

Trial Hearing
WITNESS: DRC-OTP-P-0768

(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 Wednesday, 21 October 2015
8 (The hearing starts in open session at 9.32 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, your Honour.
15 The Court is sitting in the case of The Prosecutor versus Bosco Ntaganda.
16 PRESIDING JUDGE FREMR: Thank you.
17 We start as usual with appearances.
18 Prosecution, please.
19 MS SAMSON: Good morning, Mr President, your Honours.
20 The Prosecution today is represented by Mr James Pace and Mr Rens van der Werf,
21 both assistant trial lawyers; Ms Selam Yirgou, case manager; and myself,
22 Nicole Samson, senior trial lawyer.
23 PRESIDING JUDGE FREMR: Thank you, Ms Samson.
24 Now Defence, please.
25 MR BOUTIN: Good morning, Mr President. Mr Ntaganda is here present with us

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1 this morning. Here present with the Defence -- for the Defence of Mr Ntaganda is

2 Dennie Michielsen, stagiaire; Margaux Portier, gestionnaire de dossier; Isabelle

3 Martineau, Maître Isabelle Martineau, assistante juridique; Chloé Grandon,

4 Maître Chloé Grandon, assistante; et moi même, Luc Boutin, conseil adjoint. Merci.

5 PRESIDING JUDGE FREMR: (Interpretation) Thank you, Mr Boutin.

6 Now Legal Representatives of Victims, please.

7 MS PELLET: (Interpretation) Thank you very much, your Honour, your Honours.

8 The former child soldiers are represented by myself, Sarah Pellet, counsel with OPCV.

9 Thank you.

10 MR SUPRUN: (Interpretation) Good morning, your Honour, your Honours.

11 Victims of the attacks are represented by myself, Dmytro Suprun, counsel at the

12 Office of Public Counsel for Victims.

13 PRESIDING JUDGE FREMR: Thank you both of you.

14 And now duty counsel, please.

15 MR VON BÓNÉ: (Interpretation) Good morning, your Honour. I am Counsel

16 von Bóné and I am legal adviser of the witness.

17 PRESIDING JUDGE FREMR: Thank you.

18 So today we are going to continue with testimony of our witness.

19 Mr Witness, it's my duty to remind you that you are still under oath, which means

20 that you have to speak the truth and nothing but the truth.

21 I would also like to reiterate that, you know, this Court is governed by principle of

22 fair trial -- fair trial, which also means that both parties should be treated equally, and

23 as regards you, it means that you should respond to questions put to you by the

24 Defence in the same style like questions put to you by the party who called you,

25 means by Prosecution.

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1 Before we start I would like -- and I know that I am repeating myself, but I would like
2 to say that Prosecution used almost, I guess almost 7 hours for examination-in-chief,
3 which means in principle that the cross-examination should be taken in the same time
4 in total.

5 So now, Mr Boutin, you have the floor.

6 MR BOUTIN: Thank you, Mr President. If you allow me to role aside my chair.

7 It's very uncomfortable with the space we have.

8 Mr President, if I may before starting my questions, I have prepared my
9 cross-examination on the -- based on the transcript, the French non-official transcript
10 which was available in a timely fashion, quicker than the English one. So I'll do my
11 best to refer the Chamber if there's an issue with the -- with the transcript or
12 statements or -- and so on. I'll do my best to correlate the French and the English
13 version -- official versions that has been issued at a later stage. I obviously do not
14 expect that it will occur, but if it does occur, my assistant will assist us.

15 PRESIDING JUDGE FREMR: Mr Boutin, just to say that we got the point and it's
16 fine with us.

17 MR BOUTIN: Thank you, Mr President.

18 WITNESS: DRC-OTP-P-0768 (On former oath)

19 (The witness speaks French)

20 QUESTIONED BY MR BOUTIN: (Interpretation)

21 Q. Good morning, Witness. We are already -- we already met last week. My
22 name is Boutin, I'm a lawyer, counsel -- associate counsel for Mr Ntaganda, and I
23 have a series of questions to put to you. I would ask you to listen carefully to the
24 questions. If you have any questions with regard to what I'm saying, or my
25 questions, or if you do not understand, I would ask you to let me know and I will

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1 clarify it.

2 MR BOUTIN: Your Honour, in order to start I intend to cover the military training
3 of the witness and it may be necessary to go into private session at times during the
4 session.

5 PRESIDING JUDGE FREMR: So do you want to move to private session just now
6 or --

7 MR BOUTIN: Oui, Monsieur le Président.

8 PRESIDING JUDGE FREMR: -- during --

9 MR BOUTIN: (Interpretation) Your Honour, I'm going to try to cover these
10 matters right from the beginning. Obviously, depending on how we advance, it may
11 be that I have to come back into private session, but in order to start at least because
12 we're dealing with the training of the witness.

13 PRESIDING JUDGE FREMR: It's fully understandable to us and we appreciate that.

14 MR BOUTIN: We are in closed session now, or in private session?

15 PRESIDING JUDGE FREMR: At the moment we are in open session, so if you want
16 we can move immediately to private.

17 MR BOUTIN: Yeah, I would prefer to move immediately if possible.

18 PRESIDING JUDGE FREMR: Okay.

19 So, court officer, let's move to private session.

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

21 THE COURT OFFICER: We are in private session, your Honour.

22 PRESIDING JUDGE FREMR: Thank you, court officer.

23 Mr Boutin, you may proceed.

24 MR BOUTIN: Thank you, Mr President.

25 (Interpretation)

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25 Q. Okay, if I give you a point of reference, Mongbwalu operations, would you

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1 agree with me that this operation took place in November 2002?

2 A. I can say that it was between September and November because it was the rainy
3 season.

4 Q. (No interpretation)

5 A. I said that it was the period of the rainy season between September and
6 November 2002.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

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21 MR BOUTIN: I can assist you, Mr President. The document -- or, the REN that
22 I -- that I quoted is the first page of the document, but the specific reference to the
23 witness, you will find it at page 5.

24 PRESIDING JUDGE FREMR: Fine. Now it is clear to me. Thank you.

25 THE INTERPRETER: Your Honour, if there is a spare copy, could the interpreters be

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1 provided with one. Thank you.

2 MR BOUTIN:

3 Q. Mr Witness, please --

4 PRESIDING JUDGE FREMR: Sorry. There is a kind request from the interpreters'
5 booth. Do you have any -- one more copy available for interpreters?

6 MR BOUTIN: (Interpretation) Your Honour, we will obtain one immediately.

7 PRESIDING JUDGE FREMR: So maybe just please wait for a second until our court
8 officer delivers this copy to the interpreters' booths and then we can proceed.

9 (Pause in proceedings)

10 PRESIDING JUDGE FREMR: Thank you. You may proceed, Mr Boutin.

11 MR BOUTIN: (Interpretation) Thank you, your Honour. I see that the witness
12 has read the text.

13 Q. Witness, could you indicate, when you're comfortable to do so, or
14 whether -- when you're ready to answer my questions once you've looked at the
15 document.

16 A. I am not sure I understand this document because my understanding of English
17 isn't very good. Would you have a French copy of this document?

18 Q. I would be very happy to comply with that request but, unfortunately, this is
19 the only linguistic version that we have. And to be perfectly fair, I would like to ask
20 you to look at page 5, the first paragraph. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 PRESIDING JUDGE FREMR: Mr Boutin, I want anyway to interrupt you, but Ms
25 Samson, please.

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1 MS SAMSON: It was only that the witness doesn't understand the paragraph, so to
2 ask him questions and confirm information in the paragraph is -- is not fair, in my
3 view.

4 It may be possible for my friend from the Defence to read the paragraph, and then the
5 interpreters will translate it into French so that at least the witness can hear the
6 translation and, thereafter, we can ask questions about the paragraph.

7 PRESIDING JUDGE FREMR: It was exactly my idea. So Mr Boutin, please read
8 slowly this part you would like to refer to the witness, and our interpreters will
9 translate into English, please.

10 MR BOUTIN: (Interpretation) Thank you, your Honour. And thank you to my
11 learned friend for that very useful suggestion.

12 Paragraph -- on page 5, excuse me, first paragraph, the text reads in English as
13 follows:

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 I'm told that there's a problem with the interpretation. Apparently the copy of the
22 text has not arrived as of yet. I apologise.

23 PRESIDING JUDGE FREMR: May I ask the French booth whether you have been
24 provided with copies as you requested?

25 MR BOUTIN: Mr President, my colleagues inform me that they have received the

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1 copy at this stage. So if you allow me, I will start all over again and read again --

2 PRESIDING JUDGE FREMR: Okay. Fine.

3 MR BOUTIN: -- the said paragraph.

4 So I'm reading from page 5 of the document, the first paragraph: (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE FREMR: Thank you, Mr Boutin. According -- I tried to

16 observe also the French translation. According to my observation, it was okay.

17 Mr Witness, have you understood everything what has been now translated to you?

18 Was it -- was it okay?

19 THE WITNESS: (Interpretation) Thank you, your Honour. Yes, I understood the

20 translation.

21 PRESIDING JUDGE FREMR: Fine, then.

22 Mr Boutin, you may proceed.

23 MR BOUTIN: (Interpretation)

24 Q. Of course, Witness, to be fair, you have not had an opportunity to read the

25 entire document. However, its title can -- reads as follows: (Redacted)

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11 (Redacted)

12 PRESIDING JUDGE FREMR: Mr Boutin, I would like just to warn you that I will not
13 permit any further argumentative questions. So if you have some new questions,
14 fine, but you know the witness is saying that he doesn't know about that, so please
15 take it into account.

16 MR BOUTIN: I was about to move to another topic, Mr President. Thank you.

17 Just for the information of the Chamber and the Prosecution, the Defence intends to
18 tender this document through a Bar table motion at a later stage.

19 PRESIDING JUDGE FREMR: All right.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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7 (Redacted)

8 PRESIDING JUDGE FREMR: Give me a second. I will deliberate with my
9 colleagues.

10 (Trial Chamber confers)

11 PRESIDING JUDGE FREMR: So after silent deliberation our ruling is that we
12 sustain this objection because really we -- for us it's really to further relevance. So
13 we don't see any relevance at the moment.

14 So please move, Mr Boutin, to another topic.

15 MR BOUTIN: Very well, Mr President.

16 Q. (Interpretation) Witness, yesterday, or the day before yesterday, you testified
17 in response to a question from the Prosecutor regarding your belonging to the CNDP.
18 You know what the CNDP is, I'm assuming; is that correct?

19 A. Yes, I'm familiar with the CNDP.

20 Q. The CNPD is a rebel movement where in 2007 -- in fact, Bosco Ntaganda was a
21 member of that movement; do you know that?

22 A. Yes, I do know that.

23 Q. Is it correct that you never joined the CNDP (Redacted)?

24 A. I was never a member of the CNDP.

25 (Redacted)

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1 A. No, I don't know.

2 MR BOUTIN: I'd like to move on now to another topic.

3 If I may have a moment, your Honour.

4 I would like to go back into open session, your Honour, for a series of questions
5 which should take us to the break.

6 PRESIDING JUDGE FREMR: Okay.

7 Mr Witness, we will move now to open session, so please be careful. In case you that
8 would say something which would either reveal your identity or could have
9 some -- could create some risk of self-incrimination, just raise your hands and we will
10 move to private session again.

11 But now, court officer, let's move into open session.

12 (Open session at 10.27 a.m.)

13 THE COURT OFFICER: We are in open session, your Honour.

14 PRESIDING JUDGE FREMR: Thank you, court officer.

15 Mr Boutin, you may proceed.

16 MR BOUTIN: (Interpretation) Thank you, your Honour.

17 Q. Witness, on several occasions in your answers you referred to the use of various
18 means of communications such as Thuraya radios or phonies; is that correct?

19 A. Yes, that's correct.

20 Q. Did you receive a specific training as to the use of communications in your
21 officer training?

22 A. No.

23 Q. Therefore your knowledge is based on experience and practice; is that correct?

24 A. Yes, that's correct.

25 Q. You spoke about radios and you, in fact, mentioned small radios. I think

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1 they're usually referred to as Motorolas. Do you understand what I'm referring to?

2 A. Yes, these small radios -- in fact, Motorola is a brand, but there's a Kenwood and
3 there are other brands. The ones -- we had Motorolas, we had Kenwoods, we had
4 several brands and that's why I used the term "small radios" so that everyone would
5 understand.

6 Q. This leads me to the following question: The type of radio or a small radio
7 could be of different brands and different capacity; is that correct?

8 A. Yes, that's correct.

9 Q. Some of these radios have a very short range, very short range, and others have
10 a wider range; is that correct?

11 A. Yes, that's correct.

12 Q. As a military man, you know that this kind of radio doesn't function very well
13 in a mountainous terrain with hills and valleys, et cetera; is that correct?

14 A. Yes, that's correct.

15 Q. So basically these small radios are only useful over a relatively short distance,
16 for example, in a sector like Mongbwalu; is that correct?

17 A. Yes, that's correct.

18 Q. You also mentioned other types of means of communication. You referred to
19 phonies; is that correct?

20 A. Yes, that's true.

21 Q. If I understand correctly, Witness, the phonie is a more complex, a more
22 powerful radio that makes it possible to communicate over a longer distance; is that
23 correct?

24 A. Yes, that's correct, compared to the smaller radios.

25 Q. To compare with the smaller radios, where communication is open, in other

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1 words, and can be heard by anybody, the phonie makes it possible to communicate
2 over a wider distance, but also enables you to encrypt messages; is that correct?

3 A. Yes, that's correct.

4 Q. The phonie radios in military operations, in fact, come in two varieties, there's
5 the so-called manpack that can be carried into operations, and there are the base
6 stations which are positioned in strategic places; is that correct?

7 A. You're quite right.

8 Q. In the case of the operations in Mongbwalu when you were with the UPC, did
9 you know where the phonie base stations were?

10 A. Yes, I knew.

11 Q. There was one in Bunia; is that correct?

12 A. Yes, in Bunia. There wasn't one, there were several, several of them in Bunia.

13 Q. In Aru there was one as well?

14 A. Yes.

15 Q. Mongbwalu?

16 A. That is correct.

17 Q. And these radios are operated by signallers, people who are trained to use them;
18 is that correct?

19 A. Yes, we call them operators, radio operators.

20 THE INTERPRETER: Overlapping speakers.

21 MR BOUTIN: (Interpretation)

22 Q. Signallers, I think. Is that a term that you know, signaller?

23 A. I know the term radio operator.

24 Q. You mentioned -- in response to the question of my colleague you mentioned
25 the radio Thuraya, among others?

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1 A. Yes, I mentioned the Thuraya device.

2 Q. Which is a telephone, a satellite telephone; is that correct?

3 A. Yes.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted), is it not true that the only

10 means of communication that you had was either the small radio or the phonie?

11 A. That is correct.

12 PRESIDING JUDGE FREMR: Ms Samson, please.

13 MS SAMSON: Yes, sorry to interrupt. Some of the topics here are topics that were
14 squarely addressed in private session. If we're going to be continuing with some of
15 the areas discussed, I believe we should move into private session.

16 PRESIDING JUDGE FREMR: Mr Boutin, any objection to that proposal?

17 MR BOUTIN: Yes, your Honour. I think my questions are general. They cover a
18 topic. I do not intend to get into the specific detail that I believe would identify the
19 witness. I will be careful and if I feel that I'm going overboard I will certainly be
20 willing to stop my examination and move into private session.

21 PRESIDING JUDGE FREMR: Yes, I shall -- Mr Boutin, so the objection is overruled.
22 Please proceed.

23 MR BOUTIN: (Interpretation)

24 Q. Within the framework of communications, Witness, if I understand well, there
25 is a logbook of communications for the phonie; is that correct?

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1 PRESIDING JUDGE FREMR: So I understood, Mr Witness, you could just nod that
2 you would prefer to move to private session for responding this question; am I right?

3 THE WITNESS: (Interpretation) That is correct, your Honour.

4 PRESIDING JUDGE FREMR: Okay, I promised we will respect the wish of
5 Mr Witness, to make him comfortable, so court officer, let's move into private session.
6 (Private session at 10.39 a.m.) * Reclassified partially in public

7 THE COURT OFFICER: We are in private session, your Honour.

8 PRESIDING JUDGE FREMR: Thank you, court officer.

9 Mr Boutin, you may proceed.

10 MR BOUTIN: (Interpretation) Thank you very much, your Honour.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

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3 PRESIDING JUDGE FREMR: All right. And do we have an electronic version, or
4 how will be deal with --

5 MR BOUTIN: Yes, Mr President, this is a document that is on -- on the electronic
6 record, and this is the original version. There is a translation available, but before I
7 do provide you with -- or, provide the Chamber, rather, with the translation, I would
8 prefer to show the original document to the witness in order to see if he can testify
9 about it.

10 PRESIDING JUDGE FREMR: All right.

11 MR BOUTIN: Excuse me, Mr President, we have some house-clearing matter here.

12 PRESIDING JUDGE FREMR: No problem.

13 So I hope that everybody now can see the document on his or her screen.

14 MR BOUTIN: I apologise, Mr President. It appears that the document that I
15 referred to is not the right one. There is two types of documents of this nature, and
16 this is the other one that I -- I need to refer to. I apologise.

17 PRESIDING JUDGE FREMR: No problem.

18 MR BOUTIN: So, Mr President, the document is DRC-OTP-0017-0003.

19 Q. (Interpretation) Witness, can you see the document?

20 A. I think so.

21 I've read the document.

22 Q. So this is a document that you can recognize as being a situation report
23 provided within the framework of operations from one place to another; is that
24 correct?

25 A. Yes, I see the document. The person who's written it has done it in his own

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2 Q. Obviously you don't know the person who produced this document, but this is
3 the type of document that signallers, I put it to you, this is the document that
4 signallers or radio operators keep in order to keep a log of communications; are you
5 in agreement with me on that?

6 A. Not fully in agreement.

7 Q. So what point do you disagree on? What point of my statement do you
8 disagree with?

9 A. Well, you've just said it when you say there's a situation, you have to indicate
10 the place where the document was written and the destination. I don't see that here.
11 And secondly, the person who drafted the document must sign it and mention his
12 name and function, et cetera.

13 Q. So far I understand you well. You consider that this document is not exact.
14 Have I understood well your testimony? And it's not a document that you recognize
15 as being a document which was normally prepared in the normal way within the
16 framework of such communication; is that your testimony?

17 A. That is it.

18 MR BOUTIN: (Interpretation) Your Honour, could the witness be shown in the
19 same document page 00017.005.

20 PRESIDING JUDGE FREMR: All right.

21 MR BOUTIN: (Interpretation) I'm sorry, your Honour, please excuse my lack of
22 knowledge. I don't know if it's possible for the Chamber to see the original and the
23 translation alongside each other because obviously this document is written mostly in
24 Swahili? Obviously they were translated, it was disclosed to us, that's part of the
25 case record. It's very difficult to understand this document, not only because they're

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1 written in a foreign language, but also because they're handwritten, so the translation
2 is very useful.

3 PRESIDING JUDGE FREMR: At least at the moment we can see just, you know, the
4 original, it means the text in Swahili.

5 Ms Samson.

6 MS SAMSON: Yes, if I can assist with a suggestion, your Honour: The Prosecution
7 has prepared a document which could be of assistance. We had used it during the
8 confirmation hearing, so the Defence has a copy. At the break I can provide a copy
9 to the Defence to take a look. It has the original language and the translation
10 side-by-side on two pages. And provided that I have enough time to make sufficient
11 copies, I could provide that document to the Chamber, and the Defence and the legal
12 representatives if it could assist.

13 THE INTERPRETER: Your Honour, if the interpreters could also be provided with a
14 copy we'd be most grateful. Thank you very much.

15 PRESIDING JUDGE FREMR: Yes, it will be very helpful.

16 So, Mr Boutin, maybe we can then -- we can now break and in the meantime
17 everybody who is involved could be provided with translations --

18 MR BOUTIN: Yes. Thank you, Mr President.

19 PRESIDING JUDGE FREMR: -- okay?

20 MR BOUTIN: And thank you to Madam Prosecutor. We do have a hard copy of
21 the original and the translation side-by-side. My concern was with regards to
22 providing the Chamber with electronic copies, but if it would be better to proceed
23 with hard copies we'll certainly entertain, to provide the Chamber with hard copies
24 after the break.

25 PRESIDING JUDGE FREMR: I think we can live with hard copies, so it is not a

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1 problem.

2 Okay, so we will -- we will break now. So first, Mr Witness has to be escorted out of
3 the courtroom and, for this purpose, we have to move to the regime of closed session.

4 (Closed session at 10.58 a.m.) * Reclassified entirely in public

5 THE COURT OFFICER: We are in closed session, your Honour.

6 (The witness stands down)

7 PRESIDING JUDGE FREMR: Thank you.

8 Now we can move into open session, please.

9 (Open session at 10.58 a.m.)

10 THE COURT OFFICER: We are in open session, your Honour.

11 PRESIDING JUDGE FREMR: Thank you, court officer.

12 We break now. We will convene again at 11.30.

13 And in the meantime, during the break, I ask the court officer to get in touch with
14 Defence and to prepare sufficient number of copies which could be provided to
15 parties, to legal representatives, and also to the interpreters and to the Chamber as
16 well.

17 So now the Court is adjourned.

18 THE COURT USHER: All rise.

19 (Recess taken at 10.59 a.m.)

20 (Upon resuming in open session at 11.39 a.m.)

21 THE COURT USHER: All rise.

22 Please be seated.

23 PRESIDING JUDGE FREMR: We will proceed with the testimony of our witness
24 and concretely with his cross-examination. We have a public -- numerous public in
25 the audience. Don't worry but, Mr Boutin, I would like to ask you -- I -- it's up to

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1 you, but I guess you would like to continue in private session; am I right?

2 MR BOUTIN: You're right, Mr President. I wish I could go public, but I don't think
3 that it is -- it is the right thing to do.

4 PRESIDING JUDGE FREMR: It's fully understandable. Just for the information of
5 the public, the reason why we have to move to the regime of private session is
6 protection of the witness, which in this case is very, very important.

7 And maybe for the information of the public, can you estimate how much time you
8 will need to stay in the regime of private session?

9 MR BOUTIN: Unfortunately, Mr President, I expect to be quite lengthy in private
10 because of the nature of the topic that I need to raise. Unfortunately, I will not take
11 any chance whatsoever.

12 PRESIDING JUDGE FREMR: It's preferred and in accordance with our Rules.

13 So at the moment, we have to move to -- into private session. Court officer, please
14 make it.

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

16 THE COURT OFFICER: We're in private session, your Honour.

17 PRESIDING JUDGE FREMR: Thank you, court officer.

18 And Mr Boutin, you may proceed.

19 MR BOUTIN: (Interpretation) Thank you, your Honour. I don't know whether
20 you have been given a copy of the document that I referred to before the break, which
21 is (Redacted).

22 PRESIDING JUDGE FREMR: Ms Samson.

23 MS SAMSON: Yes. We are in the process of completing the copying. We've been
24 able to finalize one copy which, Mr President, you have. The initial pages are for
25 document (Redacted); and behind the tab towards the end of the document

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1 is (Redacted), which is the document that my friend would like to show the witness
2 with the translation available on the right-hand side of the page.

3 PRESIDING JUDGE FREMR: I can confirm it. I would like to thank you very much
4 for your assistance, Ms Samson.

5 So Defence, you may proceed.

6 MR BOUTIN: (Interpretation) Thank you, Mr President.

7 Q. Witness, I'd like to show you a document.

8 Does the witness have a copy, or can he be given a copy, your Honour?

9 MR VON BÓNÉ: On the document that we have here is (Redacted), so I believe that
10 is the first document that --

11 MR BOUTIN: Okay. Rather than -- rather than dwelling on this issue,
12 Mr President, I will switch over to another topic and then I'll come back later on on
13 this particular subject.

14 PRESIDING JUDGE FREMR: Okay.

15 MR BOUTIN: (Interpretation)

16 Q. Witness, yesterday you testified as to the trip that you took or, rather, the
17 traveling between Aru and Mongbwalu. Do you remember?

18 A. Yes. I remember that.

19 Q. Do you remember that you annotated a map with a number of towns and
20 villages of interest?

21 A. Yes. I remember.

22 MR BOUTIN: Your Honour, if I may, I would like to show the witness document
23 (Redacted)

24 PRESIDING JUDGE FREMR: Ms Samson, any objection to that?

25 MS SAMSON: No objection.

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1 PRESIDING JUDGE FREMR: Well, you may proceed, Mr Boutin.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

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23 (Redacted)

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1 Q. If I'm not mistaken, Nzebi is to the west of Mongbwalu; do you agree with me?

2 A. Yes. I would say that it's actually northwest, to be precise.

3 Q. And to go from Nzebi -- or, rather, from Mongbwalu to Nzebi, you have to take
4 the road that goes through Sayo; is that correct?

5 A. Yes, that's correct.

6 Q. You mentioned yesterday that you were in Nzebi and that you had seen some
7 things there?

8 A. Yes, that's correct.

9 Q. In 2013, when you met with the Court's investigators -- rather, the investigators
10 of the OTP, you did not mention the fact that you were in Nzebi.

11 A. Thank you. In fact, I don't know, but I believe I said that I was in Nzebi and I
12 had said at that time everything that I said yesterday.

13 Q. To be perfectly fair, Witness, what I'm referring to is in the itinerary that you
14 indicated to the OTP, you mentioned that after Pluto, you went to Nzebi to then go to
15 Mongbwalu.

16 A. No, there's been a confusion. You can't leave Aru and get to Pluto and then go
17 directly to Nzebi without going through Mongbwalu. It's -- I didn't say that.

18 Q. Well, that's why I'm asking for clarification as regards the direct route from Aru
19 to Mongbwalu. It is not necessary to go through Nzebi. Not only is it not
20 necessary, it's not possible to go through Nzebi; is that correct?

21 A. I don't know where you're getting that from but --

22 Q. I am asking for clarification, that's all.

23 PRESIDING JUDGE FREMR: Ms Samson, please.

24 MS SAMSON: Just to be clear, Mr President. If my friend is suggesting that the
25 witness stated that he travelled from Aru to Mongbwalu via Nzebi, I would like him

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1 to refer to the section of the interview or transcript that he's referring to so that the
2 witness is not in confusion.

3 PRESIDING JUDGE FREMR: Yes. Ms Samson is pretty right, so next -- I think next
4 time, Mr Boutin, you may -- you should proceed this way.

5 MR BOUTIN: (Interpretation) I agree, Mr President. And in order to reassure the
6 Prosecutor, let me provide the reference I am alluding to, which is the notes provided
7 by the OTP to the Defence following their meeting in (Redacted) with the witness,
8 that document is DRC-OTP-0089-0002, at paragraph 5, where it is stated clearly, as I
9 mentioned earlier, "Baku and Nzebi", and that is why I'm seeking clarification in this
10 regard.

11 PRESIDING JUDGE FREMR: But, I guess, it would be better to repeat the question
12 to Mr Witness
13 again.

14 MR BOUTIN: (Interpretation) Now, Mr Witness -- no, rather, Mr President, I am
15 comfortable with the witness' answer. What I was seeking was clarification for the
16 Defence and I think the witness has answered stating that it was a mistake and that is
17 fine by the Defence. And I'm ready to move on to something else.
18 Thank you, Mr President.

19 Q. Witness, I would like to show you -- well, yesterday do you remember that
20 there was a diagram which you had prepared in relation to Mongbwalu town. Do
21 you remember that? Reference DRC-OTP-0058-0664_R2.

22 Could we enlarge that diagram? Thank you. Can we zoom out, please? Thank
23 you.

24 You have the diagram before you now, Witness, and I am, again, seeking clarification
25 from you. You have just -- rather, yesterday you confirmed that you are the author

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1 of this diagram.

2 A. Yes.

3 Q. You have just confirmed that Nzebi lies on the Sayo access or road, which is to
4 the west, in fact north-west, according to you, of Mongbwalu; is that correct?

5 A. Yes, that is correct.

6 Q. Now, for purposes of clarification, in order to fully understand your diagram,
7 you have placed Nzebi on your diagram according to the cardinal points that are
8 mentioned to the south-east?

9 A. Yes. Thank you. In fact, this diagram, ordinarily when I was preparing it, I
10 drew it this way, but you cannot rely on what I did there because ordinarily the map
11 should have been turned around somewhat. So you cannot rely on this. Maybe
12 you want to put further questions to me so that I can clarify the location of Nzebi.
13 What I'm saying is that you cannot rely on this diagram.

14 Q. Witness, if I understand you properly, your diagram is a simple illustration but
15 does not reflect the exact layout of this position in geographical terms in relation to
16 the city of Mongbwalu and surrounding neighbourhoods; is that the case?

17 A. No. I cannot confirm that this diagram is a true reflection of everything, but it
18 is almost like that.

19 Q. I don't want to waste the Court's time, but I want to understand clearly what we
20 are talking about so that we can all be on the same page. Now when you look at
21 your diagram, the north is indicated, you have the south, and at the bottom -- bottom
22 right there is an arrow pointing towards Nzebi indicating the east or south-eastern
23 direction. Do you agree with me?

24 A. Ordinarily, I should have rotated the sign here because Nzebi is to the
25 north-west.

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1 Q. If I understand you properly, then your diagram is not a true reflection of the
2 geographical locations?

3 A. The diagram is correct except for what I have written here.

4 MS SAMSON: Excuse me, Mr President.

5 PRESIDING JUDGE FREMR: Ms Samson.

6 MS SAMSON: Just a clarification for the record. If counsel could ask the witness to
7 explain what he refers to repeatedly when he says, "Here." So the witness is
8 referring to something on the map and says, "This part isn't exact," but the record
9 doesn't capture what it is, so I think we need to ask the witness what he's referring to
10 specifically.

11 PRESIDING JUDGE FREMR: Yeah, I would support this proposal, Mr Boutin.

12 MR BOUTIN: (Interpretation) Yes, Mr President. I will certainly do so.

13 Q. Now, Mr Witness, can you tell me whether this diagram is correct
14 geographically speaking or not?

15 A. The diagram is correct, almost correct. It is not a map as such, and I did not
16 have the time to draw it specifically. What I'm saying is that it is correct except for
17 the area where I wrote north, east, south and west. We need to rotate that.

18 Q. Very well, Mr Witness.

19 Mr President, I've been informed that the copy of the document I referred to
20 previously that those copies are now available; is that correct?

21 PRESIDING JUDGE FREMR: Yeah.

22 MR BOUTIN: (Interpretation) With your leave then, can we -- can the witness be
23 given a copy?

24 PRESIDING JUDGE FREMR: Please hold on for a moment because we're also
25 working on transport of this bundle to the interpreters' booth. So I guess very soon

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1 we will be -- everybody involved will be having this.

2 Mr Boutin, you may proceed.

3 MR BOUTIN: (Interpretation) Thank you, Mr President. For the purposes of the
4 record, let me provide the ERN number of the document, which I intend to show to
5 the witness, and that is (Redacted), regarding the document proper now.

6 *When it comes to translation, it is (Redacted).

7 Mr President, the document, which I have, which is before the witness, is a version
8 that has side by side the original document and the translation. And the specific
9 page I am referring to is, if we go by -- or, we go by the translation, it will be
10 (Redacted).

11 MR VON BÓNÉ: Could you repeat that number again or is the page number just
12 written on the back -- on the bottom right?

13 PRESIDING JUDGE FREMR: I guess also for orientation it would be better to
14 mention page, yeah.

15 MR BOUTIN: (Interpretation) Page (Redacted), to the right.

16 Mr President, if I can be of assistance so we can move on, there are, I believe, copies of
17 the documents in the hard copies that you have received. There should be one big
18 main document and then a smaller one further back. I think that there's dividers.

19 PRESIDING JUDGE FREMR: Thank you for this qualification. Yeah, you were
20 right.

21 MR BOUTIN: And --

22 MR VON BÓNÉ: (Interpretation) The document that is currently on the --

23 MR BOUTIN: (Interpretation)

24 Q. Witness, you should have -- now you have before you and on the screen the
25 translation of the document I referred to earlier on, which in its original version is at

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1 page (Redacted), and the translation being (Redacted) should also be
2 available before you.

3 A. Yes, I can see the document.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

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15 (Redacted)

16 MR BOUTIN: Looking at my watch and I'm looking at your face, Mr President, I
17 think that I can read that this is the time to go for lunch. Thank you.

18 And I will obviously switch on to another topic later on. Thank you.

19 PRESIDING JUDGE FREMR: You are pretty right on that issue. Normally we
20 should finish exactly, but if it concerns both parties, if there is some -- some really
21 urgent questions to put in together with the previous ones, we can wait two, three,
22 four minutes, so it's not such a big issue, but normally we like to keep timing as much
23 as possible. Thank you.

24 Now Mr Witness will be escorted out of the courtroom and for that purpose we will
25 have to move to the regime of closed session.

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- 1 (Closed session at 1.03 p.m.) * Reclassified entirely in public
- 2 THE COURT OFFICER: We are in closed session, your Honour.
- 3 (The witness stands down)
- 4 PRESIDING JUDGE FREMR: Thank you.
- 5 Now let's move into open session for a while.
- 6 (Open session at 1.04 p.m.)
- 7 THE COURT OFFICER: We are in open session, your Honour.
- 8 PRESIDING JUDGE FREMR: Thank you, court officer.
- 9 We now break for lunch and we will reconvene at half past 2.
- 10 THE COURT USHER: All rise.
- 11 (Recess taken at 1.04 p.m.)
- 12 (Upon resuming in open session at 2.34 p.m.)
- 13 THE COURT USHER: All rise.
- 14 Please be seated.
- 15 PRESIDING JUDGE FREMR: Good afternoon.
- 16 This afternoon Defence will -- is going to continue in cross-examination of our witness.
- 17 We will start in open session, but I have a usual question to the Defence, to Mr Boutin.
- 18 I guess you prefer to move to private; am I right?
- 19 MR BOUTIN: Thank you, Mr President. It's always difficult, obviously. As I said
- 20 before, my preference would be to start maybe in open session, but I expect that the
- 21 topic that I will cover at some point may require to move into private session again.
- 22 So in -- so I'm ready to start in open, but --
- 23 PRESIDING JUDGE FREMR: Okay. Then we will start in open and we all will be
- 24 on alert.
- 25 Okay. So you have the floor.

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1 MR BOUTIN: (Interpretation)

2 Q. Good afternoon, Mr Witness.

3 A. Thank you. Good afternoon to you, too.

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 Mr President, I'm sorry, I believe we may need to go into private session.

20 PRESIDING JUDGE FREMR: All right. Court Officer, let's move into private
21 session now.

22 (Private session at 2.38 p.m.) * Reclassified partially in public

23 THE COURT OFFICER: We're in private session, your Honour.

24 PRESIDING JUDGE FREMR: Thank you.

25 Mr Boutin, you may proceed.

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1 MR BOUTIN: (Interpretation)

2 (Redacted)

3 (Redacted)

4 (Redacted)

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7 (Redacted)

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17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 A. It was in a tent. We didn't live in buildings or houses. We lived in tents right
22 there, right there in Nzebi, not tents as such. What happened was that we simply
23 built something, a few huts or something of that nature.

24 PRESIDING JUDGE FREMR: Excuse me, Mr Boutin. I have to stop you for a while.

25 I have a question to my Court Officer.

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1 It seems for two, three minutes my transcript, English transcript is frozen. Is it a

2 common problem or just mine?

3 (Pause in proceedings)

4 PRESIDING JUDGE FREMR: Thank you very much, Court Officer. Now my

5 English transcript is back; so Mr Boutin, you may proceed.

6 MR BOUTIN: (Interpretation)

7 (Redacted)

8 (Redacted)

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1 (Redacted)

2 Q. If I understand your testimony correctly, Kasangaki was the head of the UPC
3 intelligence services at that time; is that the case?

4 A. Yes. When it comes to Mongbwalu, yes.

5 (Redacted)

6 (Redacted)

7 A. No. I knew him as the S-2. He was the S-2 in Mongbwalu at the time.

8 Q. When I say "S-3," you understand what I'm referring to you, don't you?

9 A. Yes, I understand.

10 Q. For you what does S-3 represent?

11 A. S-3 is the person in charge of operations. And, well, within the units the S-3 is
12 in charge of operations only.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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1 PRESIDING JUDGE FREMR: Mr Boutin, I have to (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 PRESIDING JUDGE FREMR: Thank you very much.

20 I guess we have clarified this point. And Mr Boutin, you have the floor again.

21 MR BOUTIN: Thank you for your assistance, Mr President. It was exactly the
22 point that I wanted to make.

23 Q. (Interpretation) Would you be surprised, Witness, if I said that Bosco
24 Ntaganda during the Mongbwalu operations never went to Nzebi?

25 A. Thank you. Yes, I'd be astonished because he was in Nzebi before going to

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1 Bunia. He went around and he talked with the soldiers who had carried out the
2 Mongbwalu operation.

3 Q. And these soldiers with whom he allegedly spoke, could you give us their
4 names?

5 A. I'm sorry, could you clarify your question? I didn't understand it.

6 Q. I will rephrase.

7 And the soldiers who he addressed, what were their names?

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

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1 Q. Very well.

2 MR BOUTIN: Thank you, Mr President, for your patience. I'm done with this line
3 of questioning. Obviously I have other topics that I wish to cover and I'm prepared
4 to do so tomorrow morning.

5 PRESIDING JUDGE FREMR: Okay. Thank you very much.

6 So thank you, Mr Witness, for patiently responding all questions put to you. I have
7 to instruct you again that you must not discuss your testimony in the meantime with
8 anybody else. So now you will be excused and we will see you again tomorrow
9 morning. So thank you.

10 And now please let's move to closed session that would allow us to escort witness out
11 of the courtroom.

12 (Closed session at 4.05 p.m.) * Reclassified entirely in public

13 THE COURT OFFICER: We're in closed session, your Honour.

14 PRESIDING JUDGE FREMR: Thank you.

15 (The witness stands down)

16 PRESIDING JUDGE FREMR: And now for the final minute let's move again to open
17 session.

18 (Open session at 4.06 p.m.)

19 THE COURT OFFICER: We're in open session, your Honour.

20 PRESIDING JUDGE FREMR: Thank you, court officer.

21 For the sake of planning, Mr Boutin, I would like to ask you for the planning of the
22 upcoming or next witness. I would like to ask you how far you get in your schedule
23 because according to your estimation you should be roughly approximately in the
24 half of your examination. So what is the real situation?

25 MR BOUTIN: Mr President, I expect -- I don't know exactly where I'm at in terms of

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1 timing, but I would expect that I would need probably another hour, maybe an hour
2 and a half. I do not expect to be much longer than that.

3 PRESIDING JUDGE FREMR: Thank you very much. That's good news.

4 Give me a second. I got a message probably on that. Yes.

5 Now I have been informed, Mr Boutin, that until so far you have exhausted three
6 hours and 59 minutes, so four hours, so roughly you should have at your disposal
7 more than three, three hours, so at least you still have at your disposal two morning
8 sessions. But if you would be briefer, I think we would appreciate.

9 MR BOUTIN: Mr President, obviously I will review my notes and my documents
10 tonight and I would certainly be prepared to address or to tell the Court how much
11 time I will need tomorrow morning, but at this point, I would be highly surprised that
12 I would need more than the first session.

13 PRESIDING JUDGE FREMR: Very well.

14 So thank you very much all of you and now court is adjourned and we will see you
15 tomorrow at 9.30.

16 THE COURT USHER: All rise.

17 (The hearing ends in open session at 4.08 p.m.)

18 RECLASSIFICATION REPORT

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