

Trial Hearing

(Open Session)

ICC-01/04-02/06

1 International Criminal Court

2 Trial Chamber VI - Courtroom 1

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 Monday, 25 January 2016

9 (The hearing starts in open session at 4.18 p.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 afternoon, 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. We are in open session.

18 Thank you.

19 Now appearances, please, in the usual order.

20 MS SAMSON: Good afternoon, Mr President and your Honours. For the

21 Prosecution today are Ms Marion Rabanit, associate trial lawyer; * Ms Claudine

22 Umurungi, legal assistant; Mr Alexandre Gargam, trial support assistant; and myself,

23 Nicole Samson, senior trial lawyer.

24 PRESIDING JUDGE FREMR: Thank you, Ms Samson. Defence now.

25 MR BOURGON: (Interpretation) Good afternoon, Mr President. Good afternoon,

1 your Honours. Good afternoon to all those present in the courtroom.

2 For Bosco Ntaganda, who is present in the courtroom today, he is represented

3 by Margaux Portier, Berta Casas-Rochel, William St-Michel and myself,

4 Stéphane Bourgon. Thank you, Mr President.

5 PRESIDING JUDGE FREMR: And I'm noting that Mr Ntaganda is present as well.

6 Now, Legal Representatives of Victims, please.

7 MS PELLET: (Interpretation) Thank you, Mr President. Former child soldiers are

8 represented by Mohamed Abdou and myself, Sarah Pellet, counsel at the OPCV.

9 MR SUPRUN: (Interpretation) Good afternoon, Mr President. Good afternoon,

10 your Honours. Victims of the attacks are represented by the OPCV for victims and

11 Anne Grabowski and myself, Dmytro Suprun, counsel.

12 PRESIDING JUDGE FREMR: I thank both of you. At the beginning, I would like

13 just to inform you that we are aware of the request made by Defence. We have also

14 been submitted -- we've also been provided with the LRV and Prosecution responses,

15 but we are still waiting for a response from the Registry, which could be very

16 important for our decision. So according to my expectation, we will be provided with

17 this report from Registry with information during this session; and anyway, before the

18 end of the session we will decide on Defence request.

19 Now we will continue with the testimony of the witness.

20 Mr Witness, welcome again. And as usually, you know it, I have to remind

21 you that you are still under oath and then that you have to speak truth and

22 nothing but the truth.

23 Mr Bourgon, you have the floor.

24 MR BOURGON: Thank you, Mr President.

25 PRESIDING JUDGE FREMR: And Mr Bourgon, you have two hours sharp.

1 MR BOURGON: Thank you, Mr President.

2 WITNESS: DRC-OTP-P-0790 (On former oath)

3 (The witness speaks Swahili)

4 QUESTIONED BY MR BOURGON: (Continuing)

5 Q. Good afternoon, Mr Witness.

6 A. Good afternoon.

7 Q. I'd like to begin by returning shortly to an event you described during
8 questioning by the Prosecution concerning Commander Alpha. I'd like you to
9 confirm that Commander Alpha was a commander of the Ugandan forces, the UPDF.

10 Is that correct, sir?

11 A. Yes, that is correct.

12 Q. Now, the event you describe with Commander Alpha is that one day you went
13 to speak to him because there were problems in your area; is that correct, sir?

14 A. Yes.

15 Q. Now, what I'm particularly interested in is that on this one day that you met
16 Commander Alpha, Commander Alpha actually ordered you to be shot by his soldiers;
17 is that correct, sir?

18 PRESIDING JUDGE FREMR: Mr Witness, before you respond, I would rather move
19 into private session not to reveal your identity.

20 Court officer, let's move into private session

21 (Private session at 4.23 p.m.) *(Reclassified partially in public)

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

23 PRESIDING JUDGE FREMR: Thank you.

24 So, Mr Witness, please respond to Mr Bourgon's question now.

25 THE WITNESS: (Interpretation) (Redacted)

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1 (Redacted)

2 A. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 Q. I'd like to move to another time when you were shot. And this event has
19 already been described in terms of the wound, so it's not the wound I'm interested in;
20 it is what you did after being shot. So let us first recall when this took place.
21 According to your testimony, this happened just at the beginning of the attack on
22 (Redacted), when you were shot by UPC soldiers according to your testimony; is that
23 correct, sir?

24 A. Yes. At that time when I was shot at the location where Commander Alpha was
25 present -- well, Commander Alpha was there along with other UPC soldiers as well as

1 some Ugandan soldiers. I don't know which one of those two groups fired the shot at
2 me, but the order was given (Redacted).

3 And at that time the UPC and the Ugandans were working together.

4 Q. Thank you, sir. I apologise. My question was probably not precise enough.

5 Let me go and be more precise.

6 I refer to paragraph 102 of your testimony -- of your statement, sorry. And

7 I'm talking about the second time you were shot now during what you referred

8 to as being the fourth attack. Do you remember this event, sir?

9 A. During the fourth attack, I was shot at, and I was shot at that time when my first
10 bullet wounds had already healed. So I was shot at during the fourth attack.

11 Q. I thank you, sir. This was already established, so I'd like to -- I'll try to avoid
12 asking these questions about the wound itself. I'll just confirm, of course, three things
13 that is in your testimony as well as in your statement. (Redacted)

14 (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 Q. Now, during your testimony when questions were asked by the Prosecution, you
19 also mentioned that having returned to the bush, you found out that in fact your injury
20 was quite serious; do you recall this, sir?

21 A. No. When I went back to the bush, I was able to receive some treatment (Redacted)
22 (Redacted).

23 Q. Well, I understand this, sir. I'm just saying that during your testimony, and I'll
24 quote the exact words just so that there is no misunderstanding, and this was at
25 transcript T-53, page 44, lines 1 to 4 -- or sorry, transcript T-54, where it says, "... I was

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1 wounded, but I did not know that it was a serious injury. When I got to the bush"

2 later -- "later on, I found out that my injury was quite serious."

3 Do you recall saying this, sir?

4 A. Yes. When I was wounded, I was not aware that it was a serious injury. I

5 made some effort and I went on. (Redacted)

6 (Redacted)

7 Q. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 A. (Redacted)

12 Q. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 A. (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 MR BOURGON: Mr President, I'd just like to note an error in the French transcript.

19 In the English transcript it's at page 9, line 6 where it says "paragraph 99", nine nine,

20 "of your statement," but the French version reads paragraph 119. I'd just like to make

21 that correction in the French transcript please, Mr President.

22 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

23 MR BOURGON:

24 Q. Now, sir, what I am interested in at this time is what happened three days later

25 after receiving or being treated (Redacted)

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1 Q. (Redacted)

2 (Redacted)

3 (Redacted)

4 A. (Redacted)

5 Q. And what would be the distance between Gutsi and Buli?

6 A. The distance between Buli and Gutsi, well, it's, it's a bigger, a longer distance.

7 You see, I did not use the main road. I used some footpaths through the bush at night,
8 and that is why it took that long.

9 Q. And what would be the distance in terms of kilometres if you can tell?

10 A. It is difficult for me to give an estimate of the distance through the bush paths
11 because that distance is different from the distance that one may know going by the
12 main road. So it's difficult for me to give you an estimate of the distance through the
13 bush paths.

14 Q. Well, if you cannot tell the distance, here it says approximately 3 and a half hours.
15 Would that be a correct estimate of the time you needed to get there?

16 A. Yes. At night it is possible, but during the day it might take a shorter time if
17 someone is walking faster. However, at night it might take that amount of time.

18 Q. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 A. (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 Q. Thank you, sir. I move to a different topic.

4 Sir, you recall meeting with the Prosecution before your testimony in this case
5 on (Redacted); do you recall this, sir?

6 A. Yes.

7 Q. Now, during this preparation session, you were shown the transcript of a
8 meeting you had on (Redacted) with members of the Defence. Do you recall
9 being shown or being translated the content of this transcript?

10 A. Yes, they showed me the document.

11 Q. And I refer here to the document which is the result of the preparation session.
12 For the record, this is document DRC-OTP-2090-0287. I think there is only one
13 number for the document, and that the pages are not numbered.

14 Sir, I'd just like to confirm with you that after having been shown this
15 transcript, you made a number of clarifications concerning what was said in
16 that transcript; is that correct?

17 A. Well, during the meeting with the people of the Defence -- in fact, I'm not sure I
18 have understood your question. I have not understood your question.

19 Q. Thank you. Very well. I will repeat the question. The first question was you
20 remember being shown the transcript of a conversation you had with members of the
21 Defence on (Redacted). Your answer was yes; is that correct?

22 A. Yes.

23 Q. Now, having been shown this transcript, we covered the procedure that was
24 used the last time, based on the information I have, you made a number of
25 clarifications concerning what is said in the transcript. Do you recall making such

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1 clarifications?

2 A. Yes, yes, I remember that.

3 Q. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. (Redacted)

9 Q. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. (Redacted)

16 Q. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 Q. A little later in the same paragraph you mention "Though I had heard the name
3 Salumu before, I had never met him."

4 So that is correct, right?

5 A. Yes. Yes, that is what I said.

6 Q. And in the same paragraph it says, "Lendu combatants who fought
7 against" -- sorry -- "who fought during attacks mentioned his name"; is that correct?

8 A. Yes. The name of Commander Salumu was a name I had heard from the
9 combatants who were defending. They mentioned the name. I had heard the name,
10 but I didn't know who Commander Salumu was, (Redacted)

11 (Redacted).

12 Q. (Redacted)

13 (Redacted)

14 (Redacted)

15 A. (Redacted)

16 (Redacted)

17 Q. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 A. (Redacted)

22 Q. (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE FREMR: Sorry. Ms Samson is on her feet.

1 Ms Samson.

2 MS SAMSON: Yes. I'm objecting because I don't know how the witness is supposed
3 to answer that question. He's giving the information he has in terms of what names
4 were used, but a suggestion in terms of military terminology or (Redacted)
5 (Redacted)
6 (Redacted) is, in my view, not an appropriate question.

7 Thank you.

8 PRESIDING JUDGE FREMR: Mr Bourgon.

9 MR BOURGON: Thank you, Mr President. I said myself the witness does not have
10 military training, but he can very well be aware whether the soldiers he met during all
11 these events were calling themselves by call sign and whether in this time my
12 suggestion to him that he may not have heard correctly the word (Redacted), he can just
13 say yes or no.

14 PRESIDING JUDGE FREMR: Objection is overruled.

15 MR BOURGON:

16 Q. So, sir, I will repeat my question. I suggest to you that you are aware that
17 military personnel, soldiers and commanders, called themselves by their call sign and
18 not by their name; and on this basis is it possible that you did not hear correctly the
19 word "(Redacted)"?

20 A. I know I heard him use his name. I didn't hear any other name. That's the
21 name I heard, and *that's why I'm saying it.

22 Q. Thank you, sir. I refer to transcript 53 at page 53, line 12. And this is when
23 you were answering a question from the Prosecution. And here is what you said at
24 line 11 and 12: (Redacted)
25 (Redacted)

1 (Redacted)

2 (Redacted)

3 A. (Redacted)

4 (Redacted)

5 Q. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 A. No, no. He gave the name. I can't change it.

10 Q. But you are changing what you said in response to my colleague a few days ago.

11 A. No. I don't really understand this very well. I haven't changed. If what is
12 written is not what is there, I said I don't understand.

13 Q. Thank you, sir. I don't want to confuse you; and in all fairness to you, in
14 paragraph 112 of your statement, here is what you mention; you use exactly the words
15 as follows, and you said: "(Redacted),
16 I've got it."

17 So is that what you heard?

18 A. (Redacted)

19 Q. Well, sir, I would like to -- I have three answers from you, and I want to be fair to
20 you, but in your testimony, as I said before, at lines 11 and 12 on page 53, you say,
21 (Redacted)

22 A little later, at lines 21 and 22, you say, (Redacted)

23 (Redacted)

24 Now, I now look at the third answer we have from you. And the third answer
25 we have is in your statement. And in your statement it says, "(Redacted)

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1 (Redacted)"

2 So which of the three is correct?

3 A. (Redacted)

4 (Redacted)

5 You've just read me the testimony which says "Afande," and that's correct,

6 because commanders were called "Afande."

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. Well, sir, what I am interested in, of course, is what you heard and not what we

12 have before us, is exactly what you heard.

13 Now, my command of Swahili is not perfect, but please correct me if I am

14 wrong, but Afande has nothing to do with commander. Is that correct, sir?

15 A. Yes. This is the term we used to indicate a commander. But what I heard

16 when I was asked the question what commander meant in military terms, I said there

17 are moments when people use the term "Afande." (Redacted)

18 (Redacted) And when we speak, we use the

19 term.

20 Q. Thank you, sir. I need to put on the record that, and I suggest to you that you

21 are aware, you can just say if I am right or wrong, that even if civilians might use the

22 word "Afande" to refer it a military commander, from one officer to another, they

23 would never use Afande. Are you aware of this fact, sir?

24 A. I wouldn't know because I'm not a soldier.

25 Q. Very well. Now, in everything that we've covered for the past few minutes

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1 (Redacted)

2 (Redacted)

3 A. (Redacted)

4 (Redacted)

5 Q. (Redacted)

6 (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 (Redacted). I didn't know him beforehand. I had never seen him, but I knew that he was
11 a commander within the UPC. We knew that there were soldiers who were
12 combatants and that civilians did not have the occasion to meet a UPC soldier -- or,
13 rather, a Lendu civilian could not meet a UPC soldier; otherwise, he would be likely to
14 be killed.

15 Q. I'll move on to a different issue, but also referring to General Ntaganda or
16 Commander Ntaganda, I take it that you might have seen his rank on his uniform so
17 that you knew what kind of commander he was?

18 PRESIDING JUDGE FREMR: Ms Samson, please.

19 MS SAMSON: Thank you, Mr President. The witness has indicated on several
20 occasions that he has no military background or knowledge. So I object on the basis
21 of the ability of the witness to answer the question. Thank you.

22 PRESIDING JUDGE FREMR: Question is overruled. I think we will see.
23 Mr Bourgon.

24 MR BOURGON: Thank you, Mr President.

25 Q. Did you see the rank that Mr Ntaganda was wearing at that time?

1 PRESIDING JUDGE FREMR: Sorry, I was wrong. I said question is overruled, I
2 meant objection was overruled.

3 So you may continue.

4 MR BOURGON:

5 Q. Just to be sure that you understand my question, Mr Witness, what did you see
6 on the clothing that Mr Ntaganda was wearing? Did you see ranks on him? Even as
7 a civilian you could recognize ranks, right?

8 A. Yes, this was the first time I had met this group, and I knew it was Bosco. I was
9 afraid to look at him and to check the ranks. That was not something I was concerned
10 with. I was simply afraid. It was the first time I had met a commander of this level.

11 Q. And, sir, why would -- why would you be afraid of a commander that you don't
12 know his level and that you don't -- and you have never seen him before? Why
13 would you be scared of such a commander?

14 PRESIDING JUDGE FREMR: Mr Bourgon, this question is argumentative. Move
15 on.

16 MR BOURGON: Thank you, Mr President.

17 Q. Sir, you might not have looked carefully at Mr Ntaganda, but in your statement,
18 you did say that he was wearing a red beret, right?

19 A. Yes. I can confirm it. I saw it, but I didn't see his rank because I didn't study
20 him in detail. But I saw the uniform he was wearing.

21 Q. Sir, I refer to paragraph 111, 111 of your statement. And you provide a
22 description here where you say, "Bosco wore a plain military uniform; he had rolled
23 up his sleeves and wore military boots. He was not carrying a gun but had a small
24 stick. He also had a small radio on his belt but I do not know which brand it was.
25 He also wore a red beret."

1 So my first question is these details of course you were able to observe?

2 A. When I saw him, I saw with my own eyes what I have described. I can't tell you
3 what I did not see. However, I didn't look at his insignia. I didn't even think of that.
4 But after all, I saw the uniform he was wearing despite my great fear. I saw the
5 uniform also of the soldiers accompanying him. But I wasn't able to study everything
6 in detail.

7 Q. Now, sir, I suggest to you regarding the red beret which you saw that Bosco
8 Ntaganda never wore a red beret between 2002 and 2003, and that the person you saw
9 is not Bosco Ntaganda. Would that be a fair statement, sir?

10 A. No. It was him I saw. I saw him with my own eyes, and that is the truth that I
11 am telling you. I saw him.

12 Q. Very well, sir. We'll now move to a different issue also dealing with this event.
13 According to your testimony, the man you say was Bosco Ntaganda -- I'm sorry, your
14 statement, not in your testimony -- and that's at paragraph 111, the man you say was
15 Bosco Ntaganda was accompanied by many soldiers and you say that they had three
16 rocket launchers and guns with chains of bullets. Do you recall saying this, sir, and is
17 this accurate?

18 A. Yes, that's correct. I saw this when I met them. I saw what they had. They
19 had three large calibre rifles. They had individual weapons and their loaders. I
20 don't know how many were in the group. I am not able to say how many people this
21 group consisted of.

22 Q. My question, sir, is you did see that the soldiers with him, and you never
23 mention a number to the best of my recollection, but you did see the three rocket
24 launchers, did you not?

25 A. Yes.

1 PRESIDING JUDGE FREMR: Mr Bourgon, would you agree with me that your next
2 questions will not reveal identity of the witness? Because if you are just asking what
3 he saw, I think we can move into open session.

4 MR BOURGON: Yes, Mr President.

5 PRESIDING JUDGE FREMR: Yes?

6 MR BOURGON: I should have done so earlier.

7 PRESIDING JUDGE FREMR: Well, court officer, please move into open session now.

8 (Open session at 5.31 p.m.)

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

10 PRESIDING JUDGE FREMR: Thank you.

11 Mr Bourgon, you may proceed.

12 MR BOURGON: Thank you, Mr President.

13 Q. Sir, I come back to my last question, I'm not sure if you did respond to the
14 question, which is that you saw the three rocket launchers, but I think you did -- yes,
15 you did answer the question. Sorry.

16 Now, according to the information we have from you, the man you say is
17 (Redacted) would have then said to Salumu "Take them and show them our military
18 equipment so they can go back and tell the entire population that we have
19 given them time for peace to bring back the gun."

20 This is at paragraph 112 of your statement. So is that what you heard (Redacted)
21 say?

22 A. Yes.

23 Q. I now refer to basically Salumu's reaction to these instructions, and that is found
24 in paragraphs 115 to 117 of your statement. Let's try and do this in a sequence. You
25 went with Salumu to *the market and where there were four houses next to the market,

1 and that "Salumu opened the doors of these houses and showed us the weapons." Is
2 that your recollection, sir?

3 A. Yes.

4 Q. Again, according to your statement, you say, "I saw many heavy weapons and
5 some small firearms as well as bombs."

6 So you saw all of this in these four houses; is that correct, sir?

7 A. Yes. When we went to that location to see the weapons, there were heavy
8 weapons positioned in that area in the houses, rather. Then we took another road to
9 go to Zukpa II, and there was another armoury there, and it is then that my colleague
10 decided to stay back and that I went back to Kobu myself.

11 Q. Well, sir, what -- the issue I would like to confirm with you, you confirm already
12 that there were four houses, I believe, at *the market. And can you also confirm that
13 you saw another house with weapons in Zukpa II? Was that correct, sir?

14 A. Yes. When we left the market square, we went to Zukpa II, which is close to the
15 market square. Yes, there was another armoury there, which we noted.

16 Q. And it is your testimony that Salumu opened the door to these five houses, and
17 you saw inside many heavy weapons, small firearms and bombs. That is your
18 testimony, sir, right?

19 A. Yes. There were some support weapons, which were mounted on tripods and
20 were pointing in different directions. Those weapons could be found in the various
21 houses to which we were taken.

22 We went to Zukpa II as well, and there, there was a weapon positioned outside,
23 not in the house. I did not stay at that location. I decided to go back;
24 whereas, my friend deemed it proper to remain at that location, and he told us
25 that having seen the weapons that had been shown to us, he had made up his

1 mind to stay back.

2 Q. Well, sir, the issue that is of interest to me is that the five houses you referred to
3 with weapons, heavy weapons, small firearms and bombs did not exist at the time,
4 and that your narrative, your story that you're telling this Court is an entire fabrication;
5 is that correct, sir?

6 A. No. My narration of events is based on facts which I saw with my own eyes.
7 No one told me about these things. I saw them with my own eyes.

8 Q. I'll move to a different topic also dealing with this event. And this has to do
9 with paragraph 120 of your statement and where you referred to Salumu's
10 bodyguards.

11 So first you say in this statement that -- I will quote from paragraph 120, and it
12 says here, "Amongst Salumu's bodyguards, I saw a child soldier with my own
13 eyes. He must have been less than 15 years old."

14 Do you recall saying this in your statement, sir?

15 A. Yes, I do remember.

16 Q. Now, you go on in the same paragraph by saying, "He was carrying a gun, and
17 the gun looked extremely heavy on him. He was in a military uniform, but he was
18 not wearing military boots, just normal shoes."

19 Does that correspond to what you recall, sir?

20 A. Yes.

21 Q. Now, sir, given your statement here where it says that you saw one child soldier
22 with your own eyes, how do you explain your testimony in response to a question
23 from the Prosecution where you say the following; this is transcript 53 on page 56 at
24 lines 13: "Salumu did have bodyguards who were accompanying him, and (Redacted)
25 and myself went to the location, and we were shown the weapons. Sorry, the

1 question was at line 18.

2 PRESIDING JUDGE FREMR: First of all, for the record, we will have to redact
3 number -- the name just now mentioned by Mr Bourgon. And please, for the further
4 examination, please just do it as Mr Witness, maybe call him colleague of Mr -- in this
5 situation, call him colleague of Mr Witness.

6 MR BOURGON: Will do, Mr President. I apologise.

7 Q. The question that was put to you, sir, at line 18 is "What was the age range of
8 those bodyguards?"

9 And then you say, "Some were adult, some were young, young people. And
10 it was possible to see that the young people amongst them found it difficult to
11 carry the weapons. So one could deduce, therefore, that they were younger
12 than 15. But I was not in a position to ask them how old they were. This is
13 just what I noted."

14 My question is the following: How did we move from one child soldier in
15 your statement to many child soldiers in your testimony?

16 A. Very well. It is true, as you have stated, that when we went with Commander
17 Salumu to see the armoury, there was a child soldier who was part of the group. I
18 saw him myself. He was carrying a weapon, but the weapon was bigger than him
19 and was actually -- could actually touch the ground. So there was only one child
20 soldier in Salumu's escort that is among his escorts.

21 Q. Thank you, sir. Now, of course, if I refer to, again, your statement, it says here
22 that the child soldier you saw -- I quote from paragraph 120. It says "He was in the
23 military uniform, but he was not wearing military boots, just normal shoes."
24 Now, that does not match what you said in your testimony when you said that
25 they were wearing a military uniform and they were wearing boots at lines 25

1 of page 56.

2 How do you explain this difference? Why in your statement there is no boots
3 and in your testimony the boots appear?

4 A. Well, the fact is that I did not see the child soldier wearing military boots or
5 rangers. The child soldier was wearing ordinary shoes, not military boots, just
6 ordinary shoes.

7 Q. But that's a detail you did not mention when you answered the question from
8 my colleague, when you said that they were wearing military boots.

9 A. Well, that was my statement. He was wearing a military uniform, but he did
10 not have military boots. He was wearing ordinary shoes. Now, as for the other
11 soldiers, they had their uniforms, the military uniforms, and they were wearing
12 military boots as well, plastic boots.

13 Q. Now, sir, I suggest to you that the answer you gave to my colleague when she
14 put that question to you is basically what you say you saw during the first attack in
15 paragraph 57 of your statement, because in this paragraph this is what you say: "I
16 could see they were children, as they did not look mature and were short. I did not
17 ask their ages, but I could see that they were between 13 and 15. Those that I saw
18 with my own eyes were part of the troops during the first attack on Kobu. I do not
19 know how many child soldiers there were, but there were many of them. They were
20 also wearing uniforms and carrying firearms, such as SMGs, and they were speaking
21 Swahili."

22 Sir, isn't that what you recall, that any child soldier you saw is actually what
23 you said concerning the first attack and not the fourth attack?

24 A. I was not referring to child soldiers. I was talking of the child soldier who was
25 accompanying Commander Salumu. I wasn't talking about others that I hadn't seen

1 in the fourth war. I saw a child soldier accompanying Commander Salumu.

2 MR BOURGON: We'll leave it at that, because I have many other questions to ask.

3 Mr President, if we can move into private session, please.

4 PRESIDING JUDGE FREMR: All right. Court officer, can you hear me? Maybe I
5 will wait for a second.

6 Please let's move into private session.

7 (Private session at 5.49 p.m.) *(Reclassified partially in public)

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

9 PRESIDING JUDGE FREMR: We are in private session. Thank you.

10 Mr Bourgon, you may proceed.

11 MR BOURGON: Thank you, Mr President.

12 Q. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. (Redacted)

17 Q. Thank you. Now, at page 52, lines 3 and 4, you mention that you did not know
18 him from before; is that correct?

19 A. Yes.

20 Q. You also stated that you got to know him for the first time during the last attack;
21 is that correct, sir?

22 A. Yes, I got to know him during the final attack. I didn't know him before that.

23 When there is an attack, the people come from everywhere as they flee, and that is
24 how I got to know (Redacted) for the first time at the place to which we had fled in the
25 bush.

1 Q. Now, at page 54, lines 13 and 14, you say that after the event, you speak about
2 with Salumu, after seeing the weapons, you say that he decided to stay and that
3 "(Redacted) He had just seen many weapons."

4 Do you confirm your testimony, sir?

5 A. Yes, that is my statement. I returned alone and he remained there in (Redacted).

6 Q. Now, sir, I referred to paragraph 123 of your statement and basically, because he
7 stayed there, you returned to (Redacted) alone; that is correct? Is that correct?

8 A. When he returned in (Redacted), I went to where we had been going through the
9 bush.

10 Q. Now, sir, look at paragraph 135 of your statement. And I'd just like you to
11 confirm that you recall that after the peace meeting, when you were fleeing and that
12 you were under attack, that (Redacted) was a member of that group, and that he was
13 actually yelling your name and (Redacted)
14 (Redacted). Do you recall saying this, sir, in your statement?

15 A. Yes, I recall that. (Redacted) stayed there. There then the UPC forces arrived on
16 the day which they had arranged the peace meeting, and I heard the voice of (Redacted),
17 (Redacted).

18 Q. Now, sir, based on information that will be presented during this trial, I suggest
19 to you, sir, that (Redacted), that you are aware that he is in fact a Lendu combatant who
20 acted as a messenger between Salumu's soldiers and the Lendu combatants; are you
21 aware of this, sir?

22 A. No, I didn't know that. I knew that (Redacted) was at (Redacted) with the population,
23 but I didn't know that he was a messenger from Commander Salumu. I know that
24 we travelled together and that he decided to remain in (Redacted), and that I left. But I
25 don't know whether he was part of the combatants or a messenger from Commander

1 Salumu.

2 Q. Now, sir, in fact, it is my obligation to put my case to you, and regarding
3 (Redacted) and the events you testified about, I suggest to you, sir, that you yourself did
4 not travel to (Redacted) you describe in your testimony.

5 Would that be correct, sir?

6 A. No, that's not true. I went with him to (Redacted).

7 Q. Sir, according to the information you provided during your testimony, after
8 leaving to (Redacted), you went first to (Redacted), is that correct?

9 A. (Redacted)

10 Q. Well, sir, that was my question, and you provided the answer that you went first
11 to (Redacted).

12 Now, I'd like to refer to what you saw when you arrived in (Redacted). In
13 paragraph 126 of your statement, you say that you saw (Redacted)
14 (Redacted)

15 (Redacted) Is that a fair
16 statement, sir?

17 A. Yes. When I arrived in (Redacted)
18 (Redacted).

19 Q. (Redacted)

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 Q. Thank you, sir. I have a lot of questions to ask, and I would be grateful if you
2 could listen to the question, and if possible, when you can, to answer by yes or by no.
3 I don't want to prevent you from saying anything you want to add, but if it's just to
4 confirm what I said, I would appreciate if you could just say yes or no.

5 (Redacted) This is what you say in your statement at
6 paragraph 126.

7 A. Yes, I saw it with my own eyes.

8 Q. In response to a question from the Prosecution, you said (Redacted)
9 (Redacted). Do you recall saying this?

10 A. Yes.

11 Q. (Redacted)

12 (Redacted)

13 A. (Redacted)

14 Q. (Redacted)

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 (Redacted)

23 A. (Redacted)

24 (Redacted)

25 (Redacted)

1 MR BOURGON: So for the record, Mr President, the witness indicated a size with his
2 hands.

3 Q. I'd just like that maybe this is approximately in terms of centimetres, would it be
4 a fair statement to be anywhere from let's say 10 centimetres, what you described with
5 your hands?

6 PRESIDING JUDGE FREMR: Would it be possible to provide Mr Witness with a
7 piece of paper, and maybe he can just put it on paper the size, okay?

8 MR BOURGON: Mr President, I have not enough time for this, so I'll move on to
9 another question.

10 PRESIDING JUDGE FREMR: Okay, because I would like to remind you that you will
11 finish by 6.20, in 15 minutes. Then move on.

12 MR BOURGON: Thank you, Mr President.

13 Q. Sir, I move on to when you were in (Redacted), you mentioned that a man named
14 (Redacted)

15 (Redacted)

16 (Redacted)

17 A. Yes, it's true.

18 Q. And again based on your statement -- sorry, first, you also said that the letter,
19 you said, "(Redacted)"; is that

20 correct, sir?

21 A. No. (Redacted)

22 Q. Sir, I read from paragraph 127 of your statement where it says, (Redacted)
23 (Redacted)

24 (Redacted)

25 Do you stand by this information in your statement?

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13 Page redacted – Private session

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1 (Redacted)

2 (Redacted)

3 Q. Thank you, sir. We'll leave it at that.

4 I'd like to -- of course, you were shown a number of pictures which were taken
5 of bodies found in la bananeraie. Do you recall seeing these pictures, sir?

6 A. Yes.

7 Q. I have two questions on these pictures. The first one is you were shown one
8 picture, a close-up picture, of Dyikpanu. For the record, the picture is 2090-0287 -- no,
9 sorry. This is 2069-0012. That's a picture that was shown to you.

10 Now, according to the information I have from the Prosecution in the
11 preparation log, you did not recognize this picture. Do you recall this, sir?

12 PRESIDING JUDGE FREMR: Ms Samson?

13 MS SAMSON: Thank you, Mr President. The witness was never shown this
14 photograph during his testimony, so perhaps counsel for the Defence can clarify what
15 he's referring to when he mentions that the photo was shown to the witness.

16 PRESIDING JUDGE FREMR: Mr Bourgon.

17 MR BOURGON: Thank you, Mr President. This is the information I got from the
18 Prosecution which refers to your preparation session on 13 and 14 January. And at
19 paragraph 15 of this document, which I referred to earlier, it says: Referring to a
20 photograph, DRC-OTP-2069-0012, the witness was shown for the first time photo. He
21 indicated that his eyes were bothering him and that he could not see very well as it
22 was dark in the meeting room, but that he did not recognize any of the individuals in
23 the picture.

24 Q. Do you recall this, sir?

25 A. No. No. During the preparation I didn't see any photos at that time.

1 Q. Thank you, sir. I have very few minutes left, so I would like to go back to a
2 different topic, which has to do with your children. In response to a question put to
3 you by your legal representative, you were asked about your children and you were
4 asked about their names and you were asked about their age. According to the
5 record, I have (Redacted)

6 (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. Thank you, sir. I'd like to have the ages of your children at the time. Now,

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. It's a bit difficult to talk about the age of my children at the moment.

17 PRESIDING JUDGE FREMR: Mr Bourgon, would you mind if witness would just
18 respond about their current age, because I think you're asking --

19 MR BOURGON: Yeah, current age or past age.

20 PRESIDING JUDGE FREMR: So, Mr Witness, please tell us what is the age of your
21 children now, okay?

22 MR BOURGON:

23 Q. (Redacted)

24 A. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted)

7 Q. (Redacted)

8 A. (Redacted)

9 Q. (Redacted)

10 A. I don't know this name. Perhaps you pronounced it differently. Maybe it's
11 normally pronounced in a different way.

12 PRESIDING JUDGE FREMR: Mr Bourgon, your last question so you can put.

13 MR BOURGON: Well, I'd just like to do the spelling, just to confirm --

14 PRESIDING JUDGE FREMR: Okay.

15 MR BOURGON: -- and then to put my last question if you allow me, Mr President.

16 The name -- the spelling I have, Mr Witness, is (Redacted)

17 (Redacted)

18 (Redacted)

19 A. (Redacted)

20 Q. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 A. (Redacted)

25 (Redacted)

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(Private Session)

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1 (Redacted)

2 MR BOURGON: (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 PRESIDING JUDGE FREMR: (Redacted)

12 THE WITNESS: (Interpretation) (Redacted)

13 PRESIDING JUDGE FREMR: All right. Now we will continue.

14 You may sit down, Mr Bourgon.

15 Ms Samson, you informed us that you would like to conduct a

16 re-examination-in-chief, and you said that you would like to finish it in 10

17 minutes. Is it still valid?

18 MS SAMSON: Yes, your Honour.

19 PRESIDING JUDGE FREMR: We appreciate. So you have the floor, Ms Samson.

20 MS SAMSON: Thank you, Mr President.

21 QUESTIONED BY MS SAMSON:

22 Q. Sir, I have just several questions for you this afternoon, and for that I will ask the
23 Chamber to remain in private session.

24 You will recall that on the first day of the cross-examination by the Defence
25 that you were asked questions about (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 A. (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 (Redacted)

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 THE INTERPRETER: Message from the Swahili booth. Mr President, could the
15 witness be asked to repeat his answer?

16 PRESIDING JUDGE FREMR: Mr Witness, would you kindly repeat your answer
17 because it was not captured by the interpreters, please.

18 THE WITNESS: (Interpretation) Okay. This is what I said in my answer. (Redacted)
19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 MS SAMSON:

24 Q. Thank you. I'm moving now to a different topic, the second topic I would like
25 to address with you today.

1 During the Defence's cross-examination, questions were put to you about a
2 meeting that you had with Prosecution investigators in (Redacted). And
3 the suggestion was put to you that you had indicated during that meeting that
4 (Redacted).

5 Do you recall this part of your examination?

6 A. No. (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. And if I may, I would like to show you a copy of the note that you were shown
10 during the Defence examination. The document is at DRC-OTP-2078-2903, and it's a
11 confidential document.

12 PRESIDING JUDGE FREMR: It's now visible at evidence number 2 channel.

13 MS SAMSON:

14 Q. Sir, can you see the document in front of you on your screen?

15 A. Yes, I can see it. But this document is written in English.

16 Q. Yes, it is, sir. My only question for you at the moment is whether scrolling
17 through the document, if I could ask the court officer to do that, whether you see your
18 signature anywhere on this document. Did you sign it, to your recollection?

19 THE COURT OFFICER: Ms Samson, we only have a redacted version of the
20 document in Ringtail.

21 MS SAMSON: That's fine.

22 Could the court officer continue? That's it?

23 Q. Sir, did you see your signature anywhere on the document?

24 A. No, I do not see my signature.

25 Q. At the time of this meeting in (Redacted), did you see a copy of this

1 document?

2 A. No. I am unable to read this document, and I don't see any signature on it.

3 You see, whenever I have given a statement, I sign the statement.

4 MS SAMSON: Thank you, Mr Witness, for answering my questions.

5 Mr President, I have no further questions.

6 PRESIDING JUDGE FREMR: Thank you very much. I think you took even less
7 than 10 minutes. So including my counting, it was 8 or 9.

8 Mr Bourgon, any need for recross?

9 MR BOURGON: No, Mr President.

10 PRESIDING JUDGE FREMR: Very well. So there is still some amount of time for
11 the Chamber, and we would like to put a few additional questions. And I will start
12 with this: Mr Witness, I am very sorry that I have to come back to the event which is
13 probably very upsetting for you, and it's the shooting of (Redacted). You said
14 that your (Redacted) were hit by gunfire. And my question would be, what time of
15 the day was it when (Redacted) were hit by gunfire?

16 THE WITNESS: (Interpretation) Very well. When the troops came in to (Redacted), it
17 was already past noon, so it was in the afternoon. I don't have a specific time. All I
18 know is that it happened in the afternoon.

19 PRESIDING JUDGE FREMR: But I will be more specific. So it was during the
20 normal daylight?

21 THE WITNESS: (Interpretation) Yes. It was -- well, you know, the sun rises in our
22 area in the morning and sets at around 6.30 every day, (Redacted). That's
23 all I can say.

24 PRESIDING JUDGE FREMR: And as concerns the place of the shooting, could you
25 describe in more details the place where (Redacted)

1 (Redacted)?

2 THE WITNESS: (Interpretation) Okay. The gunshots went off when I was in (Redacted)

3 (Redacted). Then I started to flee, and it is at that time that (Redacted)

4 (Redacted)

5 (Redacted)

6 PRESIDING JUDGE FREMR: And were there any houses close by, or was it just a

7 meadow? Because my question would like to show whether you were visible to

8 those who were shooting.

9 THE WITNESS: (Interpretation) Well, if there had been people in the area, they

10 would probably have seen me, but inhabitants had already fled when the firing started.

11 People fled. I remained behind, but most of the inhabitants had fled already. They

12 had left already. All the members of the population had already left when those

13 troops entered our village proper.

14 PRESIDING JUDGE FREMR: And have you seen those who were shooting (Redacted)

15 (Redacted)?

16 THE WITNESS: (Interpretation) Yes. At the time of that gunfire, the troops were

17 not far away from us, maybe 30 metres away from us. The distance was not very,

18 very great. They had already entered our village. I saw them. They were not far

19 away from my position. And it was no longer possible for me to do anything. It is

20 only God who protected me. And it is because of God that I did not die.

21 (Redacted)

22 PRESIDING JUDGE FREMR: And were there any plants or grass? I mean high

23 grass.

24 THE WITNESS: (Interpretation) Well, at the location where my children and I were

25 struck by those bullets, there were a few bushes, and I crawled through those bushes

1 down the valley. But when one got to the village, there were no bushes as such or the
2 few shrubs that were there were not as dense as those further on.

3 PRESIDING JUDGE FREMR: Okay. So I have no more further questions for you. I
4 think Judge Chung indicated he would like to put also some questions. Judge Chung,
5 you have the floor.

6 JUDGE CHUNG: Thank you very much.

7 Mr Witness, during the testimony you were shown a photo, photograph, on
8 which you recognized the dead body of Mr Dyikpanu. Do you remember
9 this?

10 THE WITNESS: (Interpretation) Yes, I do remember.

11 PRESIDING JUDGE FREMR: Thank you. And in the same photo, next to the body
12 of Mr Dyikpanu, you recognized the body of Mr Pem's wife, P-E-M-E, or P-E-M. Do
13 you remember this also?

14 THE WITNESS: (Interpretation) Yes, I do remember.

15 PRESIDING JUDGE FREMR: Then can you give us more information about Mr Pem
16 you mentioned; his full name or his nickname, where he lived, what did he do for a
17 living?

18 THE WITNESS: (Interpretation) All right. Pem, I don't know much about his life.
19 I got to know him when we fled to (Redacted). It is then that I got to know Pem.
20 Subsequently, and while we were in (Redacted), I got to meet his wives and his children.
21 Then, when the bodies were found, it was shortly after I had gotten to know him.
22 That man used to live in Kobu village, but I don't know where he is today.
23 Now, ever since I have been at the location where I live, I never met him again.
24 But he lived in Kobu village, and his wife and children were also killed.
25 That's as much as I know. I do not know whether he -- I don't know where he

1 lives, but I know that he is still alive in Kobu village, which is the same place
2 where he used to live during the war.

3 PRESIDING JUDGE FREMR: So Pem is the only name you know about him? You
4 do not know any other name or nicknames? Pem is the only name you know
5 him -- you know about it?

6 THE WITNESS: (Interpretation) I got to know that name because that is the way
7 people called him during the war. I do not know his other names. All I know is
8 Pem.

9 JUDGE CHUNG: Thank you. Just one more question, Mr Witness.
10 Do you know someone by the name (Redacted)?

11 THE WITNESS: (Interpretation) No. I know somebody called (Redacted).
12 (Redacted)

13 JUDGE CHUNG: (Redacted)

14 THE WITNESS: (Interpretation) No, no. I don't know (Redacted).

15 JUDGE CHUNG: Thank you, Mr Witness. No more questions for me.

16 PRESIDING JUDGE FREMR: Thank you. Now -- Mr Bourgon, you want --

17 MR BOURGON: Well, unless there is another member of the Bench who has any
18 questions, I would like to ask two questions arising from the Chamber's questions,
19 Mr President, with your leave.

20 PRESIDING JUDGE FREMR: Okay. Please.

21 MR BOURGON: Thank you, Mr President.

22 Q. Sir, I just have two questions arising from the judges that were put to you by the
23 Presiding Judge. The first one has to do with the place where you and your children
24 would have been shot at. You mention in response to the Presiding Judge's question
25 that this was not far away from your home.

1 Now, my question is the following: At paragraph 99 of your statement, you
2 refer to the fact that you went to get them, (Redacted), which is what
3 delayed your flight.

4 Also, in response to a question put to you in cross-examination, you said, "The
5 only reason I stayed behind is to go and get (Redacted)."

6 Now, on the basis of these two answers, how do you explain that you had to
7 delay your flight since this happened just beside your house?

8 A. Okay. This is the answer I have for you: (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. My second question, Mr Witness, is the following: In response to the questions
15 put to you by the Presiding Judge, you mentioned that the troops which were
16 attacking had already entered the village and you say (Redacted), and then you later
17 confirm by saying that this happened (Redacted).

18 Now, in paragraph 101 of your statement, you mention that you were shot at
19 (Redacted). How do you explain the time difference between the
20 moment that the troops came into the village and the time you were shot (Redacted)
21 (Redacted)?

22 A. No, no. And I'm going to repeat my answer to you. The soldiers came to
23 (Redacted)

24 (Redacted)

25 (Redacted)

1 And then I crawled downwards down the valley, and then I managed through the
2 night to get to my location in (Redacted).

3 MR BOURGON: Thank you very much, sir.

4 I'm grateful to the Chamber for the opportunity to ask these questions. Thank
5 you, Mr President.

6 PRESIDING JUDGE FREMR: Okay. I guess there are no further requests for the
7 questioning of this witness. Now we will move for a short while into open session.
8 (Open session at 6.49 p.m.)

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

10 PRESIDING JUDGE FREMR: Thank you.

11 Mr Witness, that concludes your testimony. I would like, on behalf of this
12 Chamber, thank you for your approach. You stayed with us for a long time.
13 You patiently answered all those questions, so we would like to thank you, and
14 we really believe that your testimony will assist us in our effort to find the
15 truth. So thank you very much.

16 And now we will move again into private session, but the witness still may
17 remain with us.

18 (Private session at 6.49 p.m.) *(Reclassified entirely in public)

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

20 PRESIDING JUDGE FREMR: The only issue just remaining and why we move into
21 private session is the Defence request filing number 1101.

22 Maybe it would be anyway better to escort the witness out of the courtroom, so
23 maybe we will first escort Witness out of the courtroom.

24 (The witness is excused)

25 PRESIDING JUDGE FREMR: Okay. So now nothing prevents us from delivering

1 this, our oral ruling. So as I already said, this filing in effect contains Defence request
2 for an order from the Chamber for Witness P-790 to be examined by an independent
3 medical expert.

4 In addition to the Defence request, the Chamber has received by way of email
5 today responses from the Prosecution and the Legal Representative for Victims
6 of the attacks as well as observations by the Registry.

7 The Chamber notes that the cross-examination of Witness P-790 started on
8 Tuesday, 19 January 2016. It is on this day at the very start of its
9 cross-examination that the Defence asked the witness whether or not he would
10 "... be ready to be examined by a doctor if the Defence were to ask him to
11 undergo such an examination," unquote.

12 I'm referring here to Transcript T-54, pages 48, 49. It's not apparent to the
13 Chamber why the Defence request could not have been filed earlier with a
14 view to expediting this litigation and minimising the disruption to the witness.
15 In that regard, the Chamber wishes to recall the importance of not keeping
16 witnesses in The Hague for longer than is absolutely necessary, in part due to
17 security considerations.

18 Having noted the parties' submissions, the Chamber is minded to grant the
19 request. The Registry is in the process of seeking to identify an independent
20 expert who would be available to conduct the examination on an urgent basis.
21 Therefore, on the understanding that it will be possible for a medical
22 examination to be conducted within the next few days and in any event before
23 the end of the week, the Chamber directs that the witness remain in The Hague
24 for the time being.

25 The Chamber is mindful that this will mean that the witness will have to stay

1 another few days longer here at the seat of the Court, but considers it
2 preferable and in the best interest of the witness and his safety for the medical
3 examination to be conducted now, if possible, rather than at a later stage at or
4 near the witness's place of residence.

5 Consequently, the Chamber instructs the Registry to provide by the filing
6 deadline tomorrow on 26 January 2016 the name of a medical doctor with
7 relevant forensic expertise who will be available to meet with Witness P-790 in
8 order to conduct a medical examination by Friday, 29 January 2016, if possible.
9 Upon receipt of this information, the Chamber will provide the nominated
10 expert with relevant guidance as to the scope of the examination required and
11 any related modalities.

12 This concludes the Chamber's oral ruling, and now we can move again into
13 open session.

14 (Open session at 6.55 p.m.)

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

16 PRESIDING JUDGE FREMR: (Microphone not activated)

17 First of all, we are concluding this very special hearing. As I already said, we
18 are aware that convening this session, we just made some inconvenience to all
19 of you; but we appreciate flexibility, both of the parties and participants, and
20 mainly of the interpreters, the court reporters and our guards, who today had
21 remained with us for such a long time 'til this late hour. But as I said before,
22 the extraordinary situation required extraordinary measures. I really
23 appreciate that we got such support from all of you. So thank you very much.
24 And we will adjourn today, and we will reconvene on Thursday morning 9.30
25 because, as you know, this courtroom is, until that time, occupied by Ongwen

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1 Chamber. So thank you very much and court is adjourned.

2 MS SAMSON: Mr President, just one quick question.

3 PRESIDING JUDGE FREMR: Ms Samson.

4 MS SAMSON: Thank you. Should the Ongwen confirmation hearing end early,
5 such as tomorrow, would the Chamber be minded to sit on Wednesday, or will the
6 Chamber be continuing with the schedule on Thursday? Informal information I've
7 received is that there's a chance that the hearing may conclude tomorrow afternoon or
8 possibly Wednesday morning. So any guidance would be appreciated.

9 PRESIDING JUDGE FREMR: Yes. It's good point. But even if I got a slightly
10 different indication, maybe Judge Chung could inform us what is the current progress
11 in the Ongwen trial?

12 JUDGE CHUNG: Thank you. The progress in Ongwen? I see.

13 PRESIDING JUDGE FREMR: So we have to -- we have to move for that response to
14 closed session or to private session?

15 JUDGE CHUNG: I just mentioned the procedural matters, so --

16 PRESIDING JUDGE FREMR: Okay.

17 JUDGE CHUNG: -- still, right, we can see such -- we have some expectation that the
18 procedure will be concluded earlier than our original expectation, so maybe we can
19 finish everything by the morning session on Wednesday. So we are still looking at
20 such a possibility now.

21 PRESIDING JUDGE FREMR: So in case that will -- at least maybe we will have at our
22 disposal afternoon session. I'm not sure that the witness is ready. Do we have any
23 information whether the witness would be hypothetically ready for even -- either
24 Wednesday morning or at least witness afternoon session?

25 MS SAMSON: Yes, your Honour. I believe he would be ready for Wednesday

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1 morning or Wednesday afternoon.

2 PRESIDING JUDGE FREMR: Now question to Defence. I guess Defence also would
3 be hypothetically ready to sit on Wednesday?

4 MR BOURGON: Mr President, when a Chamber finds the timing suitable, we will be
5 there. Thank you, Mr President.

6 PRESIDING JUDGE FREMR: At the moment I guess the only obstacle on the part of
7 the Chamber is that one of the members of the Chamber is sitting in a concerned case,
8 so I guess if -- and we will hope that if this case will be finished earlier, I think nothing
9 prevents us from sitting on Wednesday. So we all will have to be flexible, and we
10 will see how the progress will be made in the case concerned.

11 So now I think we can really conclude and court is adjourned.

12 THE COURT USHER: All rise.

13 (The hearing ends in open session at 6.59 p.m.)

14 RECLASSIFICATION REPORT

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