

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing
7 Friday, 15 April 2016
8 (The hearing starts in open session at 9.31 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 And for the record, we are in open session.
18 PRESIDING JUDGE FREMR: Thank you, court officer.
19 Now appearances, please, in usual order.
20 MS SOLANO: Good morning, Mr President, your Honours, for the Prosecution this
21 morning appear Ms Nicole Samson, senior trial lawyer; Ms Marion Rabanit, associate trial
22 lawyer; Ms Selam Yirgou, case manager; and I am Julieta Solano, trial lawyer.
23 PRESIDING JUDGE FREMR: Thank you, Ms Solano.
24 Defence now, please.
25 MR BOURGON: (Interpretation) Good morning, your Honour, your Honours and

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 everyone else in the courtroom. For Bosco Ntaganda, who is present with us this
2 morning, Sandrine De Sena, Dignité Bwiza, Isabelle Martineau and myself,
3 Stéphane Bourgon. Thank you, your Honour.
4 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.
5 Legal Representatives of Victims, please.
6 MS PELLET: (Interpretation) Thank you, your Honour. The former child soldiers are
7 represented by myself, Sarah Pellet, counsel in the Office of Public Counsel for Victims.
8 MR SUPRUN: (Interpretation) Good morning, your Honour, your Honours. The
9 victims of the attacks are represented by the Office of Public Counsel for Victims,
10 Anne Grabowski, associate officer, and myself, Dmytro Suprun.
11 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun.
12 And finally, duty counsel.
13 MS CLÉMENT: (Interpretation) Good morning, your Honour, your Honours.
14 Héléne Clément, I am the duty counsel for the witness.
15 PRESIDING JUDGE FREMR: Thank you, Ms Clément.
16 So Mr Witness, good morning, are you feeling okay today?
17 WITNESS: DRC-OTP-P-0963 (On former oath)
18 (The witness speaks French)
19 THE WITNESS: (Interpretation) Yes, I'm fine, your Honour.
20 PRESIDING JUDGE FREMR: If everything goes well it should be the last day of your
21 testimony. We will continue with your cross-examination conducted by Defence.
22 Mr Bourgon, you have the floor. And common question, as usually, do you want to
23 remain in open session or will the character of your questions require you to move into
24 private session?
25 MR BOURGON: Private session, Mr President, please.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: For the information of public, this witness is protected
2 witness, which means that he was given assurance that his identity will not be revealed,
3 that is why that some portions of his testimony has to be conducted in private session and,
4 to be absolutely honest, it is a high likelihood that this upcoming part of testimony will be
5 mostly conducted in private session.

6 Now, let's move into private session, court officer.

7 (Private session at 9.35 a.m.) *(Reclassified partially in public)

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

9 PRESIDING JUDGE FREMR: Thank you, court officer.

10 Mr Bourgon, you have the floor. And before you start, just allow me to remind you that
11 you still have at your disposal 3 hours and 15 minutes. Please proceed.

12 MR BOURGON: Thank you, Mr President.

13 QUESTIONED BY MR BOURGON: (Interpretation) (Continuing)

14 Q. Good morning, Witness.

15 A. Good morning.

16 Q. I'd like to start this morning going back to a map that was shown to you.

17 Court officer, could you show DRC - madam court officer, please – (Redacted).

18 Witness, this is what you were shown when the Prosecution asked you questions.

19 There we are.

20 Witness, can you see the map in front of you?

21 A. Yes.

22 MR BOURGON: (Interpretation) Court officer, if you could lower the image so that the
23 lower part can be visible to the witness. Oh, I mean the opposite, sorry. Thank you.

24 Q. Now, you will confirm, Witness, that during your examination-in-chief that the
25 locations indicated on the map did correspond with what was written?

Trial Hearing
WITNESS: DRC-OTP-P-0963

(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 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. Can you confirm that the airport, that's where you arrived in Mongbwalu, that's
17 how you got to Mongbwalu?

18 A. Yes, we got through there, through Dala, on the other side, towards the right there's
19 Dala, there's a road from Dala and then there's the airport.

20 Q. Now, you see on the picture in front of you the -- on the extreme right of the airport,
21 just afterwards, you will see there's a forest. Do you remember that forest?

22 A. Yes.

23 Q. And you went through that forest, did you not?

24 A. Yes, there's the road in the forest. Up to Dala there's a road for vehicles, to
25 Mabanga, I think.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 Q. So your testimony is that between the extreme right of the airport?

2 A. In the forest there is a road for vehicular traffic.

3 Q. I put it to you, Witness, that it is not true that there isn't a road in this forest. Does
4 that refresh your memory?

5 A. There's a road in that forest. There's a road which is for vehicular traffic and this
6 dates *back to the colonial era.

7 Q. When you arrived in Mongbwalu, everybody was on foot, were they not?

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. Yes. But if I can explain this road doesn't go to the airport straight, this road goes
13 behind the airport. *I don't know, I think that we could explain it better on the table, but
14 from Dala, if you arrive, the vehicles don't go straight to the airport because the airport is
15 higher than the road. You have to go round, behind the airport, because the Belgians
16 built the road, you have to go round the airport. And so that the vehicles get to the
17 airport, they have to turn left, I think.

18 Can you move the image then I can -- say, *if you move the image to the top and to the right.

19 A bit more please. Yes, please, more, more. That's okay.

20 Now, here you can see on the right the road from Dala and it goes round the airport,
21 behind the airport, until you have a roundabout on the left and it's from there you have a
22 road that goes to Mongbwalu centre. And the other branch of it, which is small, that part
23 of it now goes to the airport. So if you come from Dala, vehicles don't go directly there,
24 they have to go round and then back up.

25 Q. Thank you very much, Witness. A last question on this subject: When you arrive

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 from Dala --

2 MR BOURGON: (Interpretation) Court officer, if you could once again move the
3 photograph towards the right. I'm sorry, towards the left. The other side, sorry. It's
4 my error.

5 Q. So, Witness, what you're telling us is that there's a road we can go on by vehicle and
6 you can go from Mabanga to Dala; is that correct?

7 A. Yes.

8 Q. And from Dala you can go by vehicle to go to the other side of the airport, going
9 behind it; is that correct?

10 A. Yes. Yes, this route from Dala to Mongbwalu.

11 Q. So the vehicles, if I understand your testimony, they have to go around the airport
12 and go from behind it?

13 A. Yes.

14 PRESIDING JUDGE FREMR: Sorry, Mr Bourgon, Ms Solano is on her feet.

15 Ms Solano.

16 MS SOLANO: Thank you, your Honour. The witness is gesturing when he comments
17 on a map, so has Mr Bourgon done a moment ago. I submit that he, the witness -- the
18 witness's evidence is not only what is being recorded on the paper, but also what he is
19 trying to point out on the map but he's not presently enabled to show us on the map in a
20 way that will be captured in the record of these proceedings what he means.

21 So it's going to be very difficult afterwards to -- to understand fully what he has said
22 unless Mr Bourgon allows him to annotate this map or a different visual aid of
23 Mr Bourgon's choice.

24 PRESIDING JUDGE FREMR: Mr Bourgon, think about it because yesterday we used
25 these small stickers to annotate map. I don't know what further topics you would like to

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 cover.

2 MR BOURGON: Thank you, Mr President. The answer that the witness just provided
3 in terms of having to go around the airport and coming back towards the airport is
4 sufficient for my purposes, Mr President.

5 PRESIDING JUDGE FREMR: For me as well. So Ms Solano.

6 MS SOLANO: Well, your Honour, if it is sufficient for you I'm not going to insist, but I'll
7 just point out that while it may be sufficient for Mr Bourgon's purposes, it doesn't leave a
8 proper record of what the witness has said because the witness may have said around the
9 airport, but he said around towards the north, around towards the south. Which one is it
10 we don't know.

11 PRESIDING JUDGE FREMR: You know, just maybe then I will make the record precise
12 that, at least from my point of view, as I could see the map, he exactly described what is
13 visible on the map, so it seems that this part of testimony fully correspond to map in front
14 of us.

15 It's true that maybe then we, it's just for future, maybe it would be a good topic for on-site
16 visit to try to verify those information on the spot, but for today I think it really is
17 sufficient, even for us.

18 Mr Bourgon.

19 MR BOURGON: Thank you, Mr President.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(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 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)

21 MR BOURGON: (Interpretation) I don't need the map any more.

22 Q. I am now going to go on to a different question. Well, I would like to ask you some
23 questions and show you some photographs and ask you to identify them.

24 So I'm going to start with the first photograph, DRC-D18-0001-0517. There's a
25 photograph which is going to appear on the screen, and I would ask you, to the best of

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 your knowledge, if you could identify this place?

2 PRESIDING JUDGE FREMR: Ms Solano, no objection to the use of this image?

3 MS SOLANO: No, your Honour.

4 PRESIDING JUDGE FREMR: All right.

5 MR BOURGON: (Interpretation) That's the right one.

6 MS SOLANO: Excuse me, your Honour.

7 PRESIDING JUDGE FREMR: Ms Solano.

8 MS SOLANO: I apologise. I had been seeing a different photo on my screen, one that
9 shows a weapon, but now I see that there's something else displayed, like a photo of a
10 village, so I want to confirm if it's the photo of the village that Mr Bourgon -- okay, in
11 that -- in that case, your Honour, I believe these are some photos that were communicated
12 to the Prosecution in an email at 10 p.m. last night. I don't see them in eCourt, if they're
13 not in eCourt it means that the Defence has not complied with disclosure, or the provision
14 of metadata and the photos should not be allowed to be used with this witness.

15 PRESIDING JUDGE FREMR: Mr Bourgon.

16 MR BOURGON: Mr President, these pictures, the four pictures I would like to show to
17 the witness this morning were communicated to the Prosecution yesterday. They are not
18 in eCourt, but they were -- have been communicated to the Prosecution. I don't want to
19 say out loud where the pictures were taken because it would influence the witness. The
20 reason that these pictures were added, like the Prosecution does regularly to update their
21 list of exhibits they intend to use, it is to adjust basically to the testimony of the witness,
22 and the witness mentioned certain of his answers in examination-in-chief, and we had
23 these -- we have these pictures which will allow us to better understand his testimony,
24 whether he can understand them or not. There is no prejudice whatsoever to the
25 Prosecution, they are much more familiar with the area than we can ever be, and from the

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 interest of justice, it would be important for the witness to say if he recognizes these
2 pictures.

3 PRESIDING JUDGE FREMR: Ms Solano.

4 MS SOLANO: Thank you, your Honour, I'm grateful. Your Honour, the Defence has
5 not explained why it obtained these photographs so late. Depending on the location of
6 these photos or the location that the Defence purports it to be, it may well be that the
7 Defence could have and should have obtained these photos a long time ago, so unless the
8 Defence provides more explanations, it doesn't have to be in front of the witness about
9 the -- where the photographs are from. I insist in my objection, your Honour.

10 PRESIDING JUDGE FREMR: I guess, Mr Bourgon, that this explanation will require the
11 absence of Mr Witness, so do you think not?

12 MR BOURGON: Well, as long as the time is removed because I'm quite pressed for time
13 this morning.

14 PRESIDING JUDGE FREMR: Yes, I think the time exhausted by objections is not
15 counted within your time.

16 MR BOURGON: Absolutely. It would be better if the witness is --

17 PRESIDING JUDGE FREMR: So please, court officer, escort Mr Witness for a while out
18 of the courtroom.

19 (The witness stands down)

20 PRESIDING JUDGE FREMR: Now, Mr Bourgon, please proceed.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(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 (Redacted)

13 (Redacted)

14 So in the interest of justice and the interest of truth seeking, it is important to show these

15 pictures. It's not like if we were catching the Prosecution by surprise, as we are -- as we

16 see in other occasion this happens, it's not a document, it's not a surprise, it's a picture of

17 something that is there and it's a -- there is no reason, Mr President, in our respectful

18 submission why the witness should not be asked to recognize these pictures. Thank you.

19 PRESIDING JUDGE FREMR: Mr Bourgon, two questions: First one, if I'm not wrong, it

20 still was communicated yesterday evening, but it was not 24 hours before the beginning of

21 cross-examination; am I right? I am asking why?

22 MR BOURGON: Because we -- because we did not see a requirement at that time. The

23 requirement was identified during the last portion of the testimony of the witness. So we

24 could not put this picture, we did not think that we would need it, but based on his

25 testimony of what he said (Redacted), then the requirement was identified and we

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 communicated the pictures to the Prosecution.

2 As for all the technical aspects about metadata and eCourt and the like, we will do this at
3 the earliest opportunity, but I don't think, Mr President, this is the issue here; the issue is
4 is anyone taken by surprise by something that is unknown, which is absolutely not the
5 case, it's a building that is (Redacted). And the Prosecution has been investigating
6 (Redacted) for 10 years. So there is no surprise to anyone asking the witness to simply
7 identify a picture, whether he can identify a picture. Thank you, Mr President.

8 PRESIDING JUDGE FREMR: All right. And my second question: So you said that all
9 those four pictures are pictures of (Redacted). And what time those pictures have been
10 made? They are current pictures or?

11 MR BOURGON: I guess, Mr President, these pictures were -- these pictures were taken
12 exactly in December of 2014. I can say that these pictures were taken while in the
13 company of the -- one of the next witness coming up, who was with us (Redacted),
14 when we took these pictures, and we did not feel that -- we were waiting for him, of
15 course, to show these pictures. And there are no obligations for us to put these things on
16 to disclose anything before that 24-hour deadline. So our obligation begins then.

17 PRESIDING JUDGE FREMR: Since we will have probably to adjudicate prejudice, if any,
18 could we just briefly or quickly see all those pictures.

19 MR BOURGON: Indeed, Mr President. This is the first one, which was 0517; the
20 second one is the same number with 0518; and I note for the --

21 PRESIDING JUDGE FREMR: I just -- my wish was just to see each picture for three
22 seconds just to have an idea what those pictures are really about. So no need to -- a more
23 detailed description, just to quickly see them.

24 MR BOURGON: This is the second picture, it is the same as the first one, same building
25 from a different angle. The third picture is 0515 -- 0515, yes; and the fourth picture is

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 0516.

2 PRESIDING JUDGE FREMR: All right. I think that's it.

3 So Ms Solano, at this moment do you insist on your objection?

4 MS SOLANO: Your Honour, if I may be allowed to make some just additional
5 submissions in response to what Mr Bourgon has just said before stating our -- our
6 position.

7 First of all, your Honour, Mr Bourgon is mistaken in that there is no surprise coming with
8 the transmission of these photographs at 10 p.m. last night. I cannot tell you right now
9 what these photos are. We just have not had enough time to investigate them, if you -- if
10 you like.

11 Moreover, your Honour, I would like to -- well, note what your Honour already knows,
12 which is that the pictures were taken some time ago. We don't know when the Defence
13 obtained them, but I think that the Defence should explained when they obtained them as
14 part of the explanation as to why they could only communicate these photos to the
15 Prosecution yesterday.

16 Moreover, your Honour, if your Honours decide to allow the use of these photographs, I
17 would make two notes of caution, first of all, that since the photos that the Defence has
18 said appear to have been taken in 2014, they have to be used cautiously because it could
19 be that the photos contained elements that were not present there when the witness was
20 (Redacted), and in no way should the presentation of these photos or the
21 accompanying questions lend itself to misleading the witness as to what it is that he's
22 looking at.

23 And finally, your Honours, I note that the majority of the photos are quite close up. Now,
24 I don't dispute that it's possible that Mr Bourgon will ask a question about a particular
25 building that has some features that in his submission are particularly memorable, but

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 otherwise I would again invite caution because the photos are close up. Like in this one
2 that is on your screens right now, we see part of a wall of a house and an overgrown patch
3 of a grass. So there again I'm just seeking fairness for the witness, your Honour.

4 PRESIDING JUDGE FREMR: Thank you, Ms Solano. I will briefly deliberate with my
5 colleagues silently.

6 (Trial Chamber confers)

7 PRESIDING JUDGE FREMR: So our unanimous decision is that we will allow use of
8 these four images, even if the conditions were not met 100 per cent, but what is most
9 decisive issue whether is really some sufficient prejudice to the Prosecution, we don't
10 think so, taking into account the content of the images. And at the same time, we will be
11 taking in our mind those two caveats mentioned by Ms Solano.

12 So now please bring witness back into the courtroom.

13 But anyway next time, Mr Bourgon, for today we accepted your explanation, but ideally
14 next time you should really meet all those, even formal conditions, but still we are part of
15 the proceedings, so please try to meet all those conditions 100 per cent.

16 (The witness enters the courtroom)

17 MR BOURGON: I'm grateful, Mr President. And we will endeavour to do so. And
18 we always do our best and we will continue to do so.

19 PRESIDING JUDGE FREMR: So please proceed, Mr Bourgon. And we are still in
20 private session.

21 MR BOURGON: (Interpretation)

22 Q. Witness, I'd like to show you two buildings -- two photos of the same building, and
23 I'd like to begin with the photograph that is on the screen, DRC-D18-0001-0517. Do you
24 recognize this photograph taken in Mongbwalu?

25 A. No.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 Q. Don't you recognize anything *on this photo that tells you that it is in Mongbwalu?

2 A. Nothing.

3 Q. If we could move on to the next photograph, 0518.

4 THE INTERPRETER: Interpreter correction: In Mr Bourgon's question he mentioned
5 Mongbwalu.

6 MR BOURGON: (Interpretation)

7 Q. Can you see this photograph? It is the same building but the photograph is taken
8 from a different angle. Now, do you recognize this photograph taken in Mongbwalu?

9 A. Well, the surroundings haven't been shown. It is not really possible for me to
10 identify Mongbwalu.

11 Q. I'll move on to the third photograph, this is 0515. Mr Witness, is this a photograph
12 of a building that you're familiar with?

13 A. Yes.

14 Q. What is this building?

15 A. These are houses, old houses that were built in colonial days. That's what it looks
16 like. These are similar buildings.

17 Q. I'll try to be more specific in my questioning. Are you familiar with this particular
18 building? Do you remember seeing this particular building?

19 A. Yes.

20 Q. Where?

21 A. Nizi, Bambu, or maybe Mongbwalu, Kilo. There are similar houses in those places.

22 Q. I'll try to be more specific. If I put it to you that this building was in Mongbwalu,
23 now with -- by your memory, do you remember that building in Mongbwalu?

24 A. Well, if these are buildings belonging to Kilo-Moto because Kilo-Moto built
25 everywhere where they had holdings. It seems to be the same kind of building.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 Q. I'll now move on to the fourth photograph, 0516. Witness, now if I put it to you
2 that this photograph was taken in Mongbwalu, would you recognize this building?

3 A. No, I don't recognize this house here, but it is possible that there might be such
4 houses in Mongbwalu because most of the houses and buildings in Mongbwalu belonged
5 to Kilo-Moto. And this is much the same. In Bambu, Nizi, Kilo, even in Watsa we see
6 the same kind of buildings.

7 Q. Thank you, Witness. I no longer require the photographs. I'll now move on to
8 something else.

9 PRESIDING JUDGE FREMR: And I will just add for the record that on the fourth picture
10 you can just see the upper part of the house since the majority of the house had been
11 covered by or was behind the grass.

12 MR BOURGON: Thank you, Mr President. On the basis of the answer provided by the
13 witness I have no intention of seeking that these pictures be admitted in evidence.

14 PRESIDING JUDGE FREMR: All right.

15 MR BOURGON: (Interpretation)

16 Q. Witness, now let's return to the point that we were dealing with yesterday afternoon
17 towards the end of the day. Do you remember the questioning about Foren, the
18 gatherings?

19 A. Yes.

20 Q. I'll be more specific now. *After the (Redacted) Foren, do you know which
21 particular Foren, which gathering I'm discussing?

22 A. Yes.

23 Q. After the (Redacted) gathering were there other meetings that you attended with
24 officers?

25 A. No.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(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 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. Let me move to another matter. Regarding the (Redacted) Foren, that sort of
16 gathering, I put it to you, Witness, that during the Foren you were told specifically not to
17 engage in looting during the operation; is that correct?

18 A. We were not told not to loot. That was not said.

19 Q. I put it to you, Mr Witness, that during the same Foren, that gathering, you were
20 specifically told that rape was prohibited within the FPLC?

21 A. We were not told that.

22 Q. I put it to you, Witness, that you were also told that any breach of the rules, rape,
23 looting, would be punished?

24 A. Nothing was said to that effect.

25 Q. Finally, I put it to you you were told that you were to fire only upon the enemy, do

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 you agree with me?

2 A. Could you repeat? I thought you were going to continue.

3 Q. I will repeat what I said. I put it to you that during the Foren you were told that
4 one does not fire at civilians, one fires only upon the enemy?

5 A. That was not said. We were not told to fire only upon the enemy.

6 Q. I'll move on to another point. (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 (Redacted)

22 (Redacted)

23 (Redacted)

24 A. Yes.

25 Q. You knew that the Lendu combatants often wore civilian clothing?

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 A. Yes.

2 Q. And the Lendu combatants also wore traditional ornaments, gris-gris and the like?

3 A. Yes.

4 Q. And the Lendu combatants were mixed with the APC?

5 A. Yes.

6 Q. Can you distinguish between the APC uniforms and the Lendu uniforms?

7 A. Well, if the person was wearing the uniform, if I've understood -- no, because, you
8 see, they -- they had -- the uniforms weren't all the same colour so you really couldn't
9 distinguish between them. Some -- sometimes you couldn't distinguish between them,
10 sometimes you could.

11 Q. So if I've understood your testimony, you're saying that as you moved forward you
12 saw the enemy, people in uniforms and also some civilians?

13 A. They were mixed together.

14 (Redacted)

15 (Redacted)

16 Q. The fighting against the Lendu combatants and the APC. I'd like to confirm, I think
17 you've already said this but I don't have the reference, but do you agree with me that they
18 were quite strong, the fighting was heavy?

19 A. Yes.

20 Q. I also put it to you, Witness, that when -- no, I'll withdraw that question and finish
21 off with: After the initial fighting that you mentioned, (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 MS SOLANO: Excuse me.

3 PRESIDING JUDGE FREMR: Ms Solano.

4 MS SOLANO: Sorry, your Honour, I'm not going to make an objection, but I want
5 Mr Bourgon to be very cautious because the witness doesn't have the benefit of seeing
6 these words on the page. The passage is quite lengthy. I would definitely oppose a
7 question of the nature "Do you confirm all of this?" I will not do it if the question is a
8 different one, but I -- I request caution please in fairness to the witness.

9 PRESIDING JUDGE FREMR: I was now just told by madam court officer that we can
10 publish this document because we have it at our disposal, so to make it visible to
11 Mr Witness.

12 THE COURT OFFICER: The document can be seen on the evidence 1 channel.

13 PRESIDING JUDGE FREMR: But generally I would really -- I'm sharing the concern
14 expressed by Ms Solano. As I said even yesterday that if you are asking Mr Witness to
15 confirm something, it would be really divided in some reasonable and a bit shorter pieces.
16 Because it is just one page it's really then rather doubtful whether such a confirmation
17 really could work.

18 MR BOURGON: Thank you very much, Mr President. I will follow your guidance.
19 I've been trying since the beginning to put the context so that the witness is given all
20 opportunity to understand where I'm going and usually I follow with precise questions.
21 So I will endeavour to follow your guidance, Mr President. Thank you.

22 PRESIDING JUDGE FREMR: All right then.

23 MR BOURGON: (Interpretation)

24 Q. Witness, you can see before you you have the first page that I read to you. If we
25 could also go up a bit -- oh, no, line 27 is there. So line 27, you can see line 27.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(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 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 MR BOURGON: Mr President, I think I will need about 10 minutes to finish this topic,
17 unless the Chamber prefers to take the break.

18 PRESIDING JUDGE FREMR: We will take break now.

19 Let's move into open session.

20 (Open session at 11.06 a.m.)

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

22 PRESIDING JUDGE FREMR: Thank you, court officer.

23 We will now break for 30 minutes, which means that we will reconvene at 11.35, but
24 before doing that, update on timing, I was informed that you exhausted 8 hours, which in
25 fact means, Mr Bourgon, you still have at your disposal 1 hour 50 minutes. It is another

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 session before -- don't you think you would be able to finish in one, 1.30, which means by
2 lunch break? But it's up to you, you're entitled to 1 hour 50.

3 MR BOURGON: Mr President, if I can address the Court in the absence of the witness,
4 either now or at the beginning of the next session, I will explain why it is not possible to
5 not finish in that time frame.

6 PRESIDING JUDGE FREMR: Okay.

7 MR BOURGON: Thank you.

8 PRESIDING JUDGE FREMR: No need for explanation. You are entitled to 1 hour 50.
9 Let's break and reconvene at 11.35.

10 THE COURT USHER: All rise.

11 (Recess taken at 11.08 a.m.)

12 (Upon resuming in open session at 11.36 a.m.)

13 THE COURT USHER: All rise.

14 Please be seated.

15 PRESIDING JUDGE FREMR: So we are in open session, so we will proceed with the
16 testimony. Before that I guess I will just make our record precise, which means that
17 Ms Samson for this session is not present, otherwise, Mr Bourgon, I guess I suppose you
18 will continue the same regime you finished before the break, so we will have, I guess,
19 have to move into private session, am I right?

20 MR BOURGON: Indeed, Mr President.

21 PRESIDING JUDGE FREMR: Court officer, let's move into private session now.

22 (Private session at 11.38 a.m.) *(Reclassified partially in public)

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

24 PRESIDING JUDGE FREMR: Mr Bourgon, please proceed.

25 MR BOURGON: Thank you, Mr President.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 Q. (Interpretation) Witness, I'll go back to the Sayo operation. Now, the first
2 question is as follows: You were put a question during the examination-in-chief by the
3 Prosecution. Here I'm referring to the transcript T-79, French version, 14, page 14, lines 9
4 to 12.

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)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(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 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. Now, let me move on to something else, Mr Witness.

24 I return to your first meeting with your -- with (Redacted). That meeting, you would

25 agree with me, was preceded by a meeting with (Redacted), an intermediary; is that

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 correct?

2 A. Yes. Before (Redacted) there was someone else as well as far as I remember.

3 Q. Now, at this juncture I would like to review with you the events that led up to your
4 making contact -- or to your contacts with the OTP. (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 (Redacted)

19 (Redacted)

20 Q. I put it to you that at that time you knew that (Redacted) was being reproached
21 for having coached witnesses.

22 A. No, I was not informed of that.

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 MR BOURGON: Thank you, Mr President. I will do so.

3 Q. (Interpretation) I think you already answered the question relating to your
4 recollection of having met the representatives of the OTP?

5 A. Yes.

6 Q. At that time you talked about your contacts with (Redacted); is that correct?

7 A. Yes.

8 Q. You also explained how you got to meet him.

9 A. Yes.

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)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 A. I think so.

2 Q. I'll now go back to the start of the story. The first person that spoke to you about
3 the International Criminal Court (Redacted) was (Redacted) ; is that correct?

4 A. The International Criminal Court? I didn't say that, I think.

5 Q. I'll clarify my question. Of the presence of the representative of the Prosecution in
6 (Redacted), the first person who told you that, according to the information I've got, is
7 (Redacted); is that correct?

8 A. I don't understand your question. The first person to talk to me about the
9 International Criminal Court?

10 Q. I'm going to clarify my question. You remember your first meeting with
11 (Redacted)?

12 A. Yes.

13 Q. Just before there's somebody who spoke to you who suggested that you meet
14 (Redacted)

15 A. Yes.

16 Q. (Redacted)

17 A. Yes.

18 Q. And (Redacted) informed you that there was a representative of the Prosecutor who
19 was in (Redacted)?

20 A. No, it wasn't like that.

21 Q. Well, what did (Redacted) say to you?

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(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 (Redacted)

13 (Redacted)

14 (Redacted) and that was afterwards.

15 Q. So (Redacted) informed you that there's a person who is looking for former soldiers?

16 A. Yes, (Redacted). And that's the information I was given.

17 Q. And on what basis did (Redacted) come and see you to tell you that you should
18 meet this person?

19 A. I haven't understood the question.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 Q. And he suggested you meet the person who was looking for former soldiers?

4 A. Yes.

5 Q. What did he tell you? What did he say to suggest you should see this person?

6 A. Well, he spoke, he said that they're looking for somebody who had fought

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. What was your curiosity concerning (Redacted)

14 A. Well, it was about going to see him. I thought that I'd -- I didn't have a lot to *do, I

15 was just (Redacted), I went to see him to listen to what he was going to say. "You

16 are looking for former soldiers, former militiamen, but why?" I was curious.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. And you went to meet (Redacted)?

6 A. Yes.

7 Q. And did you meet him alone or did you meet him with (Redacted)?

8 A. With (Redacted).

9 Q. And there (Redacted) explained what he was looking for?

10 A. I was with him and he asked me a question, was I really a soldier, if I had really
11 been a soldier. I said yes (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. And you also spoke with (Redacted) who afterwards put you in touch with
20 (Redacted); is that correct?

21 A. Yes.

22 Q. On the same day you met (Redacted)?

23 A. Yes.

24 Q. And when you met (Redacted) you were --

25 PRESIDING JUDGE FREMR: Ms Solano.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 MS SOLANO: Thank you, your Honour. Mr Bourgon is continuing with this line of
2 questioning and I just want to point out that one of the propositions that he has put to the
3 witness at the beginning of the line of questioning is incorrect. (Redacted)

4 (Redacted)

5 (Redacted)

6 PRESIDING JUDGE FREMR: Mr Bourgon.

7 MR BOURGON: Mr President, I'm fully aware of this, but I think this is quite
8 inappropriate to make this observation in front of the witness because it is part of my line
9 of questioning, but I will now ask a few questions to ensure that we are on -- that I'm on
10 the same page and exactly where I want to be in my cross-examination.

11 PRESIDING JUDGE FREMR: Ms Solano.

12 MS SOLANO: Your Honour, I don't think there's anything inappropriate. Mr Bourgon
13 has to put his questions to the witness on a good-faith basis, (Redacted)

14 (Redacted), I don't see that really there

15 is such a good-faith basis for the line of questioning, at least for part of it, your Honour.

16 PRESIDING JUDGE FREMR: Yeah, in this case, I mean, Ms Solano is right because
17 there's some propositions being given to Mr Witness, they should be absolutely correct.

18 Mr Bourgon, please proceed.

19 MR BOURGON: Thank you, Mr President. That's what I meant, I will clarify my
20 proposition.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(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 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)

21 THE COURT OFFICER: Mr Bourgon, could you please repeat the ERN number, please.

22 MR BOURGON: Mr President, I have some difficulties with the -- encountered with
23 documents. Considering that it is now 10 minutes to 1, I suggest, Mr President, that we
24 stop at this time, a little earlier, and then I will finish with whatever time is -- I have
25 remaining in the next session.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: All right. I think it's no problem. We have to be flexible.
2 Just to be clear about the time and now we can first move into open session. Yes,
3 anyway, let's move into open session.

4 (Open session at 12.51 p.m.)

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

6 PRESIDING JUDGE FREMR: So we will break a bit earlier than usually now, which
7 means that we will then reconvene at quarter past 2.

8 And just for your information, Mr Bourgon, you still have at your disposal 56 minutes.

9 So we will break now and reconvene quarter past 2.

10 THE COURT USHER: All rise.

11 (Recess taken at 12.51 p.m.)

12 (Upon resuming in open session at 2.18 p.m.)

13 THE COURT USHER: All rise.

14 Please be seated.

15 PRESIDING JUDGE FREMR: Good afternoon, everybody. So as I already indicated -- I
16 see there are some -- is there an issue with Mr Ntaganda? Everything is okay? Fine.
17 So we will continue, as indicated, with the rest of the cross-examination of Witness 963.

18 Mr Bourgon, you still have 56 minutes to finish your questioning. Do you want to
19 proceed in open or in private session?

20 MR BOURGON: Private session, Mr President, please.

21 PRESIDING JUDGE FREMR: So just for the information of public, this witness is
22 protected and he was given assurance that his identity will not be revealed, that is why if
23 questioning could reveal his identity, such part of the trial has to be conducted in private
24 session.

25 But anyway, Ms Solano, you want to comment on this?

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1 MS SOLANO: Good afternoon, your Honour. Just to note for the record that Ms Kristy
- 2 Sim has joined the Prosecution team for this session.
- 3 PRESIDING JUDGE FREMR: Thank you very much.
- 4 Now, court officer, please let's move into private session.
- 5 (Private session at 2.20 p.m.) *(Reclassified partially in public)
- 6 THE COURT OFFICER: We are in private session, Mr President.
- 7 PRESIDING JUDGE FREMR: Thank you.
- 8 Mr Bourgon, you have the floor.
- 9 MR BOURGON: Thank you, Mr President.
- 10 Q. (Interpretation) Good afternoon, Mr Witness.
- 11 A. Thank you. Same to you.
- 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)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: Yes, please.

2 MR BOURGON: Thank you, Mr President.

3 Q. (Interpretation) I put it to you, Mr Witness, that during that meeting you were told
4 that if you became a witness, you would receive a telephone and some credit; is that
5 correct?

6 A. No. And what about the costs that you referred to? Well, I didn't have any
7 financial problems. What costs are you talking about? I never told (Redacted) that I
8 needed money to cover any costs. I don't know what costs you are referring to. In
9 addition, I didn't have any financial problems at the time. I was (Redacted) so to speak
10 and I was in a better situation than other children.

11 Q. My mistake. When I use the word "credit," I was using the word to mean the credit
12 that is used for telephones. So do you know that?

13 A. Yes.

14 Q. So let me talk -- let me clarify this to the Judges. When I talk about credit, it's not
15 about financial credit but credit to be used on your phone.

16 A. Yes, I understand, but I was not told that when I became -- if I became a witness I
17 would be given a telephone. I wasn't told that. That's not correct.

18 Q. I put it to you, Witness, that at that time (Redacted) gave you to understand that there
19 were many benefits flowing from becoming a Prosecution witness.

20 A. What do you mean by "benefits"?

21 Q. All manner of benefit, benefits that can accrue if one became a witness.

22 A. I have already told you that I did not have any financial problems at the time. I
23 didn't have any special problem. Now, if you look closely, you will see that even today I
24 don't have any financial problems. I had no financial problems (Redacted). I have no
25 financial problems. (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted). I have never asked for any money from anybody for anything.

2 Q. Well, I was referring to benefits other than financial, but let me move on to another
3 question.

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 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 THE INTERPRETER: Message from the interpreters: Could the 5-second rule be respected.

9 MR BOURGON: (Interpretation)

10 *Q. About the fighting amongst other things?

11 A. Yes.

12 Q. Now, your next meeting with the Prosecution was on (Redacted); is that correct?

13 A. I can't be specific about that date. I don't -- I wasn't the one who took note of the
14 dates on these papers.

15 MR BOURGON: I'd like to call up a document to the screen, (Redacted).

16 PRESIDING JUDGE FREMR: Mr Bourgon, I was informed you have last 10 minutes. I
17 think the same thing, I also have something in mind it should be 20 minutes, but I was
18 now told it should be 10 minutes.

19 Court officer, are you sure, because according my measuring it should be rather 20 minutes.

20 So I was again corrected it should be just 10 minutes. Okay, let's make it a compromise, I
21 am giving you 15 minutes because it was not correct information. You still have 15
22 minutes.

23 MR BOURGON: (Interpretation)

24 Q. Now, the document is dated (Redacted), isn't that so?

25 A. Oui.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 Q. This is a document exactly the same as the previous one, but it was completed. I'd
2 like to look at the third page, (Redacted). This is the copy with the redactions. I have
3 another copy. I might have given the wrong reference number. I have another version
4 without the redactions. But it's not all that important because I don't need the
5 information that has been redacted.
6 Now, Witness, I draw your attention to paragraph 17. Here we read the following,
7 (Speaks English) (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 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0963

(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 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 PRESIDING JUDGE FREMR: Mr Bourgon, your time is over.

24 MR BOURGON: (Interpretation) Mr President, thank you. I have no further

25 questions for the witness.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1 (Speaks English) However, I do have some documents to be admitted.
- 2 PRESIDING JUDGE FREMR: Now, Ms Solano, any need for re-examination?
- 3 MS SOLANO: Just on one short point, your Honour.
- 4 PRESIDING JUDGE FREMR: All right. Go ahead.
- 5 MS SOLANO: Thank you.
- 6 QUESTIONED BY MS SOLANO:
- 7 MS SOLANO:
- 8 Can the court officer please bring up document (Redacted). It's one of the
- 9 screening notes that Mr Bourgon was displaying a few moments ago.
- 10 THE COURT OFFICER: Ms Solano, are you sure about the digits?
- 11 MS SOLANO: Let me repeat them just in case. Oh, I see the problem.
- 12 (Redacted).
- 13 Q. Sir, can you see the document?
- 14 A. Yes.
- 15 Q. When was the first time you saw this document?
- 16 A. Here. It was last week or the week before (Redacted).
- 17 Q. At the time that you met with (Redacted) during the meeting which this document
- 18 concerns, did she read back to you the contents of this document?
- 19 A. Sorry, I did not understand your question.
- 20 Q. Did she read to you this document?
- 21 A. The documents that I handed --
- 22 THE INTERPRETER: Overlapping speakers, Mr President.
- 23 MS SOLANO:
- 24 Q. No. The document that's on your screen. Did (Redacted) read this document to
- 25 you?

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 A. No.

2 Q. Sir, can you tell me whether you see your signature on the first page of the
3 document? Sir, do you see your signature on the first page of the document or do you
4 not see it?

5 Can the court officer please turn to the next page.

6 A. No, there is no signature.

7 Q. And do you see any signatures on that page?

8 A. No.

9 MS SOLANO: And the last page, court officer, please.

10 Q. Sir, do you see your signature on this page?

11 A. No.

12 Q. Thank you.

13 MS SOLANO: Your Honour, those are all my questions.

14 PRESIDING JUDGE FREMR: Thank you very much, Ms Solano.

15 Mr Bourgon, any request for re-cross?

16 MR BOURGON: No, Mr President.

17 PRESIDING JUDGE FREMR: In such a case, there is room for Judges' questions. I have
18 just really a few, two, three maybe.

19 Mr Witness, when you have been recruited by the UPC or more precise rather by FPLC,
20 were you promised any salary, any soldier's pay or any other benefit?

21 THE WITNESS: (Interpretation) No.

22 PRESIDING JUDGE FREMR: My first question was about any promise and my second
23 one is almost the same but concerns the reality. Have you really received any salary, any
24 payment, any material benefit during your service within the FPLC?

25 THE WITNESS: (Interpretation) No.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: You are saying no, but you also I think admitted that you
2 had a chance to loot. So if I -- what about things you have looted?

3 THE WITNESS: (Interpretation) The things we looted, we either sold them off and got
4 some money, which is what we did most of the time, or we used them ourselves. We
5 either used them or we sold them to get some money.

6 PRESIDING JUDGE FREMR: And my next question concerns also looting because I
7 would like to know whether there was some system of looting, because I can imagine that
8 in practice there might be I would say competing interests that, for example, several
9 persons have been and were interested to get the same thing. So how it was, you know,
10 accommodated when, for example, the commander, the soldier or even some civilian,
11 Hema civilian, all of them were interested in the same thing? Was there any system in
12 looting?

13 THE WITNESS: (Interpretation) When one looted or if one was interested in a
14 particular item and there are many people who are interested in that item, the leader
15 would have the right to that item. He was the one who had possession of the item and
16 he would keep it to himself or for himself.

17 PRESIDING JUDGE FREMR: Thank you. And my last question: Do you know
18 whether members of the *UPC used the tactics of wearing women's clothes or pagnes?

19 THE WITNESS: (Interpretation) Yes. I don't know whether it happened many times,
20 but it often occurred when -- you see, at some point the enemy and ourselves had the
21 same uniform. They had looted them from us, so they had the same uniform as
22 ourselves. Therefore, in order to distinguish ourselves from the enemy, we would tie the
23 pagnes. And I don't know how to explain this to you.

24 This happened and it was able -- it was possible for us to distinguish ourselves from the
25 enemy that way.

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: All right. But also part of my question was whether your
2 enemy, if I may say, used sometimes women's clothes just to confuse too?

3 THE WITNESS: (Interpretation) Yes.

4 PRESIDING JUDGE FREMR: And my really last question: Did members of the UPC
5 ever do the same, did the same?

6 THE WITNESS: (Interpretation) Yes, that was done.

7 PRESIDING JUDGE FREMR: All right. I don't have any further questions for the
8 witness.

9 Do my colleagues have any question for the Witness?

10 Please, Judge Chung.

11 JUDGE CHUNG: Thank you very much, Mr Witness. I would like just a couple of
12 questions, small questions for clarification.

13 Do you remember the battalion you were in had any number?

14 THE WITNESS: (Interpretation) Well, what I can say is that I do not remember the
15 name or, rather, the number of the battalion. I don't know whether the UPC had
16 numbers for its battalions. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 THE WITNESS: (Interpretation) No, no.

6 PRESIDING JUDGE FREMR: But, Witness, to understand correctly your response, does
7 it mean that you don't remember or that there were no name, no number?

8 THE WITNESS: (Interpretation) There was no number.

9 PRESIDING JUDGE FREMR: Now it's clear to me.

10 JUDGE CHUNG: So next one is during the attack on Lipri, do you now remember the
11 name of the commander in the field during the attack on Lipri?

12 THE WITNESS: (Interpretation) I did not participate in the Lipri battle. Kobu, yes,
13 but not Lipri. I don't remember because they were on the other side, except that the
14 other day I mentioned (Redacted) and Salumu in Kobu and Lipri. No, Lipri, no, I
15 have no recollection of Lipri. Maybe (Redacted)

16 you might find some information to that effect, but I don't remember it right now.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Open session at 3.36 p.m.)

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

6 PRESIDING JUDGE FREMR: Mr Bourgon.

7 MR BOURGON: Quickly, Mr President, about the admission of documents, with the
8 witness or without the witness, I'm in your hands. Thank you.

9 PRESIDING JUDGE FREMR: I think it would be better to make it without the witness,
10 because now I would like to -- if you don't object, I think it's no problem for you? Okay.

11 So, Mr Witness, it concludes your testimony. You spent with us a long five days. I
12 really appreciate that you remained concentrated for all that time, that you patiently
13 responded all those questions, and I firmly believe that your testimony will help all of us
14 to find the truth. So thank you very much and we wish you safe journey home.

15 At the same time I would like to thank Ms Clément, who perfectly guaranteed the rights
16 and support rights of the Witness.

17 Now Mr Witness may be escorted out of the courtroom.

18 (The witness is excused)

19 PRESIDING JUDGE FREMR: Now, Mr Bourgon, please take the floor with your request.

20 MR BOURGON: Thank you, Mr President. Further to my cross-examination, I would
21 like to admit the following five documents. The first document is DRC-OTP-0147 --

22 PRESIDING JUDGE FREMR: Sorry to interrupt you. Just to have an idea, all of them
23 for the purpose of impeachment?

24 MR BOURGON: Yes, Mr President.

25 PRESIDING JUDGE FREMR: Okay. Please proceed.

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 PRESIDING JUDGE FREMR: You are right. Let's move into private session. It was a
17 long day.

18 (Private session at 3.41 p.m.) *(Reclassified partially in public)

19 PRESIDING JUDGE FREMR: (Microphone not activated)

20 THE INTERPRETER: Microphone, Mr President.

21 PRESIDING JUDGE FREMR: And we also will have to redact all those details
22 mentioned by Mr Bourgon inadvertently in connection with those documents.

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

24 PRESIDING JUDGE FREMR: Thank you.

25 Mr Bourgon, please proceed.

1 MR BOURGON: I apologise, Mr President. It's my mistake. I just -- the light went on
2 when I saw the name and I couldn't see private session. So I should have asked for
3 private session right from the beginning. I apologise.

4 PRESIDING JUDGE FREMR: It's also my mistake.

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)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 Mr President, I respectfully submit that the five documents were discussed during the
2 cross-examination of the witness. He recognized the five documents and he recognized
3 when they were created and he recognized what the contents of the documents was.
4 Although I did show some parts of these documents to the witness in this case and
5 bearing in mind the nature of the issue, these are short documents which I believe,
6 Mr President, need to be admitted in full so that the Trial Chamber is provided with the
7 full context of how and when this witness was first encountered by the Prosecution, but
8 more importantly, (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 I believe, Mr President, that these documents are also important in order to determine the
18 probative value, if any, to be attributed to the testimony of this witness before this Trial
19 Chamber.

20 As for all the other documents I've referred to in accordance with the decision on conduct
21 of proceedings, I've quoted the necessary paragraphs from all of this material, which of
22 course is very extensive and I don't seek these documents to be admitted in evidence.

23 And again to confirm, I'm simply asking that they be admitted for the purpose of
24 impeachment solely.

25 Thank you very much, Mr President.

1 PRESIDING JUDGE FREMR: Which is important.

2 Ms Solano.

3 MS SOLANO: Thank you, your Honour. We oppose this application such as it is right
4 now. Mr Bourgon has grouped these documents and made submissions on them as if all
5 of the different things that he said applied to documents equally, but that's not the case.
6 For example, the witness, as far as I can tell, did not -- was not able to talk about the date
7 of creation of the two screening notes because the document was created by a staff
8 member of the Office of the Prosecutor and the witness is simply not in a position to know
9 when the screening note was created.

10 PRESIDING JUDGE FREMR: Ms Solano, maybe I will interrupt you. If your position is
11 that you would like to oppose in fact each document from different reasons, then
12 probably it would be better to make your submission in writing and then we will decide.

13 MS SOLANO: And if I may, your Honour, actually, I would request, your Honours, that
14 the Defence be required to express which portions of each of these documents it seeks to
15 have admitted because your Honours have ruled in the past in decision 1070 in paragraph
16 13 that the parties ought to be conducting their examinations in a manner designed to the
17 extent possible to create a clear and self-contained transcript record without unnecessary
18 recourse seeking admission of supplementary documents for the purposes of impeaching
19 on points of inconsistency with prior statements.

20 Moreover, your Honours -- sorry, I'll slow down.

21 Moreover, your Honours, Mr Bourgon read paragraphs of the two screening notes and the
22 witness statement to the witness, but he did not put the entire contents of those
23 documents to the witness for comment. And even in relation to those paragraphs, the
24 Prosecution believes that the Defence ought to put in writing, it could be in an email or as
25 your Honours see fit, where it sees inconsistencies, where the specific paragraphs it wants

1 to admit so that the Prosecution and the Chamber can assess whether there is in fact an
2 inconsistency, because on certain points the witness did not dispute the content of the
3 documents, including the content of the two handwritten notes, which are his to begin
4 with.

5 And finally, your Honour, and this will be my final point, the two screening notes were
6 the subject of corrections by the witness during his witness preparation session, and I seek
7 your guidance as to what process we ought to follow in order to ensure that if your
8 Honours admit the two screening notes into evidence, your Honours are not deprived of
9 knowing where the witness made corrections and what explanations he gave during his
10 Witness preparation session.

11 If it would have to be that, the contents of the witness preparation note or parts therein
12 need to be tendered into evidence, we would like your guidance, your Honours, please.

13 PRESIDING JUDGE FREMR: Mr Bourgon, I understood that you would prefer or you
14 requested to admit all documents, not just excerpts, but at least Ms Solano was referring to
15 our conduct of proceeding decision. So I would recommend also you make in writing
16 alternative, alternative proposal.

17 I understood that you still insist on tendering or admitting all, all documents, but I would
18 recommend also, in case that we would accept proposal or submission indicated by Ms
19 Solano as alternative, to indicate what part of document as an alternative should be
20 admitted.

21 MR BOURGON: Thank you, Mr President. We will do so. But as I've mentioned
22 during my submission, in this case, we respectfully submit is different from what is
23 envisaged by the decision referred to by my colleague. The difference is this is not -- we
24 are not trying to put in 1000 pages of material before the Chamber. We are trying to
25 make the life easier for both the Prosecution and the Chamber in order to understand the

1 context.

2 But I will put that in my written submissions.

3 As for my colleague's suggestion concerning the corrections, even though these
4 corrections fall into the part where it should be in the record, we also understand and we
5 would definitely not oppose that the corrections brought to these documents be also
6 admitted or drawn from the witness preparation session. We have absolutely no
7 objection to that. The record must be complete in order to analyse the evidence of this
8 Witness. Thank you, Mr President.

9 PRESIDING JUDGE FREMR: So we would like to get your submission I guess by
10 Wednesday. Is it realistic?

11 MR BOURGON: Well, Mr President, is it for us to make submissions, we make
12 submissions together or you want us to make first a request and then they will respond?
13 PRESIDING JUDGE FREMR: Yes, please. Start with your submission and then we will
14 ask Prosecution for their reply.

15 (Trial Chamber confers)

16 PRESIDING JUDGE FREMR: Judge Chung advised me, and I think it's a good idea, that
17 you maybe could try to get some agreement, but if not, the original plan is valid, okay?

18 MR BOURGON: Yes, indeed, Mr President. You mentioned Wednesday as being the
19 date. I would respectfully request until Friday simply because we are working on other
20 witnesses and --

21 PRESIDING JUDGE FREMR: All right. I think it's not urgent matter. We can even,
22 you know, decide later on. Why not? Friday is fine with us, Friday afternoon.

23 MR BOURGON: Thank you very much, Mr President.

24 PRESIDING JUDGE FREMR: And now the last last point, which is updated plan for the
25 next week. You all well know that there were some changes forced by some other

1 circumstances. So just to remind you that the schedule for this Monday, which is
2 April 18, is to start with testimony of Witness P-892 in two sessions, in two classical
3 90-minute sessions, which means first one 9.30 till 11, the second one 11.30 till 1 p.m.

4 (Trial Chamber confers)

5 PRESIDING JUDGE FREMR: Yes, I have to repeat it in open session.

6 (Open session at 3.54 p.m.)

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

8 PRESIDING JUDGE FREMR: Thank you, court officer.

9 So I will publicly repeat that our programme for next week will start with examination of
10 Witness P-892 on Monday in two sessions, first one from 9.30 to 11 and second one from
11 11.30 to 1 p.m. And then we will have to break. And for circumstances very well
12 known to both parties we will conduct the first part of examination of Witness P-933 the
13 late afternoon or in the evening from 6 p.m. to 8 p.m. by video link.

14 It's at the moment all from my part. Give me a second.

15 I would like to give instructions to those who have been present in the public gallery that
16 information inadvertently disclosed during the last submission of the Defence is strictly
17 confidential and must not be disseminated, otherwise you will be at risk of some sanctions.
18 So please I would like to remind it to you, to those four persons who at the moment are in
19 the public gallery.

20 Are there any further requests for the floor? If not, I thank you, all of you, and I wish
21 you a relaxed weekend and see you on Monday.

22 THE COURT USHER: All rise.

23 (The hearing ends in open session at 3.56 p.m.)

24 RECLASSIFICATION REPORT

25 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,

Trial Hearing

(Open Session)

ICC-01/04-02/06

1 the public reclassified and lesser redacted version of this transcript is filed in the case.