floor.
9 MR BOURGON: (Interpretation) Thank you, your Honour.
10 Q. Good afternoon, Witness. Now, for the next series of questions we are going to remain
11 in open session, and I'd like to take advantage of the knowledge that you have regarding the
12 various roads between Bunia and Mongbwalu.
13 Now, you've already given testimony about this. I make reference to transcript 28,
14 page 45, line 17, to page 53, line 13. I'm quoting from the French transcript.
15 Now, madam court officer, if you could call up DRC-RDG-0001-0003.
16 Now, Witness, this is a paper document on which you recorded some information
17 when you gave testimony during examination-in-chief. I do not intend to ask you to
18 place any other markings on this particular document. It shall remain intact.
19 Now, Mr Witness, if you could look at the screen in front of you, or preferably if you
20 could look at the map right before you, now, on this particular part of the map, you
21 showed three roads between Mongbwalu and Bunia. I'd like to ask you a few
22 questions about these three roads. Could you look at the road that you identified
23 first, road number 1, the main road, mainly the one that goes by way of Nizi, Bambu,
24 Kobu, all the way to Mongbwalu. Could you please take -- now, I don't know
25 whether we have a wand or a pointer of some kind that would allow the witness to

1 indicate spots on the map or not?

2 PRESIDING JUDGE FREMR: Mr Bourgon, I think we will provide witness with a pencil, but
3 just use the opposite end, yes.

4 Mr Bourgon, you may proceed.

5 MR BOURGON: (Interpretation)

6 Q. Could you please indicate Bunia on this map?

7 A. Bunia is here.

8 Q. If you could just shift the map somewhat so we could see further up, so we could see
9 Bunia. Now, could you just follow the road that you indicated was the main road? And
10 could you give us the names of the villages that you find along the way, all the way to
11 Mongbwalu?

12 A. Here is --

13 THE INTERPRETER: Inaudible.

14 THE WITNESS: (Interpretation) Miala. Here is Soleniama. Here is *Iga Barrière. Nizi
15 is here. Bambu, Kobu and Kilo. And then you go this way to get to Mongbwalu.

16 MR BOURGON: (Interpretation)

17 Q. Thank you, Witness. I do have a few questions to ask you about this particular road.

18 You said that this was the main road between Bunia and Mongbwalu. So that the Court can
19 truly understand this road and what it's like, could you confirm that this is an unpaved road,
20 it is a dirt road with some gravel?

21 A. Yes, that is true. This is not an asphalt road, but it is the main road between Bunia and
22 Mongbwalu.

23 Q. Can you confirm that this road in some spots has only one lane?

24 A. This is a road that vehicles can travel along going in different directions, in opposite
25 directions.

1 Q. Do you agree with me that in some spots two vehicles travelling in opposite
2 directions -- correction, two vehicles, for example heavy vehicles travelling in the same
3 direction, one vehicle could not pass the other vehicle?

4 A. There are some places where the road is narrow. However, what I do know is that this
5 is the main road between Bunia and Mongbwalu.

6 Q. Thank you, Witness. All I'm trying to demonstrate so that the Court can really
7 understand what this road is like. Now, when it rains, Mr Witness, would you agree with
8 me that this road can become impossible to use?

9 A. Even now this is the road that traders use to get to Mongbwalu, even during the rainy
10 season when transportation is difficult. The traders take this road to get to Mongbwalu.

11 Q. And at the time, 2002 and 2003, would the rain be such that heavy vehicles could not
12 take this road?

13 A. Are you talking about 2002 and 2003?

14 Q. Indeed.

15 A. I don't know. After March 2002 I did not take this road. I never went that way.

16 Q. Can you confirm, Mr Witness, that sometimes heavy vehicles, for example, tanker trucks,
17 heavy vehicles do break down along this road and that can block the traffic for quite a long
18 period of time?

19 A. If a truck breaks down or if there are potholes, the drivers find another way to go, they
20 take another path to get around the obstacle. But I know that ever since I've been in that
21 region this has been the only road that is used. It is the road that is used the most often.

22 Q. Thank you, Witness. Now, the road you just showed us on the screen (Redacted)
23 (Redacted) is that correct?

24 PRESIDING JUDGE FREMR: Ms Samson. Ms Samson, please.

25 MS SAMSON: Thank you, Mr President. Perhaps we should be moving into private

1 session for this detail.

2 PRESIDING JUDGE FREMR: All right. Let's move into private session now.

3 Court officer, please.

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

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

6 PRESIDING JUDGE FREMR: Thank you.

7 Mr Bourgon, you may proceed.

8 MR BOURGON: (Interpretation) Thank you, your Honour.

9 Q. Witness, perhaps I'll put my question differently. I don't know whether you answered
10 or not. I believe not.

11 (Redacted)

12 (Redacted)

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)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. My next question is as follows: Can you confirm that this road was controlled by
5 Lendu combatants at least as of April 2002?

6 A. I had said so well before. (Redacted)

7 (Redacted) I said so. I said that. And I think that the lawyer had

8 my statement and I answered the question when I was asked.

9 Q. Thank you, Witness. Just to make things very clear. Now, I'm talking about your
10 statement. And the Judges currently do not have the statement right in front of them. I'd
11 just like to take advantage of your testimony. Now, my next question is this: After
12 Lompondo fell from power, that was in August 2002, and up until the time the road was
13 opened up again by the FPLC, there was no way to go to Mongbwalu for the FPLC people,
14 there was no way for them to use this road.

15 A. I haven't understood your question.

16 (Redacted) between

17 September 2002 and up until at least February 2003, you couldn't take this road to get to
18 Mongbwalu because it was controlled by the Lendu. Do you agree with that assertion?

19 A. The FPLC did not take that road. And once the FPLC took control of Mongbwalu, that
20 road was not taken by traders. I am talking about the road -- the Bambu-Kobu road.

21 Q. Witness, let me be a bit more specific. Now, could the FPLC take this road to travel
22 between Bunia and Mongbwalu between September 2002 and February 2003?

23 A. Well, I don't know if you've understood my answers. I've told you that the FPLC did
24 not take that road. Even the traders of Mambasa did not use that road to get to Bunia.

25 Q. Thank you, Witness. Let me be even more specific. Now, the fact that it was not used

1 is not an answer to my question whether or not it could be used.

2 Now, had the road been opened up and was it under the control of the Lendu? You

3 can say "Yes" or you can say "No."

4 PRESIDING JUDGE FREMR: Ms Samson.

5 MS SAMSON: Thank you, Mr President. This last question is a very different question

6 than the previous questions. And if my learned friend is suggesting that the witness isn't

7 answering his question, I believe in my submission that that is incorrect.

8 PRESIDING JUDGE FREMR: Mr Witness, a general remark from my part: I can

9 understand sometimes you can find questions put to you by Mr Bourgon a little bit unclear to

10 you or even maybe partially repetitive, but please try to remain patient and try to answer all

11 of them as you did until now.

12 Sometimes even, you know, it could be caused by some slight shortcomings of the

13 interpretation, because even each word could be important, that sometimes slight

14 difference in translation could lead you to the impression that the question is useless.

15 But please, it's up to us and up to also Prosecution to guard that. But at this time I

16 think now Mr Bourgon specified his last question, so please try to answer as it was

17 put to you, please.

18 So maybe, Mr Bourgon, repeat it to be clear.

19 MR BOURGON: (Interpretation) Thank you, your Honour.

20 Q. Mr Witness, now, between September 2002 up until February 2003, could the members

21 of the FPLC take this road to get from Bunia to Mongbwalu?

22 A. No.

23 Q. Witness, now let us move onto the second road that you showed us on the map. And I

24 think I'd like us to follow the same procedure. If you could take the pointer. And from

25 Bunia could you go along the line that you drew on this map and could you name the main

1 villages all the way to Mongbwalu?

2 A. Here is the town of Bunia. From there you go to Budana. And then Shari is here just
3 beside, just alongside. Then you continue to Kole, Nyangarai, Buengwe, Kabakaba, up to
4 Kilo and from Kilo you go down to Mongbwalu.

5 Q. Thank you, Witness. Can you confirm that this is a dirt road with some gravel and it is
6 not a paved road?

7 A. It is a normal kind of road. It is not paved.

8 Q. Can you confirm that this road is even narrower than the main road that you showed us
9 earlier?

10 A. It's not the main road.

11 Q. Do you agree with me that this road is narrower than the main road?

12 A. Yes, it is narrower than the other, but vehicles were able to drive through it.

13 Q. And if I were to put to you that the vehicles that can drive on that road can only be
14 small vehicles, not large ones?

15 A. Between Bunia and Mongbwalu, there were pickup vehicles that drove along the road
16 and it was that kind of vehicle that would drive along that road at that time.

17 Q. In your statement, Witness, you said that this road was controlled by the Lendu. And
18 here I'm referring to document (Redacted)

19 (Redacted)

20 "And what do you mean the Bunia-Kobu road was not easy?"

21 And the answer was: "Well, the Lendu combatants on the Bambu-Kobu road were
22 very cruel."

23 MR BOURGON: (Interpretation) Your Honour, in fact, let me repeat. In fact, that
24 question referred to the first road and not the second road.

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. And can you confirm that this road was not reopened, at least it was not accessible to
5 the FPLC before January of 2003; is that the case?

6 A. Are you talking about the Nyangarai road?

7 Q. Yes, the Nyangarai road. At what point in time was the FPLC able to use that road to
8 go to Bunia?

9 A. I don't remember the exact date. After the fall of Mongbwalu, the road, that road was
10 reopened, but I don't remember the precise date. That was the road that was used by the
11 FPLC and by the traders to go to Mongbwalu.

12 Q. Could you help us by giving us an approximate date between December 2002, after the
13 fall of Mongbwalu, and January 2003 up to two months after the fall of Mongbwalu?

14 A. It was after the fall of Mongbwalu, but I don't remember the date, the precise date.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 MR BOURGON: (Interpretation) Thank you, your Honour.

3 Q. Can you confirm, Witness, that in Nyangarai there is a very small airport; is that correct?

4 A. I had heard about it, (Redacted)

5 (Redacted) It was only later when the FPLC took control of the zone

6 that I learned that there was an airstrip that had been built in that town (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. (Redacted) For the other road I'd like to

22 carry out the same exercise that we've done for the other two roads. Could you show us the

23 road, the third road from Bunia to Mongbwalu and point out the different villages on this

24 third road?

25 A. You leave Bunia, you go to Iga Barrière, then Nizi, and then in Nizi you go to the right

1 to a groupement called Kekpa, and then Kwadinga, and a little bit higher up you go to
2 Mandje, and then you find Mabanga, another groupement, and then you have a little stream
3 called Shari (phon) and a town called Lalo. And from Lalo you go through Losa Ndrama
4 and then you get to Lala (phon), around here, and then you continue along the road to
5 Dhamblo (phon) to the Mongbwalu airport.

6 Q. Thank you, Witness. I appreciate your cooperation. Now, this road, when you look
7 at this road from Mongbwalu, the first thing you see when you leave Mongbwalu is the
8 airport. Do you agree with me?

9 A. Yes.

10 Q. And then after the airport there is a forest; is that correct?

11 A. Yes.

12 Q. Well, you can't go through there with a vehicle; is that correct?

13 A. That was the road that the FPLC soldiers used to enter into Mongbwalu coming from
14 Bunia. It was that road that they used.

15 Q. But I'm -- if I put it to you, Witness, that you can only walk on that road, you can't use a
16 vehicle?

17 A. I didn't say that they used vehicles on that road, but if you look at my statement you'll
18 see no mention of that, I said that the soldiers used that road.

19 MR BOURGON: (Interpretation) Your Honour, I'd like to ask your assistance. I think the
20 witness is trying to be obstructive. I think the question is very clear. My question is: Can
21 a vehicle drive over that road, yes or no, rather than his repeating my question several times.
22 Your Honour, would you be so kind as to help me suggest that the witness answer my
23 question as to whether or not a vehicle can drive over this road? Thank you, your Honour.

24 PRESIDING JUDGE FREMR: Mr Witness, again, I can understand that you are getting tired,
25 but still I think this question is not so complex, so it's easy to say "Yes" or "No", please.

1 THE WITNESS: (Interpretation) I've already answered the question. I said that the FPLC
2 soldiers went through Dala Dhamblo to enter into Mongbwalu. Vehicles cannot use that
3 roadway.

4 MR BOURGON: (Interpretation)

5 Q. Thank you, Witness. Well, where must one leave the vehicles in that case in order to
6 go to Mongbwalu using this road?

7 A. Well, vehicles can be left in Dala in a place called Nuvo (phon), or at another place
8 called Dhego. There were three places in the vicinity. The last one, the last place close to
9 Mongbwalu was Dala. And Nuvo and the third one are nearby. Those are the three places
10 where you could leave a vehicle.

11 Q. Thank you, Witness. That was very precise. Could we see where Dhego is on the
12 map?

13 A. Losa Ndrama is here. And here is the place called Nuvo and Dhego is parallel, parallel
14 to Dhego.

15 Q. Thank you. Would you be so kind as to spell the first name you referred to so that the
16 transcript is complete?

17 A. Which one, Nuvo or Dhego?

18 Q. You gave another name I believe before you mentioned Nuvo and Dhego. You
19 showed it on the map, and you gave a third name I believe, unless I misunderstood. I'm
20 referring to the French transcript on page 74. It looks like the transcript is not complete.
21 The answer was "Vehicles can be left in Dala, or in a place called Novo (phon), or another
22 place called Dhego."

23 And then I asked you where Dhego was, and I think that's when you mentioned
24 another place, when you were explaining where Dhego is. I see in English on page
25 76, line 12 -- line 8 you said this place is here. Which place were you referring to?

1 A. I was referring to Ndromo, which is also called Losa Ndrama to my knowledge.

2 Q. Would you be so kind as to spell Ndromo?

3 A. L-O-S-A space N-D-R-A-M-A.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 MR BOURGON: (Interpretation) Your Honour, I think we can go back into open session

8 for the following questions, please.

9 PRESIDING JUDGE FREMR: Fine.

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

11 (Open session at 3.19 p.m.)

12 THE COURT OFFICER: We are back in open session, Mr President.

13 PRESIDING JUDGE FREMR: Thank you.

14 You may proceed, Mr Bourgon. And do we still need work with map, or could witness come

15 back to his original chair?

16 MR BOURGON: (No interpretation)

17 Q. (Interpretation) Witness, I'd like to go back over Losa Ndrama. Can you confirm that

18 this village was burned down by the Lendu in 1999?

19 A. I don't know the history of that town. I only went there when I was a member of the

20 FPLC. Before that I had never been there, so I know nothing about the history of that place.

21 Q. Thank you. I wanted to continue with a question. From Losa Ndrama you

22 mentioned two other places where a vehicle could be left, Dhego and another. Can you

23 show us where Dhego is, please?

24 A. I can't see very well, but I think it's parallel.

25 MR BOURGON: (Interpretation) Your Honour, with the permission of my colleague,

1 perhaps we could mark the map on this exhibit and make it a joint exhibit, if you'll allow me.

2 PRESIDING JUDGE FREMR: Ms Samson, how do you like it?

3 MS SAMSON: I have no objection, your Honour. I just, in practice, not sure how it works
4 in terms of identifying it as a Prosecution exhibit or as a Defence exhibit, unless a copy is
5 made and then the witness is asked to have additional markings on a new version, which
6 would then become a Defence exhibit. It's just practically I don't know how that would
7 actually work.

8 PRESIDING JUDGE FREMR: I see it's not an easy issue. Maybe I would like to consult
9 court officer would be the best -- maybe to answer, please, through the microphone just even
10 to allow parties to say what is the best practice because we don't want to complicated, we
11 want to make it easy to find this document in our evidence.

12 THE COURT OFFICER: Mr Bourgon, as this is the very first time I would suggest first
13 maybe my colleague to go and make a colour copy of this document so that we can keep that
14 document now on the retro projector as an OTP document and then you will have a colour
15 copy where the witness could add some information, if that would suit you.

16 MR BOURGON: (Interpretation) Thank you, madam court officer.

17 Well, your Honour, perhaps I will skip it. I can ask another witness. It's not really
18 extremely important in my questions to this witness. So to save time, I'll just skip it.

19 Q. Witness, can you confirm that when you take the road and you go to Dhego, Dhego is
20 on a small secondary path that leads to Mbidjo; do you agree?

21 A. When you go through Dhego to go to the big road from the main road, from Aru, to
22 Mbidjo.

23 Q. Perhaps I have one more question about this map. In your testimony, and here I'm
24 referring to T-28 in the French version, page 52, lines 7 to 13, you stated that everyone took
25 that itinerary, including Afande Bosco Ntaganda, Salumu in order to -- as well as Salumu to

1 go to Mongbwalu. That was your testimony.

2 And I have a question for clarification: You agree that Salumu and Afande Bosco

3 Ntaganda did not take that road at the same time, are you not?

4 A. I don't know.

5 Q. Thank you.

6 MR BOURGON: (Interpretation) Your Honour, we've finished with the map.

7 PRESIDING JUDGE FREMR: Thank you.

8 So, Mr Witness, you can move back again to a more comfortable position.

9 And Mr Bourgon, you may proceed.

10 MR BOURGON: (Interpretation)

11 Q. Witness, in your testimony, you talked about an alliance between Jérôme and the FPLC.

12 Jérôme had deserted the APC and he joined the FPLC. Do you remember that?

13 A. Yes.

14 Q. You also stated that Jérôme had sent recruits from Mont Awa to Mandro?

15 A. There were APC recruits who were in Mont Awa as we call it, and when Jérôme left the
16 APC, those recruits were still in the same place, and he sent them through Salumu.

17 Q. And the other way around, there were Mandro recruits who were sent to Jérôme to the
18 northeast sector, is that correct?

19 A. That's what happened.

20 Q. Can you confirm that Mont Awa in fact was a training school for the APC recruits for
21 the north, for the northeast sector?

22 A. Mont Awa was a former military camp under Mobutu and the APC used it thereafter.

23 Q. Can you confirm why a group of recruits was exchanged between Mandro and Aru and
24 another group from Aru to Mandro?

25 A. The recruits who left Mandro to go to Aru had weapons. They were armed. The ones

1 who left Mont Awa to go to Bunia and to Mandro did not have weapons. The idea was to
2 mix up the soldiers.

3 Q. Well, because the idea was to mix them up, to combine them, perhaps there was an
4 additional reason for wanting to combine them was that Afande Bosco Ntaganda insisted that
5 all of the FPL soldiers apply the same code of ethics. And since Jérôme had just joined the
6 movement, they wanted to have an exchange of troops so that everyone be applying the same
7 ideology. Can you confirm that?

8 A. I can't confirm that. That's something that lies in the heart of people, their intentions.
9 What I know is the actual acts that were committed. I know nothing about the intentions.

10 Q. If I were to put to you that an additional reason is one that you mention in your own
11 statement, which is that Salumu thought that if Jérôme wanted to join the FPLC, well, he
12 might as well send his soldiers to be able to check his loyalty in fact; do you agree with that?

13 A. That is what, that is what Salumu thought. That would have been his thinking. I
14 couldn't have known it.

15 Q. Talking about the ideology, Mr Witness, you are familiar with the FPLC ideology, is that
16 correct?

17 A. I no longer remember.

18 Q. But you were trained, you were taught an ideology at the time you joined the FPLC?

19 A. I knew that every member of the FPLC had the objective of providing security in their
20 areas.

21 Q. Try to remember and try to see whether you can remember the FPLC ideology. They
22 wanted to win the trust of the entire population irrespective of ethnic affiliation, isn't that
23 correct?

24 A. The FPLC wanted to show the population that they were a neutral movement. But
25 they were not able to win the trust of the population.

1 Q. And you agree that one of the main aspects of the ideology of the FPLC was the respect
2 of the right to war, isn't that true?

3 A. It was the commanders -- it is the commanders who were in the field who can answer
4 that question. I was not one of them, so I cannot answer.

5 Q. My question is this. You received training. Were you told that the movement that
6 you have joined has as part of its ideology to respect the right of war, the right to war? Did
7 you know that as a member of the FPLC?

8 A. Personally, I do not remember. I cannot tell a lie.

9 Q. Do you remember that another major aspect of the ideology of the FPLC was that
10 whoever wanted to join would join on an equal basis depending on competence and skills
11 without any discrimination? Do you remember that?

12 A. As I said previously, the efforts that the FPLC was making were not successful. I do
13 not know whether the Bahema -- well, what I can say is that there were no Lendus within the
14 FPLC. There were some Banyalis and some Alurs. And the Banyalis who joined the FPLC
15 did so because of Kisémbu because his mother was a Banyali. He sensitised a few Banyali
16 and that is why some of them joined the FPLC. There were also some Babira.

17 Q. Thank you for that clarification. What I'm interested in is from the beginning you
18 knew that there were members, many members of the APC like Jérôme who deserted the APC
19 to join the FPLC. You are aware of that, is that correct?

20 A. Are you talking of the change that Jérôme made in Aru or in Bunia?

21 Q. I'm talking generally about the several soldiers who deserted the APC and joined the
22 FPLC. You are aware of that, aren't you?

23 A. Initially there were some of them who joined the FPLC, but they did not stay for long.
24 The majority joined Jérôme's party.

25 Q. Let me move on to another question, because I can see that there are difficulties in really

1 correctly expressing my questions.

2 Now, did you receive any training in ideology within the FPLC, any ideological
3 training?

4 A. I did not receive any training on the FPLC ideology.

5 Q. Are you able to confirm that all APC officers who joined the FPLC had to necessarily
6 receive training in ideology before actually being sent to the field? Can you confirm that?

7 A. The people who had just reconciled with the others were sent to Mandro.

8 Q. And as far as you can remember, what happened in Mandro, that is in relation to these
9 people?

10 A. Personally, I was never in Mandro. But all I know is that all those who joined the FPLC
11 were first of all sent to Mandro. It was only thereafter that they were brought back, because
12 the FPLC training camp was in Mandro, but I don't have any more details about Mandro.

13 Q. Thank you, Mr Witness. In your statement, you stated that Afande Bosco Ntaganda
14 and Kisémbó went to Aru to seal the agreement between Jérôme, who was leaving the APC,
15 to join the FPLC, that was your testimony, wasn't it?

16 A. Yes. Afande Kisémbó went to Aru. Afande Bosco also went to Aru. However, I was
17 not part of the delegation.

18 Q. I put it to you that when Afande Bosco Ntaganda went to Aru, it was not at the same
19 time with Kisémbó. Are you aware of that?

20 A. That is not what I said.

21 Q. They did not go there together. Do you agree with that?

22 A. I know that they did not go there together.

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Private session at 3.42 p.m.) *(Reclassified partially in public)
- 7 THE COURT OFFICER: We're in private session, Mr President.
- 8 PRESIDING JUDGE FREMR: Thank you.
- 9 Now, Mr Witness, you may respond.
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 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)

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 A. I believe, well, counsel is asking questions in different ways, and I answer the questions

18 according to how they are put to me. (Redacted)

19 (Redacted). This took

20 place many years ago. But the manner in which he is putting his questions to me makes

21 them rather confusing sometimes.

22 PRESIDING JUDGE FREMR: Mr Witness, please don't evaluate, you know, the way in

23 which Mr Bourgon put his questions, because, you know, we, even myself, we don't know

24 what is sometimes behind, but it's part of his procedural tactics. I think he's free to do it.

25 Simply as I instructed you in the beginning, if you don't know, simply say "I don't know" or "I

1 don't remember" or even "I don't understand," if it would be confusing to you, feel free to say

2 "I don't understand."

3 Mr Bourgon.

4 MR BOURGON: (Interpretation) Thank you very much, your Honour.

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 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

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25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE FREMR: Mr Bourgon, would you be so kind and try to find some
13 convenient moment as soon as possible to break now, because I would like also to utilise the
14 remaining time for a discussion on some procedural matters. So I don't know what is your
15 plan, but if you could find some close moment to break, I would appreciate it.

16 MR BOURGON: (Interpretation) With your leave, your Honour, I will ask two more
17 questions and then I will stop. Thank you.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

4 And thank you very much to you, Mr Witness, because it was a long day today, but

5 I -- at least I have for you good news. Tomorrow should be very likely the last day

6 with us. So thank you very much. Now you can leave the courtroom. But before

7 that we have to move into closed session to safely escort you. So thank you very

8 much. And as usual, I am instructing you that you must not discuss your testimony

9 with nobody, okay, with anybody.

10 (Closed session at 3.58 p.m.) *(Reclassified entirely in public)

11 THE COURT OFFICER: We are in closed session, Mr President.

12 PRESIDING JUDGE FREMR: Thank you.

13 (The witness stands down)

14 PRESIDING JUDGE FREMR: Now let's move back to open session and we'll very briefly

15 discuss two procedural issues.

16 (Open session at 3.59 p.m.)

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

18 PRESIDING JUDGE FREMR: Thank you very much, court officer.

19 So I was informed that until now, Mr Bourgon used 8 hours, 8 minutes, which means

20 that in accordance with our ruling on equal treatment and equal duration of

21 examination-in-chief and cross-examination, you should have at your disposal

22 approximately two and a half hours. Do you think it will be fine with you, or do you

23 even maybe, you would need less time?

24 MR BOURGON: (Interpretation) I think I would need less time. I believe that two hours

25 at the most. My goal is to be done within an hour and a half. Thank you, your Honour.

1 PRESIDING JUDGE FREMR: Thank you very much for this good news because our goal is
2 to start with the third witness tomorrow.

3 In this connection, I know that Ms Samson informed us that she would like to put a
4 few questions for re-examination, but I guess it will not take too much time?

5 MS SAMSON: No, your Honour. I estimate it will not take more than 20 minutes.

6 PRESIDING JUDGE FREMR: Thank you.

7 It brings me to the second point. As you know, we issued a conditional ruling that
8 prior or recorded testimony of Witness P-931 will be admitted into evidence pursuant
9 to Rule 68(3) subject to the witness appearing before the Chamber and attesting to the
10 accuracy of the material concerned.

11 As far as I remember, I think the Prosecution indicated that they would need two
12 hours to examine this witness, but having into account likelihood that this provisional
13 or conditional ruling will be made ultimate, then, we even also said it in our ruling,
14 then the Chamber would ask you to -- just to put, make some supplementary, but
15 very brief supplementary examination. So under such a conditional subject to such
16 ultimate decision, how much time you estimate you would need?

17 MS SAMSON: Mr President, I can verify with the examining lawyer to be sure, but my
18 understanding is that we would be taking certainly less than one hour, perhaps it could be 30
19 minutes. But I can be more precise in the time estimate between 30 minutes and one hour by
20 email once I get out of the courtroom.

21 PRESIDING JUDGE FREMR: To be candid, we, the Chamber, just thought that we will set
22 up limit around 30 minutes, so please be -- rather, ready for that alternative.

23 Mr Bourgon, any comments from your part to this issue? What is your estimation?

24 I know it's very hard for you because I think it's now easier for Prosecution to
25 estimate duration of examination of the expert witness. Could you provide us with

1 an estimation on that?

2 MR BOURGON: (Interpretation) Indeed. I won't be cross-examining the expert witness.

3 It's one of my colleagues. I have discussed this with Mr Boutin, and he will be rather brief

4 and at the most he'll take two hours. But perhaps even less than that.

5 All the same, your Honour, I would like to say that as Defence, we are sticking to a

6 principle, we have no objection to the provision having to do with the expert witness.

7 I think that would be a good approach, and we are very grateful to the Chamber in

8 that the time has been limited for the number of time, particularly under Rule 68(3)

9 you see. Before other tribunals there were abuses. I remember that there would be

10 extensive witness testimony given and then exhaustive examination. So I'm quite

11 grateful, and I think we should limit the examination-in-chief of our next witness, the

12 expert witness.

13 PRESIDING JUDGE FREMR: Having heard your time estimation, I know it's still an

14 estimation since we can't simply exclude that he will be longer, but still I think it brings to my

15 mind, I guess, maybe it would be even realistic to finish this expert witness by Friday

16 and -- because, to me, it wouldn't be quite reasonable to adjourn for I think, for example, 30

17 minutes of the rest of his testimony. So please still have in mind that in case that really it

18 would be just such a short piece missing, you can even use this catastrophic version and to

19 make the last session -- to prolong the last session from 90 minutes to 2 hours. I know

20 it's -- it's Friday, it wouldn't be probably very popular decision, but just take this into account.

21 Otherwise, thank you very much.

22 Ms Samson, please.

23 MS SAMSON: Thank you, Mr President. My colleague has confirmed that she will not

24 require more than 30 minutes tomorrow for the witness.

25 PRESIDING JUDGE FREMR: Thank you very much, Ms Samson. So it means

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(Open Session)

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1 we -- Mr Bourgon.

2 MR BOURGON: (Interpretation) I do have good news. My colleague has informed me
3 that he doesn't think he will take longer than an hour. Thank you.

4 PRESIDING JUDGE FREMR: Even better. We are leaving with very good news at the end.
5 So thank you very much.

6 Now we are adjourning and we will reconvene tomorrow, 9.30. Again, I'm reminding you
7 not here, but in courtroom number 2. Thank you.

8 THE COURT USHER: All rise.

9 (The hearing ends in open session at 4.06 p.m.)

10 RECLASSIFICATION REPORT

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