

Trial Hearing
WITNESS: DRC-OTP-P-0055

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
3 Situation: Democratic Republic of Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing
8 Thursday, 25 February 2016
9 (The hearing starts in open session at 9.07 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo in the case of the Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 And for the record, we are in open session.
19 PRESIDING JUDGE FREMR: Thank you.
20 Appearances, Prosecution first, please.
21 MS SAMSON: Good morning, Mr President, your Honours.
22 Appearing for the Prosecution today are Mr Rens van der Werf and Mr James Pace,
23 both assistant trial lawyers; Ms Marion Rabanit, associate trial lawyer; Ms Dianne
24 Luping, trial lawyer; Ms Selam Yirgou, case manager; and myself, Nicole Samson,
25 senior trial lawyer.

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1 PRESIDING JUDGE FREMR: Thank you, Ms Samson.

2 Defence now, please.

3 MR BOURGON: (Interpretation) Good morning, your Honours. Representing Bosco
4 Ntaganda, who is present in the courtroom today, we have Sandrine De Sena, intern;
5 Dignité Bwiza, legal consultant; Mr William St-Michel; and myself, Stéphane Bourgon.
6 Thank you, your Honour.

7 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon. Legal Representatives of Victims
8 now, please.

9 MS PELLET: (Interpretation) Thank you, your Honour. The former child soldiers are
10 represented by Mohamed Abdou and myself, Sarah Pellet, OPCV. Thank you.

11 MR SUPRUN: (Interpretation) Good morning, your Honours. The victims of the attacks
12 are represented by the OPCV, Anne Grabowski, associate legal officer; and myself, Dmytro
13 Suprun, counsel.

14 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun. And duty
15 counsel, please, now.

16 MR CIKONZA: (Interpretation) Good morning, your Honour. Good morning to
17 everyone in the courtroom. I am Gemi Mundere Cikonz, and I am a lawyer associated with
18 the Brussels bar, and my task is to assist the witness. Thank you.

19 PRESIDING JUDGE FREMR: Thank you, Mr Cikonz.

20 Mr Witness, good morning. I would just like to assure myself that you are feeling
21 okay today.

22 WITNESS: DRC-OTP-P-0055 (On former oath)
23 (The witness speaks Swahili)

24 THE WITNESS: (Interpretation) Yes, I'm fine.

25 PRESIDING JUDGE FREMR: Very well. So nothing prevents us from continuing in your

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- 1 testimony. So as I said yesterday, the Prosecution still has at its disposal one hour and 10
2 minutes. Ms Samson, do you want to proceed in private or in open session?
- 3 MS SAMSON: In private session with your leave, Mr President.
- 4 PRESIDING JUDGE FREMR: Court officer, let's move into private session.
- 5 (Private session at 9.10 a.m.) *(Reclassified partially in public)
- 6 THE COURT OFFICER: (Redacted)
- 7 PRESIDING JUDGE FREMR: (Redacted)
- 8 MS SAMSON: (Redacted)
- 9 QUESTIONED BY MS SAMSON: (Redacted)
- 10 Q. (Redacted)
- 11 A. (Redacted)
- 12 Q. (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
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- 1 PRESIDING JUDGE FREMR: (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 MR BOURGON: (Redacted)
- 6 (Redacted)
- 7 MS SAMSON: (Redacted)
- 8 Q. (Redacted)
- 9 (Redacted)
- 10 A. (Redacted)
- 11 (Redacted)
- 12 Q. Who was responsible for deployments during the Lipri, Bambu and Kobu operation?
- 13 A. What deployment are you talking about?
- 14 Q. To decide which troops would go where and when they would deploy and start battle,
- 15 et cetera.
- 16 A. The troops in Lipri, Bambu and Kobu were troops that had already been at those
- 17 locations for some time. I cannot say that they went there during the attack as such, no.
- 18 They were our troops that were already at those positions. All that was provided was
- 19 briefings for them on how to conduct the war, how to proceed and provide them with their
- 20 needs such as ammunitions and rations and so on and so forth. That is it.
- 21 Q. Who provided the briefings to them?
- 22 A. I told you a long time ago that it was the chief of general staff in charge of operations. I
- 23 think that all operations relating to attacks were conducted by -- in fact, briefings in that
- 24 regard were conducted by the chief of staff in charge of operations.
- 25 Q. Sir, I'm going to ask you on a different topic now. Have you ever heard of a term used

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1 in the -- a termed called kupiga na kuchaji?

2 A. Yes. Kupiga na kuchaji is a military expression. You see, for example, when a
3 commander is commanding his troops during a battle, or even during training his various
4 military camps, the expression kupiga na kuchaji is used.

5 Q. And what language is that in please?

6 A. Kupiga is in Swahili. Kuchaji I think is English or French. I think you can find that
7 word in those languages. No, it's not in French. I think in French it's called pillaging. But
8 charge, well, when this expression is used in the army, it means attack the army and after or
9 as soon as you attack the enemy, you should dispossess the enemy of his weapon and his
10 property. So it's a military expression. I don't know how to explain it, but it means attack
11 and then -- attack the enemy and then pillage by taking away his weapon and all his whatever
12 he has, uniform, military attire, bayonets and whatever they possess, in fact meaning that the
13 enemy should be disarmed. It's a military expression.

14 Q. And did you ever hear that term being used in the UPC (Redacted)?

15 A. Yes it was being used. But I have told you already it's a military expression. I don't
16 know whether you want to ask me whether there was any pillaging that took place during
17 any attacks. Is that what you want to talk about?

18 Q. Well, I would like to know the context in which that expression was used in the UPC.
19 Can you explain that to the Court, please?

20 A. When a commander is commanding his troops, he asks his troops to advance, to attack
21 the army, disarm or pillage the enemy. It's a military expression. I don't know how to
22 explain this to you. During military training itself, all soldiers are taught this expression, not
23 only soldiers in our area. It's an expression that is used across the world. So I really have
24 not -- I really have not understood your question because it's about striking and about
25 dispossessing the enemy.

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1 Q. And in the context in which it was used in the UPC, what in your experience and to
2 your knowledge was the enemy dispossessed of when the instruction kupiga na kuchaji was
3 given?

4 A. Various types of goods. It depended on what the enemy had at their place. So
5 anything that was found could have been taken away. For example, when we got to some
6 villages or in Mongbwalu, which was a city, for example, the things that were taken were
7 vehicles, motorcycles, bicycles and what have you, vehicles were looted, were pillaged
8 from -- from the local inhabitants.

9 Q. And you mentioned for example that these goods were taken from local inhabitants in
10 Mongbwalu. To your knowledge, did such looting occur during or after other operations?

11 A. It happened during various operations. Even after having won or captured an area,
12 pillaging would take place, pillaging happened, because when there was victory, the civilian
13 inhabitants would flee and everything that remained would be taken away by the combatants
14 or the fighters.

15 Q. And did you ever see any of these looted goods yourself?

16 A. Yes, yes, I saw some vehicles that had been pillaged. I saw motorbikes that troops
17 looted in Mongbwalu. Yes, I saw those items.

18 Q. And can you recall who was in possession of the looted vehicles and motorbikes?

19 A. I'm not able to state who, but these -- these were normal things that happened. Anyone
20 who happened upon a vehicle or a motorcycle would take it away, but most of the time it was
21 the commanders or the senior ranking officers who had the vehicles.

22 I believe that all commanders had vehicles that had been pillaged. When they took
23 Bule for example, or Bunia, they took vehicles from the inhabitants of Bunia. But
24 when the UPC was driven out by the UPDF, some persons whose property had been
25 looted were lucky enough to recover their vehicles. Those who were not lucky, did

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1 not get their vehicles back. Things like that did happen.

2 Q. Now, you've talked about some of the types of goods that were taken during pillaging.

3 And could the troops also take persons as well as property or was it just property?

4 A. Sorry, I haven't understood your question.

5 Q. You've been speaking about the types of items that get pillaged after an attack, and you
6 were discussing property items. And my question is whether the pillaging after an attack
7 could also include persons, people.

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted), I was able to obtain information about pillaging because every now and
12 then I would see a troop or a soldier with a motorcycle and then subsequently a civilian show
13 up to say such-and-such a motorcycle or fridge or television set belonged to them. And
14 that's how I became aware of this pillaging.

15 From time to time when there was evidence, the items could be returned to the
16 civilians.

17 (Redacted)

18 (Redacted).

19 Q. And what happened to your knowledge to civilian women at the time of or after
20 attacks?

21 PRESIDING JUDGE FREMR: Mr Bourgon.

22 MR BOURGON: Mr President, this would be speculation. (Redacted)

23 (Redacted).

24 MS SAMSON: (Redacted). I would like to
25 know about something else.

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20 Q. Sir, I'm going to ask you a different question now. Did Mr Ntaganda to your
21 knowledge have the power to discipline UPC commanders and soldiers?

22 A. Yes, he was the chief of general staff in charge of operations. That was part of his
23 duties.

24 Q. (Redacted)

25 (Redacted)

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- 1 A. (Redacted)
- 2 Q. (Redacted)
- 3 A. (Redacted)
- 4 Q. (Redacted)
- 5 (Redacted)
- 6 A. (Redacted) .
- 7 Q. (Redacted)
- 8 A. (Redacted) .
- 9 Q. Have you ever heard of a term used in the UPC, and forgive my pronunciation,
- 10 kufanyiya, kufanyiya?
- 11 A. No. It's not kufanyiya, it is kufanyiya. I heard the expression kufanyiya.
- 12 Q. What language is that, please?
- 13 A. The expression is in Swahili.
- 14 Q. And what does it mean?
- 15 A. It simply means kill.
- 16 Q. (Redacted)
- 17 A. (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 PRESIDING JUDGE FREMR: (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 THE WITNESS: (Interpretation) (Redacted)

3 (Redacted)

4 MS SAMSON: (Redacted)

5 Q. (Redacted)

6 A. (Redacted)

7 PRESIDING JUDGE FREMR: (Redacted)

8 MS SAMSON: (Redacted)

9 Q. And you said that when the expression kufanyiya, kufanyiya was used, it meant that
10 the enemy had been killed. And who was the enemy?

11 A. Yesterday and the day before, I told you that the battle in Bunia was between the Hema
12 and the Lendu. The enemy was the Lendu.

13 Q. Now, sir, yesterday we spent some moments discussing whether you had ever heard of
14 demobilisation of kadogo when you were in the UPC. And I would like to show you a
15 document.

16 And I will give the ERN to the Chamber and to my friend from the Defence. It's
17 DRC-OTP-0029-0275.

18 PRESIDING JUDGE FREMR: Mr Bourgon, any objection against the use of this document
19 with Mr Witness?

20 MR BOURGON: No objection, Mr President.

21 PRESIDING JUDGE FREMR: So please proceed, Ms Samson.

22 MS SAMSON: Thank you. The transcript reference is incorrect. It's DRC-OTP-0029-0275.
23 It's incorrect in the transcript in both French and English.

24 If this could be brought up on the screen, please.

25 Q. Sir, can you see this document, please?

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1 A. (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 A. (Redacted)

5 Q. (Redacted)

6 A. (Redacted)

7 (Redacted)

8 Q. Thank you. Now I would also like to ask you a supplementary question. Did the
9 chief of general staff ever discuss this topic with you, demobilisation of child soldiers from the
10 UPC/FPLC?

11 A. No.

12 Q. Sir, I would now like to show you a video, a portion of a video. And for that I will first
13 give the Chamber the ERN of the video. There are two, but I'll start with the first. It's
14 DRC-OTP-0127-0058.

15 PRESIDING JUDGE FREMR: Mr Bourgon, any objection to this?

16 And just to assure myself, Ms Samson, you are intending to show excerpt mentioned
17 in the list from the 1.54 to 8.57?

18 MS SAMSON: We've shortened it somewhat from 1.54 to 7.28, and we will show an initial
19 caption of this video without sound to see if the witness can recognize it. He has -- I have
20 already asked him questions about this event previously, and then we will play it with sound
21 with your leave.

22 PRESIDING JUDGE FREMR: Mr Bourgon, your position?

23 MR BOURGON: No objection, Mr President.

24 PRESIDING JUDGE FREMR: Thank you. So please proceed, Ms Samson.

25 MS SAMSON: Thank you. I must first ask whether we can have access to the video from

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1 the Prosecution bench and I believe on evidence channel 2.

2 We will start now at minute 00154, and we'll play some 20 seconds or so to see if the
3 witness can recognize the event.

4 Q. Sir, please take a look at the video now. We're going to play it initially now without
5 sound to see if you recognize the event in the video.

6 (Viewing of the video excerpt)

7 MS SAMSON: We've stopped the video at minute 0253.

8 Q. So did you have a sufficient opportunity to determine whether you recognize the event
9 of the video?

10 A. Yes.

11 Q. And can you please tell the Court what you recognize about this video, in terms of
12 people present or the place in which the video is filmed or the event?

13 A. I haven't heard anything.

14 Q. That's right. We've played it initially without sound just to see if you can recognize the
15 event first. And if you can tell us a bit about it now that you've recognized it, then I will play
16 it with sound for you.

17 A. (Redacted)

18 (Redacted)

19 (Redacted)

20 PRESIDING JUDGE FREMR: Sorry, Mr Witness, but the question was about the event,
21 whether you recognize -- whether you recognize the event.

22 THE WITNESS: (Interpretation) (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE FREMR: Thank you.

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1 MS SAMSON:

2 Q. (Redacted)

3 (Redacted)

4 A. (Redacted)

5 Q. So we're going to go back now to the beginning of the video. We'll play it with sound,
6 if that's acceptable to the Chamber, and ask you some supplementary questions. We will
7 stop the video at certain spots and then ask you to assist us with what is happening at that
8 moment.

9 The transcript and translation of this video has been provided to the judges in the
10 witness binders and to the parties and participants in case that would be of assistance.
11 But I will be asking the witness to confirm what's being said.

12 PRESIDING JUDGE FREMR: All right.

13 MS SAMSON: So we will start again at minute 01.54.

14 (Viewing of the video excerpt)

15 MS SAMSON: (Redacted)

16 Q. (Redacted)

17 A. (Redacted)

18 Q. (Redacted)

19 A. (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. (Redacted)

23 (Redacted)

24 MS SAMSON: (Redacted)

25 Q. (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. (Redacted)

4 Q. (Redacted)

5 (Redacted)

6 A. (Redacted)

7 Q. (Redacted)

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. (Redacted)

13 A. (Redacted)

14 (Redacted)

15 Q. (Redacted)

16 Mr President, I believe I'm out of time, so I would like to thank the witness for answering my
17 questions over the last few days and that concludes my questions for you.

18 PRESIDING JUDGE FREMR: Ms Samson, any request for admission, please?

19 MS SAMSON: Yes, indeed. Both videos and the extracts that we showed, please.

20 PRESIDING JUDGE FREMR: Mr Bourgon, any objection?

21 MR BOURGON: As long as we're talking about the videos themselves, no, Mr President.

22 PRESIDING JUDGE FREMR: Okay. Then those two excerpts used with the witness, the
23 first with ERN ending 0058, the second one with ERN ending with 0063, just excerpts shown
24 to the witness today are admitted into evidence as a further Prosecution exhibit.

25 Now, Ms Samson.

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1 MS SAMSON: Yes, Mr President. Also the translation, I know we have been discussing
2 previously whether translations at this stage should have MFI, but the translated excerpts as
3 well I'm seeking to admit, and I can provide the ERN.

4 PRESIDING JUDGE FREMR: Mr Bourgon? Moreover, this translation also has been in fact
5 provided by Mr Witness, the most important part.

6 MR BOURGON: Well, Mr President, we oppose the admission of the transcripts themselves.
7 So translation is a different problem altogether. We have said in our notice that we sent to
8 the Chamber that if the Prosecution wishes to admit a transcript in evidence, they have to,
9 then they should remove -- first of all, the transcript should be only for the excerpt that was
10 played; and secondly, the names of the persons who were speaking on the video should also
11 be removed from the transcript. And if there were any -- we do not say that, but when there
12 are some comments coming from a third person that we don't know who that person is, then
13 those persons should also be removed.

14 So for these reasons we do not see any -- we oppose the admission of this transcript in
15 evidence.

16 Mr President, the idea is when the witness was asked to identify certain persons, he
17 was not able to do so. To provide the Chamber with one example, when he was
18 asked about one of the Lendu leaders speaking, he mentioned, and I refer here to, this
19 is at page -- I don't have the exact reference, but he said, this is a Lendu leader, this is
20 not the actual tribal chief, it's someone who is representing him, it's one of his
21 associates. He was not able to give the name of that person.

22 So if the transcript provides the name of the person, then we are not getting the
23 testimony of the witness. What really matters, Mr President, is what is on the record.
24 So we've heard on the record his comments and he's seen the video, and this is what
25 matters. So what should be in the hands of the Chamber at this point in time is the

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1 video and his comments on the record and not the transcript, unless the Prosecution
2 is able to remove the person speaking and to remove the identity of those persons at
3 the beginning. Thank you.

4 PRESIDING JUDGE FREMR: Ms Samson.

5 MS SAMSON: Mr President, the translation provided by the witness is, of course, a
6 summary and cursory based on his one-time listening, whereas the interpreters -- the
7 translators have actually been able to verify word for word on a much more careful basis. So
8 in our submission the fact that the witness gave a summary is certainly helpful. But the
9 translation itself and transcript will assist.

10 In our submission as well, where the witness has identified individuals in the videos,
11 this will be the record of today's transcript will be clear, and the Chamber can
12 dissociate the names that the witness himself has not been able to identify, which may
13 or may not appear in the transcript.

14 But cutting the transcripts and the translations in some ways seems an artificial
15 exercise to align with what the testimony was. In our submission the transcript
16 ought to be provided. In the metadata there can be appropriate notations made by
17 the court officer as to the extent of the admission, which will necessarily be tied to the
18 events as described by the witness and the individuals he or she has recognized.

19 I think that is a much more realistic and appropriate way to proceed with all the transcripts,
20 which in our submission are necessary for the Chamber to see. So we still request admission
21 into evidence of the transcripts and their translations for the excerpts shown and admitted.

22 PRESIDING JUDGE FREMR: Mr Bourgon.

23 MR BOURGON: Very briefly, Mr President, my colleague from the Prosecution is saying
24 that this is artificial. It's nothing artificial. We are talking about evidence. The witness did
25 not identify the person speaking, and they want to give you a transcript with the persons

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1 identified. There is nothing artificial here. When the Chamber will be deliberating with the
2 video and with a transcript, they should not have the names on the transcript that were not
3 identified by the witness.

4 The Chamber should have the video, have a transcript, which if the Prosecution wants to
5 admit that transcript, we have no objection, but not with the names of the persons speaking.
6 If the Chamber wants to know who was speaking according to this witness, then it has to go
7 into his evidence.

8 We feel nothing is artificial here, Mr President. It's a straightforward objection and
9 it's just a matter of proceeding. Thank you.

10 PRESIDING JUDGE FREMR: Point taken. We will deliberate during our break.

11 But before that I would also like to move for a short while in open session, please.

12 (Open session at 10.42 a.m.)

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

14 PRESIDING JUDGE FREMR: And one additional question to Mr Bourgon: Apart of those
15 objections targeting or asking for some redaction, as to the translation itself, there are no
16 objections?

17 MR BOURGON: Well, Mr President, as regards the translations themselves, we also
18 indicated in our notice that at this point in time we are still not in a position to identify any
19 major disagreement. The Chamber is aware of our submission where we asked for judicial
20 review of the Registrar, waiting for some resources.

21 Mr President, you can see I have someone sitting beside me today, a newly added
22 member to the team, and she has sufficient knowledge to identify those, if there are
23 major disagreement. However, at this point in time we have not employed her for
24 that purpose. But we do intend to employ her for that purpose and to solve the
25 matter so we can proceed.

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- 1 We are not trying to hold up on proceedings, we're simply having to say can we have a look
2 to see if there is a major disagreement and then submit to the Registrar for any disagreement
3 in accordance with the decision on the conduct of proceedings. Thank you, Mr President.
- 4 PRESIDING JUDGE FREMR: All right. Well noted. The reason why I came into open
5 session is to ask Ms Pellet whether she has any update for us, because she made request some
6 time ago concerning the possible questions put to this witness, but it was a relatively long
7 time ago, so I'm asking about the update, if any, in the light of the Ms Samson questioning.
- 8 MS PELLET: (Interpretation) Thank you, Mr President. Following the examination by
9 Madam Samson, I will have no further questions for the witness. And this will be compliant
10 with your directions, Mr President. Thank you.
- 11 PRESIDING JUDGE FREMR: Appreciated, because we even appreciated your involvement,
12 but it was really that in fact areas you will be interested to cover has been already covered by
13 Ms Samson.
- 14 Ms Samson.
- 15 MS SAMSON: Yes, apologies, your Honour. Just one further document that I showed to
16 the witness. It's document DRC-OTP-0029-0275. The witness stated that he had not seen
17 the document before. What I'm proposing is that it be marked for identification, however, so
18 that we don't lose track of the document during the course of the proceedings.
- 19 PRESIDING JUDGE FREMR: Mr Bourgon, any objection to this request?
- 20 MR BOURGON: Mr President, I would even go as far as saying that it should be admitted in
21 evidence if my colleague sobeit. The relationship has not been established, but it is a
22 document that we intend to submit at some point, so why not do it immediately as part of the
23 Prosecution's case. We have no problems with that.
- 24 PRESIDING JUDGE FREMR: Ms Samson.
- 25 MS SAMSON: That's fine. Thank you.

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1 PRESIDING JUDGE FREMR: Okay. Then based on this agreement, this document is
2 admitted into evidence as a further Prosecution exhibit.

3 And now we will break. And because we are a bit over our schedule, we will have
4 to adjust the break accordingly, because it will be a long day again and we can't
5 deprive interpreters and recorders of their right to some rest and break. So we will
6 continue quarter past 11.

7 THE COURT USHER: All rise.

8 (Recess taken at 10.46 a.m.)

9 (Upon resuming in open session at 11.19 a.m.)

10 THE COURT USHER: All rise.

11 Please be seated.

12 PRESIDING JUDGE FREMR: We are in open session, and I will start by addressing a
13 procedural issue we started to discuss before this break. When the Prosecution requested
14 admission into evidence of the translations of the transcripts belonging to the excerpts of two
15 videos that we were shown to the witness, on the basis of the Prosecution's list of items it
16 intends to use with the witness, the Chamber understands this to be DRC-OTP-0164-0750 and
17 DRC-OTP-0176-0428.

18 Ms Samson, as you had not indicated the ERN numbers of these translations, can you
19 please confirm that these are the documents you wish to tender into evidence?

20 MS SAMSON: I believe that's correct, your Honour. I've misplaced my piece of paper
21 with --

22 PRESIDING JUDGE FREMR: Belief is not enough. Are you sure?

23 MS SAMSON: I'd like to tell you absolutely. The issue is I've misplaced my piece of paper.
24 With your indulgence, your Honour, I can just look to my colleagues.

25 PRESIDING JUDGE FREMR: Yes, take your time. It's important.

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1 MS SAMSON: Many thank you to my colleague, Ms Pellet. There are two videos that were
2 shown. So the transcripts are 0176-0341 and translation 0176-0428, as well as 0164-0602 and
3 0164-0750.

4 PRESIDING JUDGE FREMR: Thank you, Ms Samson, and Ms Pellet for this verification.

5 So our ruling is the following one: The Defence objected to the admission arguing
6 that the names of the persons speaking should be removed. The Chamber agrees
7 with the Defence. The Prosecution shall provide a redacted version of the relevant
8 excerpts of the translation to the Registry in which the names of those persons that
9 were not identified by the witness when he watched the videos are redacted.

10 Mindful of the Defence submissions as to the context of the translation and in line
11 with its previous rulings, these translations excerpts will be MFI'd for the moment.

12 It concludes our ruling and now we can move to cross-examination.

13 Before doing that, Mr Witness, I have to advise you that now you will be examined by
14 Defence. And since this Court is governed by principle of fair trial, both parties
15 should be treated equally. It also concerns your testimony, so I can confirm that you
16 responded to all questions in exemplary way, so please -- I mean as to the technique.

17 I will not comment to the content of your responses. But you were focused on
18 questions put to you. You were attentive. So please do it in the same way as
19 concerns questions put to you by Mr Bourgon.

20 And, Mr Bourgon, you also highlighted that you will be provided the same time like
21 Prosecution, Ms Samson used. I was told at the end probably relying on our general
22 sitting a little bit more than allotted 11 hours. She used 11 hours, 9 minutes. So the
23 same time belongs to you.

24 And the last guidance from my part, we fully agree, please try, if possible, to keep
25 your examination in public session, but one caveat: In the Chamber's view, the

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1 position of the witness is so unique that as soon you would mention even if in some
2 context with Mr Ntaganda his position, it would, in our view, could reveal his
3 identity. So please bear it in mind.

4 Now, Mr Bourgon, you have the floor.

5 MR BOURGON: Thank you, Mr President. Mr President, just for planning purposes, until
6 what time --

7 PRESIDING JUDGE FREMR: Good point. We will still like to insist on our previous
8 schedule, so we were a little bit longer, now we will have to be shorter, so we will finish this
9 session at half past 12.

10 MR BOURGON: Thank you, Mr President.

11 With your leave, I would like to address the Chamber in the last five minutes to make
12 a request concerning the testimony of the witness, the last five minutes of this session.

13 PRESIDING JUDGE FREMR: All right. Do you mean in the absence of witness or --

14 MR BOURGON: Yes.

15 PRESIDING JUDGE FREMR: I understood. Fine.

16 QUESTIONED BY MR BOURGON:

17 Q. Good morning, sir.

18 A. Good morning.

19 Q. Allow me to begin by introducing myself. We met very briefly back in October. My
20 name is Stéphane Bourgon, I'm a lawyer from Canada and I'm here with two of my colleagues
21 today, Dignité Bwiza as well as Sandrine De Sena, and together we represent Bosco Ntaganda.
22 It's my work now to basically ask you some questions further to your
23 examination-in-chief or to the questions that were put to you by the Prosecution. I
24 take it that you are familiar with this process; is that correct?

25 A. Yes.

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1 Q. Allow me to begin very quickly by one first question to follow up on the last question
2 that was put to you so that we don't lose track. I refer to the question that was put to you
3 just before the break, and the question was, and this is on page 28 of the transcript at lines 18
4 and 19, and the question went as follows: "And at the time were you able to confirm what
5 Salongo had said on the radio as described by the Lendu representative?"
6 And before you answered, then there was a follow-up question: "Were you able to
7 confirm what Salongo had said on the radio?" So first you answered "Yes." So
8 that's correct? You're familiar, you heard what Salongo said during this video that
9 was played; is that correct?

10 A. Yes. Regarding Salongo's remarks on the radio, I think that it was a message that he
11 announced on the radio and everyone was able to hear it. I told you that I didn't listen to the
12 radio message, but the others did. I told Lubanga what the Lendus had told me about this
13 message from Salongo, which was broadcast on the radio. Lubanga himself heard the
14 message which was broadcast on the radio.

15 Q. I thank you for your answer, sir.
16 Many of my questions, sir, I will try to direct you to give an answer as short as
17 possible because I have limited time to ask you questions. Of course, whenever you
18 want to say something, you are fully entitled to do so. But I will try to direct you so
19 that the answers are shorter so that we gain some time. Do you understand this?

20 A. I understand.

21 Q. Let me read to you from the transcript that I have -- It's in French, so it will be translated
22 to you in English -- just one sentence of what was said by Salongo, and then I will ask you a
23 question. So according to what I have, and I'm referring here to at 6 minutes and 40 until 7
24 minutes and 31, but it's only one sentence that is in that extract. It goes as follows:
25 (Interpretation) "Salongo from Mongbwalu said that the war, the RCD/ML and the UPC, the

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1 war had to be put in its place. One mustn't pit the children of Ituri against one another."

2 (Speaks English) I stop here. Can you confirm that you heard this sentence earlier on in the
3 video?

4 A. No. I heard the words that the Lendus had told me about when I went to Lipri
5 regarding Salongo's message, who had been on the radio. But I did not hear it for myself.

6 Q. That was not my question. The sentence I just mentioned that was translated to you in
7 English, did you hear this sentence this morning?

8 A. No.

9 Q. Then let's try and get that audio video back, and let's listen to that sentence together.

10 Mr President, I would like to have the exhibit which was used this morning, it's on
11 the Prosecution's list, and it is DRC-OTP-0127-0058.

12 PRESIDING JUDGE FREMR: Ms Samson, any objection?

13 MS SAMSON: No, your Honour.

14 PRESIDING JUDGE FREMR: So court officer, please.

15 MR BOURGON: And I would like if we can have this exhibit and to start at 6 minutes 40.

16 So 00.06.40.

17 So, Mr Witness, while we are getting the video ready, I would like -- simply I'll read you that

18 sentence again, which comes from a transcript, and then just tell me if you hear that sentence

19 when we play the video. So I'll say again the sentence I'm looking for: (Interpretation)

20 "Salongo of Mongbwalu said that the war of the UPC and the RCD/ML had to be put in its
21 place. One mustn't pit the children of Ituri against one another."

22 So that's the sentence that I would like you to pay attention, if you hear Salongo

23 saying that in the audio video that will be played.

24 THE COURT OFFICER: Mr Bourgon, I would like to inform you that parties are supposed

25 to play their own audio and video document. The Registry is now trying to assist you, but

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1 obviously we do not have any sound coming out from our computers.

2 MR BOURGON: I apologize. It's a Prosecution exhibit that I did not intend to play, but the
3 witness says that he did not hear the sentence, so I need to say it again. So it's not -- it's
4 beyond -- I can't --

5 PRESIDING JUDGE FREMR: It's all right. It's not your fault, Mr Bourgon.

6 MR BOURGON:

7 Q. Mr Witness, did you hear this on the video this morning, or you really have no
8 recollection?

9 A. I heard the remarks in the video, but I don't remember the sentence that Salongo uttered.
10 If people say -- well, what I heard this morning is what Salongo -- what the Lendu did. That
11 doesn't mean that I don't remember.

12 Q. Please, Mr Witness, I will simply quote from the transcript of the video. And I will ask
13 you a question based on this sentence and we can sort that out later whether he did say it in
14 the video. So the sentence goes as follows. Please listen to the sentence and I'll ask you a
15 question.

16 (Interpretation) "Commander Salongo of Mongbwalu said that the war between the
17 RCD/ML and the UPC had to be put in its place. One must not pit the children of Ituri
18 against one another."

19 So forget whether Salongo said this this morning, whether you heard it or not. My
20 question is very simple. When we say: (Interpretation) "We mustn't pit the
21 children of Ituri against one another," (Speaks English) we are not talking about
22 kadosgos, right?

23 A. (Speaks English) I don't know.

24 Q. You've heard the term before "the children of Ituri," have you not?

25 A. Yes, I did hear that expression.

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1 Q. And this expression is regularly used at the time you were in Bunia in 2002, 2003; is that
2 correct?

3 A. Yes.

4 Q. And this expression, I suggest to you, it means the children of Ituri is those who are
5 born and those who are from Ituri; is that correct?

6 A. Yes.

7 Q. That was just the only follow-up question I had to this morning, and I wanted to put
8 that on the side so that we could begin, you and I, together from the beginning.

9 The first thing I'd like to touch upon with you is to confirm that the first time you met
10 with Prosecution representatives was on 9 March 2005 in Kampala.

11 PRESIDING JUDGE FREMR: Mr Bourgon, I am afraid that we will have to leave -- we will
12 have to move into private because those dates, you know, are specific -- concern specifically
13 our witness.

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

15 (Private Session at 11.42 a.m.) *(Reclassified partially in public)

16 THE COURT OFFICER: (Redacted)

17 PRESIDING JUDGE FREMR: (Redacted)

18 (Redacted)

19 MR BOURGON: (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 PRESIDING JUDGE FREMR: (Redacted)
- 3 (Redacted)
- 4 MR BOURGON: (Redacted)
- 5 (Redacted)
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- 10 (Redacted)
- 11 (Redacted)
- 12 PRESIDING JUDGE FREMR: (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 MR BOURGON: (Redacted)
- 18 PRESIDING JUDGE FREMR: (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 THE COURT USHER: (Redacted)
- 23 (Recess taken at 12.24 p.m.)
- 24 (Upon resuming in open session at 1.59 p.m.)
- 25 THE COURT USHER: All rise.

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1 Please be seated.

2 PRESIDING JUDGE FREMR: Good afternoon, everybody.

3 Good afternoon, Mr Witness. We will continue with your testimony.

4 At the moment we are in open session, but since our witness is a protected witness,

5 Mr Bourgon, and please I guess you will respect my guidance, so as soon as you would

6 like to deal with issues that could bring some specific information that could reveal

7 identity of this witness, we then will have to move into private session. So what is your

8 position on that, Mr Bourgon?

9 MR BOURGON: (Microphone not activated)

10 THE INTERPRETER: Microphone was not on.

11 PRESIDING JUDGE FREMR: Just for the record I will just repeat because Mr

12 Bourgon's --

13 MR BOURGON: Sorry.

14 PRESIDING JUDGE FREMR: No problem.

15 But Mr Bourgon asked to move into private session, so court officer, let's move into

16 private session.

17 (Private session at 2.00 p.m.) *(Reclassified partially in public)

18 THE COURT OFFICER: (Redacted)

19 PRESIDING JUDGE FREMR: (Redacted)

20 (Redacted)

21 MR BOURGON: (Redacted)

22 Q. (Redacted)

23 A. (Redacted)

24 Q. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. As a matter of fact, I suggest to you, sir, that in Salumu's brigade in Mongbwalu
5 there were actually one detention facility for officers and one detention facility for
6 non-officers. Were you aware of that?

7 A. No. No. All I knew was that there was a jail there, that's it.

8 Q. And you mentioned earlier in your response that you know that officers were
9 detained there?

10 A. I never said that I know anyone who was arrested there. Everything I -- the only
11 thing I know is that each brigade has a detention centre or a prison. If somebody does
12 something wrong, he is arrested, even in the sectors that happens.

13 Q. We will get, sir, to the organisation of the UPC and your knowledge of that, but for
14 now all you know is that there was a detention facility in Salumu's brigade in Mongbwalu,
15 but that you did not visit that facility? Is that a fair statement?

16 A. What I did tell you was that all brigades and all sectors had prisons.

17 Q. Thank you. That was my next question. And it is my understanding that you know
18 also that there was detention facilities in Bunia?

19 A. Yes.

20 Q. And that -- where, to your knowledge, were those detention facilities in Bunia?

21 A. There was a prison in the residence of the chief of staff, Kisembo. Before entering
22 into his compound there was a detention centre there, there was also a prison in
23 Ntaganda's headquarters and also one in the residence of Thomas Lubanga. And then
24 below Katanga's residence there was another prison -- or rather, below Ntaganda's
25 residence there was another prison.

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1 THE INTERPRETER: Correction: Thomas Lubanga's mother's residence.

2 MR BOURGON:

3 Q. Just -- I want to make sure we have it correct in the transcript. Thomas Lubanga's
4 mother's residence is different from the one you said Ntaganda's residence, right?

5 A. It is behind Ntaganda's residence.

6 Q. And it's my understanding that you know that this used to be where Thomas
7 Lubanga lived before he moved after the fall of Lompondo?

8 A. I do not know.

9 Q. Do you know where Thomas Lubanga lived before Lompondo was chased out of
10 Bunia?

11 A. No.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. And the general staff, état-major général, where was that located?

22 A. In Bunia there was no headquarters of the general staff as such. We only had the
23 presidency in Thomas Lubanga's residence. (Redacted)

24 (Redacted). Ntaganda used to live

25 somewhere further down, and it was quite close to the Bunia market. In any event, there

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- 1 was no headquarters as such in Bunia. Why do I say that? I say that because Ntaganda did
2 not have an office, Kisémbu did not have an office, (Redacted)
3 that is why it is difficult for me to say that there was a headquarters in Bunia.
4 You see, when you ask me where the headquarters was, it is difficult for me to provide
5 you an answer because there wasn't really a headquarters in Bunia as such.
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 Q. Now, I said that I'd show you tomorrow a diagram and we can identify these places

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1 so that we know what we are talking about. For now my question has to do with the fact
2 or the difference between those who are staff officers and those who are line or command
3 officers. I take it you know the difference between the two?

4 I did not get the interpretation of your answer.

5 A. Yes, I heard you.

6 (Redacted)

7 (Redacted)

8 A. What do you mean? I have not understood your question.

9 Q. I'll say it again. I think we established that there is a difference between a staff
10 officer and a commander or a line officer. You agree with that?

11 A. When you say commander, line commander or the normal commander, what do
12 you mean? Can you please explain the difference?

13 Q. Well, actually, I want just to confirm whether you know the difference between an
14 officer who has command authority, an officer who is a staff. Do you know the
15 difference between the two?

16 A. All right, now I understand you.

17 Q. And do you agree with me? What is the difference?

18 A. Well, when it comes to commanders each person who is the leader of a force is
19 called a commander.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 I was not the chief of general staff. The chief of general staff does not head up a sector or
17 a brigade or a platoon. He is in charge of the entire general staff. This means that he is
18 in charge of the entire army.

19 Now, the commander of the army, as you know, is not the leader of a specific group, he is
20 the leader of the entire army.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 A. (Redacted)
- 3 Q. (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 A. (Redacted)
- 7 Q. (Redacted)
- 8 (Redacted)
- 9 A. (Redacted)
- 10 Q. (Redacted)
- 11 (Redacted)
- 12 A. (Redacted)
- 13 (Redacted)
- 14 Q. (Redacted)
- 15 (Redacted)
- 16 A. (Redacted)
- 17 Q. (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted). I would like to draw to the best of your recollection
- 23 on a piece of paper or even in the screen in front of you if you can draw what
- 24 Bosco Ntaganda's residence looked like.
- 25 MR BOURGON: Mr President, I suggest we use maybe the Elmo which is -- I think it's

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- 1 better than the screen because the screen I'm not sure about the technology.
- 2 PRESIDING JUDGE FREMR: First of all, my question to Ms Samson, Ms Samson, any
- 3 objection to that?
- 4 MS SAMSON: No, your Honour.
- 5 PRESIDING JUDGE FREMR: And I hope that it will be possible made electronically, am
- 6 I right?
- 7 MR BOURGON: If we can try electronically --
- 8 PRESIDING JUDGE FREMR: Yes, I think it would be --
- 9 MR BOURGON: -- on the screen in front of him --
- 10 PRESIDING JUDGE FREMR: -- if everybody could --
- 11 MR BOURGON: -- because the Elmo would be a piece of paper, so I think it's better to
- 12 go with the screen --
- 13 PRESIDING JUDGE FREMR: Yes, but I was --
- 14 MR BOURGON: -- if it works.
- 15 PRESIDING JUDGE FREMR: Now I ask what is possible so it would allow everybody to
- 16 watch this.
- 17 I didn't get translation, but I guess that you would like to --
- 18 THE WITNESS: (Interpretation) I have a little question.
- 19 PRESIDING JUDGE FREMR: Yes, go ahead, Mr Witness.
- 20 THE WITNESS: (Interpretation) So far I do not understand the request of counsel.
- 21 Does he want me to sketch Ntaganda's residence or the area between his residence and
- 22 where I was?
- 23 PRESIDING JUDGE FREMR: He will I think specify his request, so please wait.
- 24 And you will guide Mr Witness, so please, Mr Bourgon.
- 25 MR BOURGON:

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1 Q. Mr Witness, I will simply ask you to draw, to sketch, to use your own words, the
2 residence of Bosco Ntaganda because you describe a number of buildings being in and
3 around his residence. So to the best of your recollection, how did that look? (Redacted)
4 (Redacted)

5 PRESIDING JUDGE FREMR: But sorry, Mr Bourgon, you mean just the view from
6 outside or just a sketch with the rooms?

7 MR BOURGON: Yes, from outside, just the buildings as he described them.

8 PRESIDING JUDGE FREMR: Okay.

9 So, Mr Witness, try to imagine that you are standing in front of this building and try to
10 make a picture or sketch of residence, then -- where Mr Ntaganda used to live.

11 THE WITNESS: (Speaks English) It's okay.

12 MR BOURGON:

13 Q. Maybe I can help you, sir. What you said when you -- in your testimony, and that
14 was on page -- it is the transcript T-71, which is the transcript from yesterday, the page
15 is -- I believe it's 11, and that was at line --

16 PRESIDING JUDGE FREMR: Mr Bourgon, your mic. I'm afraid that you --

17 MR BOURGON:

18 Q. At line 21 you mention the following: "When you say that at Ntaganda's residence
19 some weapons were kept in other places, what other places are you referring to?"
20 That was the question.

21 And your answer was: "Well, I will tell you this: At Ntaganda's residence, there were a
22 number of outbuildings, other buildings in addition to the main building. One of the
23 buildings was used by his signora. Other outbuildings were used as places to store
24 weapons. One outbuilding was used by the bodyguards."

25 So my understanding is that you have a picture in your head. I would like you simply to

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- 1 sketch exactly what you describe.
- 2 PRESIDING JUDGE FREMR: So again, a clarification from myself, so you don't want
- 3 Mr Witness to make a picture of the house but rather a plan of the buildings --
- 4 MR BOURGON: A plan --
- 5 PRESIDING JUDGE FREMR: -- from above? Okay, now we are clear.
- 6 MR BOURGON: The plan of the building, aerial view of the plan of the buildings.
- 7 PRESIDING JUDGE FREMR: Yes, fine.
- 8 MR BOURGON: As he described it.
- 9 PRESIDING JUDGE FREMR: Have you understood, Mr Witness?
- 10 THE WITNESS: (Interpretation) Yes, I've understood.
- 11 MR BOURGON: I don't see anything on my screen. I'm not sure if there's a button we
- 12 should press to --
- 13 THE COURT OFFICER: Indeed. I apologise. Please switch on evidence 2 channel.
- 14 Thank you.
- 15 PRESIDING JUDGE FREMR: (Microphone not activated)
- 16 THE COURT OFFICER: Absolutely, Mr President. Evidence 1 channel, please.
- 17 PRESIDING JUDGE FREMR: Thank you.
- 18 THE WITNESS: (Interpretation) I do not know whether I can -- you can see the sketch
- 19 that I've just drawn.
- 20 MR BOURGON:
- 21 Q. We do, Mr Witness. Tell me when you're done.
- 22 A. As you can see, I have sketched the compound, and then you have the entrance.
- 23 And when you come in through the main gate, you proceed directly to the door leading
- 24 into Mr Ntaganda's residence. That is his sitting room.
- 25 Q. Can you put an X with a circle around it in Mr Ntaganda's residence?

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1 A. I have sketched the fence and a structure that you can see inside the compound.

2 Inside the fence is his residence.

3 Q. And I'd like you to put an X with a circle around it over the residence. Are you
4 able to put an X?

5 A. Just a second, please.

6 PRESIDING JUDGE FREMR: What's the problem, Mr Witness?

7 THE WITNESS: (Interpretation) I'm trying to remember the rooms in the outbuilding
8 next to that main building.

9 MR BOURGON:

10 Q. When you're done, I will ask you to put an X over Mr Ntaganda's main residence.

11 MR BOURGON: For the record, Mr President, the witness used a red pen to draw a
12 circle.

13 Q. Would I be correct, sir, that this is Mr Ntaganda's main residence?

14 A. Yes. As it appears on this sketch, that is where his residence was located.

15 Q. Can you tell us information about the other building that you have just drawn?

16 Before you make any markings, just tell us what this is.

17 A. Next to this building, you have the outbuildings that I was telling you about, and I
18 will mark them with red crosses. This is the first door. That is the building of the
19 signora. The next door was where the escorts spent the night, and the third door -- it was
20 the same for the third door. And the fourth door was where the weapons were stored, as
21 well as the two last doors. So the first door was the entrance into the signora's house.

22 The following two were the rooms in which the escorts stayed and then the arms depot.

23 And the other one is the back entrance into Ntaganda's residence.

24 Q. Sir, my first question is how many doors are there in this outbuilding?

25 A. Six.

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1 Q. Can you put the number 1 where the signora's room was?

2 A. The signora lived in the first room next to that wall where I have indicated 1.

3 Q. Thank you. Where -- the building where -- or the door where the escorts slept,
4 where would that be?

5 A. That is where I have indicated the number 2 twice.

6 Q. And you mentioned a while ago weapons. Where would those be?

7 A. And I have indicated that with the figure 3, but the weapons were mostly in the first
8 two rooms. The third room was used to store vehicle tyres, but the first two rooms
9 where weapons and ammunition were kept were locked at all times.

10 Q. So just to be sure, when you say "the figure 3," there are three number 3s on your
11 drawing, so the last two would be where the weapons were?

12 A. Yes. It is in the three last rooms where weapons were stored, but mostly in the first
13 two. But if the need arose, weapons would also be kept in the third room. But for most
14 of the time, it was vehicle tyres that were stored there. However, if weapons arrived in
15 large quantities then some could be kept in the other room.

16 Q. Did you, yourself, see the weapons, sir, stored?

17 A. Yes, I saw them.

18 Q. And what weapons were there?

19 A. SMGs, machine guns, sub-machine guns, 12s. It depended on the delivery of
20 weapons. I would say all types of weapons were stored in these rooms, machine guns,
21 12s, as well as shells.

22 Q. And can you assist us with quantities, at least some kind of ballpark figure of to how
23 many of these weapons were there?

24 A. These were not large rooms. In one room about 100 SMGs could be stored there, so
25 the rooms were not large where a large quantity of weapons could be stored, 200 or 300.

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1 No, I would rather say that the capacity of two rooms could not be above 120 weapons.

2 Q. Regarding a place where the signora was, (Redacted)

3 (Redacted)

4 A. (Redacted)

5 Q. What equipment did you see in that room?

6 A. There was a Manpack, there was a Motorola, and there was also a register in which
7 messages were written down with a pen and then there was a bed where he slept.

8 Q. And it is my understanding that we would not find in that room a base, Motorola
9 base?

10 A. I no longer remember whether there was a base, a base device there. It is possible
11 that there might have been one.

12 Q. I'll ask you more questions about this later.

13 What about any rooms where escorts -- did you see inside that room or those rooms
14 because there's two number 2s?

15 A. There were beds and mattresses on which they slept. They also had their weapons
16 there.

17 Q. Can you assist us with any figure, any number of beds or mattresses?

18 A. I went in there only once. They had single beds, not double beds.

19 Q. What I am interested in, sir, is the quantity of beds, if you recall, a small figure or a
20 high figure, just a number of beds, a rough figure.

21 A. Your Honour, it was not my responsibility to count the number of beds or
22 mattresses on which they slept. I did not go in there to compute the number of
23 equipment. That was not part of my responsibilities.

24 Q. And, sir, I'm not suggesting that it was your responsibility, I just -- if you have an
25 idea of the number of beds for escorts in that room. If you don't know, just say so.

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1 A. No, I don't know.

2 Q. (Redacted)

3 A. (Redacted)

4 (Redacted)

5 PRESIDING JUDGE FREMR: (Redacted)

6 (Redacted)

7 (Redacted)

8 MR BOURGON: (Redacted)

9 (Redacted)

10 Q. (Redacted)

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. (Redacted)

18 (Redacted)

19 (Redacted)

20 A. (Redacted)

21 Q. (Redacted)

22 (Redacted)

23 (Redacted)

24 A. (Redacted)

25 MR BOURGON: And, Mr President, do we need to put the date or --

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- 1 PRESIDING JUDGE FREMR: (Microphone not activated)
- 2 THE INTERPRETER: Mr President's microphone, please.
- 3 PRESIDING JUDGE FREMR: Is there any need to put a date on the picture?
- 4 THE COURT OFFICER: You could, but the metadata will be reflecting today's date
- 5 indeed.
- 6 PRESIDING JUDGE FREMR: So I think there is no such any --
- 7 MR BOURGON: So, Mr President, at this time I would like to have this sketch admitted
- 8 into evidence as drawn by the witness.
- 9 PRESIDING JUDGE FREMR: Ms Samson, any objection?
- 10 MS SAMSON: No objection.
- 11 PRESIDING JUDGE FREMR: No. So in such a case this sketch annotated by
- 12 Mr Witness is admitted into evidence as a Defence exhibit. And as to the number, I
- 13 guess, court officer, you will assign a number? Do you know this number at the moment
- 14 or --
- 15 THE COURT OFFICER: Yes, I do, Mr President. The document will bear number
- 16 DRC-REG-0001-0021.
- 17 PRESIDING JUDGE FREMR: So we will -- Mr Bourgon, you had for the moment --
- 18 MR BOURGON: No. We can stop for the break, Mr President.
- 19 PRESIDING JUDGE FREMR: Yes. And we will break now. And now please refresh
- 20 my mind today, we are sitting until -- we will start anyway five minutes past 4, but the
- 21 last session is just one hour so -- (Microphone not activated)
- 22 THE COURT USHER: All rise.
- 23 (Recess taken at 3.37 p.m.)
- 24 (Upon resuming in open session at 4.06 p.m.)
- 25 THE COURT USHER: All rise.

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(Open Session)

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1 Please be seated.

2 PRESIDING JUDGE FREMR: So we are in open session at the moment. This session
3 will finish at 5 o'clock. As regards schedule for tomorrow, we will discuss it at the end of
4 the session subject to the progress made by Mr Bourgon.

5 Now, Mr Bourgon, you will have the floor. Character of your upcoming questions, does
6 it require open or private session?

7 MR BOURGON: I believe, Mr President, that we can remain briefly in open session.

8 PRESIDING JUDGE FREMR: Very well. So you have the floor.

9 Mr Witness, you have the floor.

10 THE WITNESS: (Interpretation) Thank you, Mr President.

11 If possible, at the end of this session I would like to have a discussion with you. I have
12 just had a talk with my duty counsel, but I would also like to have a meeting with the
13 Bench.

14 PRESIDING JUDGE FREMR: And may I know on what topic?

15 THE WITNESS: (Interpretation) I cannot say it --

16 PRESIDING JUDGE FREMR: In public.

17 THE WITNESS: (Interpretation) -- but it would have to be a meeting between myself and
18 the Judges, which is not related to this case.

19 (Pause in proceedings)

20 PRESIDING JUDGE FREMR: So, Mr Witness, there are some technical and even legal
21 obstacles to this, so at the moment I recommend you to contact on this issue VWU, which
22 is a special unit in charge of those issues, and they will then -- through them, they will
23 inform us. They will convey your message, if any, to the Chamber, and then we will
24 decide how to proceed further. But at the moment, I can't provide you with ex parte
25 session with the Chamber. So please, do contact the VWU, and then we will see. Have

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1 you understood?

2 THE WITNESS: (Interpretation) Yes, I have understood you and I agree with you.

3 PRESIDING JUDGE FREMR: And now, Mr Bourgon, you may proceed.

4 MR BOURGON: Thank you, Mr President.

5 Q. Sir, just before we left for the -- for a short break, you made a sketch for us, which
6 was admitted in evidence. I would like you to look at your own sketch again, and I
7 would simply like to ask you one more question on this sketch. I believe it is still up. I
8 have it on evidence 1. Can you see the sketch on the screen before you?

9 A. Yes, I can see it.

10 Q. Now, let me refer you, sir, back to a question that would -- that I put to you earlier,
11 and this is at page 68 of the transcript today, and this is -- the question was at line 6 and 7,
12 and then your answer follows. So the question was:

13 "Where, to your knowledge, were those detention facilities in Bunia?"

14 Your answer was: "There was a prison in the residence of the chief of staff, Kisembo.
15 Before entering into his compound, there was a detention centre there. There was also a
16 prison in Ntaganda's headquarters and also one in the residence of Thomas Lubanga.
17 And then below Katanga or Ntaganda's residence there was another prison or, rather,
18 below Ntaganda's residence there was another prison.

19 Was your answer recorded correctly, or do you wish to change this answer?

20 A. I think it is not correct. Let me revisit the issue and answer your question. Can I
21 do so?

22 Q. Yes, absolutely.

23 A. What I said was the following: There was a prison at Kisembo's -- at
24 Kisembo's -- next to his residence, not at his residence, below Lubanga's place. I didn't
25 say that there was a prison in Lubanga's residence. Below Lubanga's residence in

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1 Kisembo's residence there was a prison.

2 I also said that there was a prison in Ntaganda's compound, not in his residence. I said
3 that his bodyguards had a room near the road where they spent the night, and it is at that
4 location that the detention facility was located. It was not within Ntaganda's residence as
5 such. That's what I wanted to say.

6 Q. Thank you for this clarification. This is what I am interested in, the last part, "I also
7 said that there was a prison in Ntaganda's compound, not his residence."

8 So my first question is the sketch that is before you is that what you refer as the
9 compound or the residence?

10 A. That is Ntaganda's residence where he spent the night. His bodyguards, however,
11 were located in another place, not within this residence.

12 Q. Thank you. Now -- now I think I understand. Now, that place that bodyguards,
13 however, were located in another place, this is completely different from the sketch that is
14 there?

15 A. Yes. Let me explain. There are two rooms here where you have two Xs where the
16 bodyguards used to spend the night. There was a chief escort and four or five others.
17 They spent the night in that location. You know, he had many bodyguards.

18 Now -- and I think that I had estimated the number at about 60. So close to Ntaganda's
19 residence there were escorts who spent the night there. But in the residence itself, the
20 chief escort is the one who spent the night in the residence itself.

21 Q. Thank you. Do you recall the name of the chief escort (Redacted)
22 (Redacted)

23 PRESIDING JUDGE FREMR: We will have to redact the last sentence. And I guess if
24 you will -- I know it's a small detail --

25 MR BOURGON: I apologise, Mr President.

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- 1 PRESIDING JUDGE FREMR: -- maybe we are too cautious, but we have to. So please
2 redact the last sentence, and let's move into private session.
3 (Private session at 4.17 p.m.) *(Reclassified partially in public)
4 THE COURT OFFICER: (Redacted)
5 PRESIDING JUDGE FREMR: (Redacted)
6 (Redacted)
7 MR BOURGON: (Redacted)
8 (Redacted)
9 Q. (Redacted)
10 (Redacted)
11 (Redacted)
12 A. (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 Q. (Redacted)
18 (Redacted)
19 A. (Redacted)
20 Q. The place or the headquarters where the escorts were staying, how far was it from
21 the sketch that you have drawn?
22 A. I can estimate the distance to have been around 20 metres, not far away.
23 Q. Can you assist us with who else was there, if anyone, or was it only for escorts?
24 A. Are you talking about the outbuildings or the military camp which was near the
25 residence, or are you talking about Ntaganda's residence?

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1 Q. Sir, we can play this game a lot, but the last question was very clear. The place
2 where the other escorts were staying, which you said was 20 metres. Now, this place,
3 who else was staying there, if anyone?

4 A. It was Ntaganda's escorts.

5 Q. And my question: Is anybody else staying or working there?

6 A. No. All I know is that it was Ntaganda's escorts who were there. I am not aware
7 of anyone else who may have been working there.

8 Q. And you mentioned earlier Ntaganda's headquarters. Is that the same place as
9 where the escorts are staying or a different place?

10 A. I have just explained to you, and I'm making my best attempts to answer your
11 questions. I don't know how else to answer you. I have told you already that there was
12 another location where there were many escorts who used to spend the night there. I
13 don't know how many times I have to answer the same question. And how am I to
14 explain these things to you?

15 Q. Sir, you have just referred, and I will read your answer: "I have told you already
16 that there was another location where there were many escorts who used to spend the
17 night there," full stop. This facility, sir, is this what you refer to as Ntaganda's
18 headquarters?

19 A. You asked me where he lived, and I can say that it was there. There. That's where
20 he used to live. We can call it his headquarters.

21 Q. Sir, I'll have to ask my question again. Please listen to my question.

22 MS SAMSON: Sorry.

23 PRESIDING JUDGE FREMR: Ms Samson.

24 MS SAMSON: I may be wrong, but I do think that we're running around in circles and
25 that the question has been answered.

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1 At page 94 the first question was: The place or the headquarters where the escorts were
2 staying, how far was it from the sketch you have drawn?

3 And the witness says 20 metres.

4 And the question is: Who else is there, if anyone?

5 And then the witness says: Are you referring to the outbuildings or the residence?

6 And then it's clear that we're talking about this other location 20 metres away from the
7 sketch.

8 And the witness says -- who else was there? Mr Ntaganda's escorts.

9 Was anybody else staying there?

10 No.

11 And is the headquarters the same place?

12 I think this has been answered sufficiently.

13 PRESIDING JUDGE FREMR: I have to say that even to me it's not really that it was a
14 misunderstanding or -- maybe try again. It's not an easy task, I see. But it's even
15 possible that it was really answered, but I think it is not 100 percent clear.

16 MR BOURGON:

17 Q. Sir, I refer to your answer to a different question. Please listen carefully. This is
18 you speaking:

19 "What I said was the following: There was a prison at Kisembo's, Kisembo's, next to his
20 residence, not at his residence, below Lubanga's place. I didn't say that there was a
21 prison in Lubanga's residence, below Lubanga's residence. In Kisembo's residence there
22 was a prison."

23 Now, listen here what you say: I also said that there was a prison in Ntaganda's
24 compound, not his residence."

25 My question is very clear: That compound, not his residence, is that where the escorts

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1 are staying 20 metres away or is that a different location? It is a very simple and clear
2 question, sir.

3 A. All right, what I'm saying is that there is a compound, Ntaganda's compound. If
4 you talk about a compound it could be like this courtroom which we can use as a model.
5 That's a compound. Now, when you say a compound, are you saying that he and his
6 escorts lived in that compound? No. There was a road in front of Ntaganda's residence
7 which vehicles would drive on, but if you went along that road for a little distance, you
8 would come to the outbuildings where Ntaganda's -- or another building, not
9 outbuildings, another building where Ntaganda's escorts used to live. And I said that
10 from that other building to Ntaganda's residence or compound there was a distance of
11 about 20 metres. I did not say that those escorts were living within Ntaganda's
12 compound. They were living outside of the compound.

13 Q. So let me try it one more time, sir. There's a sketch, you see the sketch? In front of
14 you.

15 A. Yes, I can see the sketch.

16 Q. You have described a place where Ntaganda's escorts were spending the night. Do
17 you recall describing such a place?

18 A. Yes.

19 Q. My question is: When you say Ntaganda's compound, is that one of these two
20 locations, or is it a third location?

21 A. Let me answer you as follows: Look at the point where I have the pen. You can
22 see an arrow here which I have just drawn. That is the entrance to Ntaganda's residence.
23 When you leave the residence and you follow the red line that I am now drawing and you
24 go along the road, further on you will get to a building where the other escorts used to
25 spend the night, but you would have to go by the road which I have indicated just now,

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- 1 the road which goes along Ntaganda's residence and further down for some 20 metres or
2 so to get to a building where Ntaganda's escorts used to live.
3 I hope this is clear now.
4 So you will see that this building was outside Ntaganda -- outside of Ntaganda's
5 compound.
6 Q. Until your last two words it was clear. So the sketch, based on what you just said,
7 the sketch is Ntaganda's compound?
8 A. Yes.
9 Q. Okay. Let's go back to the question where you were talking about the prison,
10 which is the whole point of this exercise.
11 Okay, we are at page 96, and this is lines 7 to 15. And here is what you say:
12 "I also said there was a prison in Ntaganda's compound."
13 That's what you said, right?
14 A. In that residence there were escorts.
15 Q. So there is no prison anywhere on your sketch?
16 A. In his residence there's no prison, but it was at the other location where his other
17 bodyguards were. That's where the prison was.
18 Q. So the prison you're talking about is where the escorts are staying?
19 Thank you.
20 A. Yes.
21 MR BOURGON: Mr President, I would like to enter --
22 MS SAMSON: Sorry, Mr President.
23 PRESIDING JUDGE FREMR: Ms Samson.
24 MS SAMSON: Sorry, I just -- I'm not certain if this is of any assistance, but I do note that
25 in terms of the translation, although in English the transcript is referring to residence

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1 versus compound, in French it appears to just be always residence. I don't see a different
2 word being used to capture the notion of compound, and I'm not sure if that's where some
3 confusion is entering into between the question and the answering, it may be, but it's
4 residence each time in the answer.

5 For instance, in the English where the quote that my friend had said in English it is, quote,
6 "I also said there was a prison in Ntaganda's compound." But in French that has been
7 translated as at Mr Ntaganda's residence.

8 PRESIDING JUDGE FREMR: It may be a source of confusion, but maybe for my
9 understanding, Mr Witness, you said other -- at least in English translation, we have other,
10 where his other bodyguards were. So there were two groups of bodyguards, or just one
11 group of bodyguards of Mr Ntaganda?

12 THE WITNESS: (Interpretation) Mr President, please listen to me carefully.

13 PRESIDING JUDGE FREMR: I will.

14 THE WITNESS: (Interpretation) The bodyguards -- do you want me to continue,
15 your Honour?

16 PRESIDING JUDGE FREMR: Yes, please, because, you know, I was a little bit confused
17 about this -- by this word in English transcript "other" bodyguards were, so it means there
18 were some bodyguards and other bodyguards?

19 THE INTERPRETER: Mr President, the Swahili booth would like the witness to repeat
20 because they did not quite understand.

21 PRESIDING JUDGE FREMR: Mr Witness, sorry to interrupt you. Now I got a message
22 that the Swahili booth hasn't captured. But maybe I can simplify things. You said that
23 bodyguards lived 20 metres, and you draw this red line, 20 metres from the entrance to
24 Mr Ntaganda's either compound or residence. And the prison was also 20 metres or the
25 prison was further?

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1 THE WITNESS: (Interpretation) 20 metres away was the location of the barracks of the
2 members of the escort of Ntaganda. That's where they lived. Not here in the residence
3 of Mr Ntaganda.

4 PRESIDING JUDGE FREMR: I see. And now prison, where was the prison? Close to
5 the barracks or somewhere else?

6 THE WITNESS: (Interpretation) No, it was a building and that prison was inside that
7 building.

8 PRESIDING JUDGE FREMR: Thank you.

9 Mr Bourgon, you have the floor. You took some rest, so you can continue.

10 MR BOURGON: Thank you, Mr President. I would like to admit this new sketch into
11 evidence.

12 Q. Mr Witness, can you please put beside where you put "P-55," can you put P-55 and
13 just add dash 1.

14 A. What do you want me to indicate?

15 Q. You see on the sketch where you put "P-55"?

16 A. Ndiyo.

17 Q. Put a circle around it, please.

18 A. (Speaks English) Okay.

19 Q. Thank you.

20 MR BOURGON: Mr President, I would like to have this sketch admitted in evidence,
21 please.

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

23 MS SAMSON: No objection, but just a question, your Honour. Is there in fact going to
24 be two sketches admitted or will this sketch be the only sketch admitted, technically
25 speaking?

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1 PRESIDING JUDGE FREMR: My understanding, but I would rather consult court officer,
2 there will be two sketches and I guess even Mr Bourgon would like to have two sketches.

3 Court officer, am I right, will we have two sketches?

4 THE COURT OFFICER: You are right, Mr President.

5 PRESIDING JUDGE FREMR: Is it okay with you?

6 MS SAMSON: Yes. No objection.

7 PRESIDING JUDGE FREMR: In such a case, the second sketch annotated by Mr Witness
8 will be admitted into evidence as a further Defence exhibit, and the number will be
9 assigned by our court officer.

10 THE COURT OFFICER: The second sketch will bear the number DRC-REG-0001-0022.

11 PRESIDING JUDGE FREMR: Mr Bourgon, you may proceed.

12 MR BOURGON: Thank you, Mr President.

13 Q. Sir, when I asked you to draw the sketch, you answered some questions about the
14 presence of weapons. I suggest to you, sir, that you could not see any weapons there
15 because there were no weapons in Ntaganda's residence. Does that refresh your
16 memory?

17 A. No.

18 Q. If it may assist, and I will leave it at that, I suggest to you, sir, that there was only
19 one weapon present in that residence and that it was a B10. Does that refresh your
20 memory?

21 A. I know that that weapon was there. You asked me what types of weapons were
22 there. There were B10s, SMGs and machine guns.

23 Q. Should I understand from your last answer that there was more than one B10?

24 A. I have just said it, B10 also.

25 Q. One or more?

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- 1 A. It was only one B10. (Redacted)
- 2 (Redacted)
- 3 Q. (Redacted)
- 4 (Redacted)
- 5 A. (Redacted)
- 6 Q. (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 A. (Redacted)
- 10 (Redacted)
- 11 Q. (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 A. (Redacted)
- 16 Q. (Redacted)
- 17 A. (Redacted)
- 18 Q. (Redacted)
- 19 A. (Redacted)
- 20 Q. (Redacted)
- 21 (Redacted)
- 22 A. (Redacted)
- 23 Q. (Redacted)
- 24 A. (Redacted)
- 25 Q. (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 PRESIDING JUDGE FREMR: (Redacted)
- 4 (Redacted)
- 5 (Redacted)
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- 13 (Redacted)
- 14 PRESIDING JUDGE FREMR: (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Open session at 4.59 p.m.)
- 19 THE COURT OFFICER: We are in open session, Mr President.
- 20 PRESIDING JUDGE FREMR: So, well, I start with the first point which is that so far
- 21 Mr Bourgon you used roughly 3 hours, so according our guarantee you are guaranteed to
- 22 be given 11 hours and 9 minutes. So at the moment, I know it is rather premature, but do
- 23 you envisage that you will need all this time guaranteed to you?
- 24 MR BOURGON: I will, Mr President. And there's also a possibility that I'll be seeking
- 25 more time. I'm not making this request at this time. I will substantiate the request if

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1 and when I wish to make one, Mr President. Thank you.

2 PRESIDING JUDGE FREMR: But frankly saying, Mr Bourgon, it is a little bit -- it is a
3 contradiction to your proposal to -- not to sit in extended hours because if you count
4 normal -- normal sitting would mean we have just 9 hours of the rough time, and we have
5 to subtract some time of procedural issues, we have to subtract time for possible
6 re-examination, we also would like to put at least a few questions, so we will then have to
7 decide about your request in light of this.

8 Well, and so, I think, we discuss it with my colleagues and we see that for tomorrow we
9 should slightly change our schedule and sit just for five hours in total, starting at 9.30, so
10 first session 9.30 to 11, second one 11.30 to 1 p.m. and the last one should be for two hours
11 from 2.30 to 4.30. Then at the end of this session we will fully adjust the schedule for
12 Monday to the rest of our agenda, as I mentioned before.

13 And also it is even, maybe, it depends, Mr Bourgon, you also indicated that there might be
14 some need for status conference concerning the programme of the next evidentiary block,
15 so we would appreciate if you could provide the Chamber with email you promised to
16 send us by the end of tomorrow because, at the end of the Friday session, we should have
17 all those information at our disposal and it would allow us to make an appropriate
18 decision about the scheduling for Monday.

19 MR BOURGON: Mr President, first, I will do everything I can to finish the witness
20 within the 11 hours but this afternoon I did use more time than expected.

21 PRESIDING JUDGE FREMR: I see your point. It was not an easy task, yes.

22 MR BOURGON: And I will do everything I can to finish within the time that was used
23 by my colleague.

24 As for the second issue, I think I will be in a position to send that email tonight. I will
25 contact my colleague, who would help me, if we have some -- some discussion on the

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1 witnesses that she has in mind that would be of assistance to see how much we can make
2 a short issue for the Chamber. Thank you, Mr President.

3 PRESIDING JUDGE FREMR: Ms Samson, any comment from your part?

4 MS SAMSON: No, Mr President.

5 PRESIDING JUDGE FREMR: In such a case, we can adjourn. We will reconvene
6 tomorrow 9.30, but before we leave I would like to express my thanks to all those who
7 supported us during this long day because we have been sitting in extended hours. It
8 was really very tiring, even for our interpreters, our court reporters and our guards, so I
9 thank you, all of you. And that is the end of my speech. Thank you and see you
10 tomorrow.

11 THE COURT USHER: All rise.

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

13 RECLASSIFICATION REPORT

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