

Trial Hearing
WITNESS: DRC-OTP-P-0907

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing
7 Tuesday, 26 April 2016
8 (The hearing starts in open session at 9.31 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: Good morning everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 We're in open session.
18 PRESIDING JUDGE FREMR: Thank you, court officer.
19 Now appearances in usual order starting with Prosecution.
20 MR IVERSON: Good morning, your Honours. Today for the Office of the Prosecutor
21 we have Marion Rabanit, associate trial lawyer; Rens van der Werf, assistant trial lawyer;
22 Claudine Umurungi, legal assistant; Julieta Solano, trial lawyer; and Selam Yirgou, case
23 manager; and myself, Eric Iverson.
24 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.
25 Defence please.

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1 MR BOURGON: (Interpretation) Good morning, your Honours. Good morning to
2 everyone here in the courtroom. Representing Bosco Ntaganda who is present today we
3 have Erik Cookson-Montin; Dignité Bwiza; and myself, Stéphane Bourgon. Thank you,
4 your Honour.

5 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

6 Now Legal Representatives of Victims please.

7 MS PELLET: (Interpretation) Thank you, your Honour. Former child soldiers are
8 represented by Mohamed Abdou and myself Sarah Pellet, counsel OPCV. Thank you.

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

12 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun.

13 And duty counsel, please.

14 MR RAIMONDO: Good morning, your Honours. Fabián Raimondo, legal adviser to
15 the witness under Rule 74. Thank you.

16 PRESIDING JUDGE FREMR: Thank you, Mr Raimondo.

17 Mr Witness, good morning.

18 WITNESS: DRC-OTP-P-0907 (On former oath)

19 (The witness speaks Swahili)

20 THE WITNESS: Jambo sana.

21 PRESIDING JUDGE FREMR: We will continue with your examination by representative
22 of the Prosecution.

23 And it is my duty to remind you that you are still under oath, which means you have to
24 speak the truth and nothing but the truth.

25 And I also would like to remind you my practical guidance that you should observe

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1 pauses and speak at slow pace like you perfectly did yesterday afternoon, okay?

2 THE WITNESS: Okay.

3 PRESIDING JUDGE FREMR: So now, Mr Iverson, you have the floor. And just as
4 concerns timing, according our measuring, you exhausted so far 3 hours 53 minutes or
5 roughly. You should have at your disposal 4 hours so, I guess, ideally you could
6 conclude your examination today. Please go ahead.

7 MR IVERSON: Thank you, Mr President. I fully expect to be able to finish today.

8 QUESTIONED BY MR IVERSON: (Continuing)

9 Q. And with your cooperation, sir, I think we'll be able to do that.

10 What I plan to do this morning is centre my questions around the operations in
11 Mongbwalu, and then I'll have a few follow-up questions, and a few shorter topics, so I do
12 expect that I'll be able to finish today.

13 How are you doing this morning, sir?

14 A. I'm all right, but I really don't feel all that good.

15 Q. All right. Well, I would ask you that if you're feeling uncomfortable or if you're not
16 feeling well just let the Presiding Judge know and the Court will take care of the issue.

17 PRESIDING JUDGE FREMR: Yes, I can confirm.

18 MR IVERSON:

19 Q. All right. Well, I'd like to just get right into it and continue where we left off
20 yesterday. So -- and I'd like to stay in open session for the time being, so just keep that in
21 mind, sir, that we're in open session.

22 After the first failed attack on Mongbwalu, was there a time where there was planning for
23 the next attack?

24 A. Yes, we planned another attack.

25 Q. And where did the planning or the staging for the next attack take place?

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1 A. The planning of that attack was held in Nizi, the second time, but there were troops
2 in Dala. The equipment that they used for the first attack were there as well. And all
3 those who took part in the first attack were also there in Dala, but the planning was done
4 in Nizi.

5 Q. And do you know who was the personnel who were involved with the planning?

6 A. I was informed by Commander Americain. I was in touch with him on an ongoing
7 basis. He told us that it was Bosco Ntaganda who was planning all the military
8 operations. It was Commander Americain who told me that. He was also involved in
9 the planning of that attack.

10 Q. And was that plan for the second operation in Mongbwalu then disseminated to the
11 UPC/FPLC troops?

12 A. Yes, all the UPC troops were informed that Mongbwalu was going to be attacked.
13 As for ourselves, it was Commander Americain who told us that. He told us that on a
14 particular date we would strike Mongbwalu a second time. And to do that, well, we had
15 to wait for the troops that Commander Manu had sent from Aru from a sector that was
16 led by Jérôme, who was the sector commander of the UPC.

17 The first attack was a failure and that is why they decided to strike the enemy using -- by
18 way of two different roads. We had to wait for these troops that came from
19 Jérôme Kakwavu because, you see, the other way was a distance of 200 kilometres and
20 then, you see, the operation was going to begin *from Mbidjo. That is what happened.

21 MR IVERSON: There are at least one or two questions I would like to ask in private
22 session and then we can move back into open, so I would ask that we move to private
23 briefly.

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

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

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

2 PRESIDING JUDGE FREMR: Thank you.

3 Mr Iverson, please proceed.

4 MR IVERSON: Thank you, Mr President.

5 Q. (Redacted)

6 (Redacted)?

7 A. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted).

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted).

16 Q. (Redacted)

17 (Redacted)?

18 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 PRESIDING JUDGE FREMR: Slow down a bit, Mr Witness, okay.
- 4 THE INTERPRETER: Many thanks from the interpreters.
- 5 PRESIDING JUDGE FREMR: And please continue. Sorry to interrupt you.
- 6 THE WITNESS: (Interpretation) I was saying this: (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 And the troops intended to attack Mongbwalu, to loot because there were many things.
- 11 You see, it was a gold mining place. And the troops wanted to go and attack
- 12 Mongbwalu and loot there. (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted).

2 MR IVERSON:

3 Q. And how was the -- how did Commander Americain disseminate the plan to you
4 and other troops under his command?

5 A. He said to us -- well, he said this: "We are planning to attack Mongbwalu by way
6 of two roads. One brigade will leave from Aru," the brigade led by Manu, the brigade
7 commander who was working in Jérôme Kakwavu's sector in Aru.

8 And from there, with Tiger One, they were supposed to take the Kandoyi-Makofi-Mbidjo
9 road. So that was going to be the first brigade. They were going to enter by way of
10 Pluto because the enemy would be struck on two sides at once. The enemy's troop
11 strength was very high, that is why we lost the first time. The second brigade would
12 leave from Bunia and they were preparing in Nizi. They would be led by Brigade
13 Commander Salumu. And he was the person who would be assisted by Americain as
14 first commander, Chui mobile as well. And other commanders would be with him.
15 And they would go by way of Mabanga, Dala, Dhamblo, aéroport and Mongbwalu.
16 So we were going to attack Mongbwalu by way of two different roads and the enemy
17 would be driven out. One brigade would come from Bunia with Americain and they
18 would go *all the way to Kilo, Kobu, Bambu and onward. And the Bambu brigade
19 would strike from Mongbwalu, Sayo, Nzebi, Andisa, all the way to the road that leads
20 towards Beni.

21 So we were going to attack them from two directions, with two different brigades using
22 two different roads. And that was the plan. It was Tiger One who would be the leader.
23 He -- they -- the explanations were clear, we weren't going to spend a lot of time in
24 *Mongbwalu after attack and we had to stay there to stand over the looted goods. And
25 he told us to ready ourselves because the day of the attack was coming up soon.

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1 Q. And when Commander Americain told you about the plan for the operation, was
2 there any mention of rules of engagement or any mention of what would -- what type of
3 conduct would be allowed and what type of conduct would not be allowed?

4 A. No. On the contrary. He said to us "We are going to take advantage of this attack
5 on Mongbwalu, we are going to loot." That is what he said to all the troops, saying that,
6 "Well, you know how we lost the first attack upon Mongbwalu, we left everything behind,
7 and you know that the people living there they're all enemies. During the first attack we
8 were repelled and so we should do kupiga na kuchaji," that means each one can help
9 himself, can serve himself. So many civilians came along with us because they knew that
10 we would take advantage of this attack and loot, but the commander didn't say that we
11 shouldn't kill people or loot people, they told us that Mongbwalu was full of enemies.

12 Q. And were there any specific instructions having to do with protecting civilians or,
13 on the other hand, any specific instructions to attack civilians? Were there any
14 instructions about that?

15 A. No, no instructions were given about that in relation to Mongbwalu. They said
16 that everything there, all the people there were enemies, they were the ones -- well, during
17 the first attack at -- in Mongbwalu *there were only Lendus and the APC troops. And we
18 were told to spare no one.

19 THE INTERPRETER: The witness adds a phrase in Swahili.

20 MR IVERSON:

21 Q. And you say "they." If I could ask you to be specific. Who was telling you that all
22 the people in Mongbwalu were enemy and to be targeted?

23 A. During the first planning meeting we met in Nizi during a general parade. There
24 was Commander Salumu, Commander Americain, Tango Romeo and many other
25 commanders.

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1 They were all saying the same thing, "Go to Mongbwalu, strike the enemy. And all the
2 people there in Mongbwalu are your enemies. We must strike. You must loot. You
3 must take advantage of the situation. And this will boost your spirits, cheer you up."
4 This is what we were told during the parade the first time. And the same -- it was the
5 same message that we received from various commanders; the brigade commanders,
6 Commander Salumu, Christ, or other commanders. They all told us the same thing,
7 "Piga na kuchaji, attack and loot." That is why we took civilians along with us so that we
8 could take advantage.

9 Q. And do you specifically remember Mr Ntaganda ever saying those orders in relation
10 to the operation in Mongbwalu?

11 A. During the first operation, when we attacked Mongbwalu for the first time, there
12 was a gathering with the troops. (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)

18 (Redacted). We were told that, once again, kupiga na kuchaji, strike, loot, hit the enemy.

19 And that was the same message from the very beginning right to the very end.

20 MR IVERSON: I would ask that we move back into open session please, Mr President.

21 PRESIDING JUDGE FREMR: All right.

22 Court officer, let's return back into open session.

23 (Open session at 9.55 a.m.)

24 THE COURT OFFICER: We are back in open session.

25 PRESIDING JUDGE FREMR: Thank you.

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1 Mr Iverson, please proceed.

2 MR IVERSON:

3 Q. Do you remember whether there were any specific instructions about what should
4 be pillaged? Was there any focus on any particular item or items?

5 A. No, no instruction was given about the goods to be looted. We were supposed to
6 loot systematically, take everything that we found. Each time we attacked a particular
7 place we were supposed to loot. And the civilians that went along with us were
8 supposed to go and help the soldiers carry the looted goods; *motor cycles, vehicles,
9 mattresses, televisions, radios, furniture, everything. As soon as we entered a house we
10 really couldn't pick and choose, we were supposed to take everything. As soon as we
11 entered a shop we took everything that was to be found there. And we might station
12 someone there to stand watch over the goods and then we would continue looting, but we
13 were never told, "Oh, you mustn't take this," or "You mustn't take that."

14 Q. And for the brigade commanded by Commander Salumu, approximately how many
15 personnel did that entail? How many people did Commander Salumu have in this unit
16 involved in that operation?

17 A. Well usually there are three battalions in a brigade. That is what a brigade is made
18 up of. And a brigade has 360 to 400 soldiers in a battalion. And then there are three
19 companies. We had 120 soldiers in the company, or more. Usually the company was
20 about 120 people. And then 36 would be the number of people in a platoon. So about
21 1200 in three battalions, or nine companies, a company made up of 120 men. That is
22 what I would say. A battalion is made up of 1080 to 2000.

23 THE INTERPRETER: Correction: 1800 to 2000.

24 MR IVERSON:

25 Q. And during the operation, the second --

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1 THE INTERPRETER: Interpreter correction: 1080 to 1200.

2 MR IVERSON:

3 Q. During that operation, the second attack in Mongbwalu, did Commander Salumu
4 have all three battalions within his brigade?

5 A. It was not possible to have a brigade if you did not have enough battalions. He
6 had a brigade, a full brigade. The commanders whom I knew were Americain, who was
7 the first battalion commander, he used to work in the Chui mobile battalion as an advance
8 party to strike Kilo. He's the one I knew, but there were other brigade commanders
9 whom I got to know; therefore, there was a full brigade under Salumu's command.

10 THE INTERPRETER: And the witness made reference to Chui mobile as well, says the
11 Swahili booth interpreter.

12 MR IVERSON:

13 Q. And other than the unit that was coming from the north from Aru, were there any
14 other units involved in that second attack on Mongbwalu?

15 A. There was only Salumu's unit from Bunia in Mongbwalu, and then there was also
16 Manu's unit from Aru. There were a number of civilians who came as reinforcements
17 with machetes and spears, they came to support us in the mopping-up operations.
18 When we attacked, the civilians would come along with their machetes and their spears.
19 They came from Mabanga and Nizi and *Iga Barrière and Lopa. Many of them came to
20 back up and support the soldiers.

21 Q. And to the best of your knowledge were the UPC/FPLC soldiers all armed? Did
22 they all have personal weapons or crew-served weapons or some type of weapon?

23 A. We were all armed. After the training each person received a weapon, each soldier
24 had a weapon. Some civilians also had weapons, arms. Some soldiers even had two to
25 three arms which they would, from time to time, give to some civilians. In any event,

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1 each soldier had an AK-47, *SMG.

2 Q. And were the commanders present, were they able to give the civilians
3 accompanying your force, were they able to give those civilians orders, tell them what to
4 do, give them instructions?

5 A. No, they did not give orders to the civilians, they simply told the civilians to follow
6 the soldiers and to come up behind the soldiers, saying that whenever the soldiers had
7 captured an area, the civilians should occupy the areas after the soldiers. They also told
8 the civilians that any property captured belonged to the soldiers. And this was done by
9 way of oral communication. The soldiers were involved in the fighting, and the civilians
10 would be part of the looting, but all items of great value belonged to the soldiers. So the
11 civilians were taken to the battlefield for the main purpose of looting. That is why they
12 were used.

13 Q. Did these civilians who accompanied the force, did they actually do what the
14 commanders had asked them to do, to follow the force and then to loot?

15 A. Some civilians complied with the orders while others did not. Some civilians even
16 acted beyond the limits of the orders and even went to the battlefield. So some of the
17 civilians were involved in the fighting. The civilians would go ahead and break houses
18 and loot the houses and even kill people within the houses.

19 So what I'm saying is that the soldiers would be fighting with their arms while the
20 civilians used machetes as they fought and searched the houses through which they went.
21 That is how the civilian population was used in the operation.

22 Q. And do you recall if a -- if any of the commanders used their superior fire power,
23 their weapons to put the civilians in line if they were doing something that they shouldn't
24 be doing?

25 PRESIDING JUDGE FREMR: Mr Bourgon.

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1 MR BOURGON: Mr President, this is a leading question. Since the beginning of the
2 morning we've had leading question after leading question. Nobody is saying anything.
3 At some point, Mr President, I would like the Chamber to do something about these
4 leading questions. If you just look at the text of the last question, and if -- "Do you recall
5 if a -- if any of the commanders used their superior fire power, their weapons to put the
6 civilians in line if they were doing something that they shouldn't be doing?"
7 How much more leading can a question be, Mr President? Yesterday I made a comment
8 about that I failed to understand or to grasp my colleague's, the Prosecution's answer to
9 my comment that I made. My comment I made yesterday about the witness having
10 learned his material maybe was -- I did not use the best words; however, what I did say is
11 I was not -- I have no problems with the witness. What I meant to say, of course, is that
12 the witness is well prepared and he does not need to be led to give his information.
13 What I will do in cross-examination, I have plenty of material and I'm not worried about
14 that. What I'm worried about is that when we are putting the words in the mouth of the
15 witness. Mr President, I would like the Chamber to do something about the number of
16 leading questions being asked. Thank you.

17 PRESIDING JUDGE FREMR: Mr Iverson.

18 MR IVERSON: Well, Mr Bourgon is obviously welcome to object any time he believes
19 that I'm asking a leading question. I don't believe that I've asked leading questions. It's
20 a difference of opinion. This last question, I've already established that the soldiers had
21 firearms, they had weapons, the civilians did not. And so what I'm curious to know is
22 whether or not the commanders used those weapons on those civilians if they did
23 something -- if the civilians had done something that the commanders didn't approve of.
24 It is just a question that comes out of the logic of his testimony. And it is not leading
25 because I've already established those predicate issues of who had the firearms, who did

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1 not have the firearms.

2 PRESIDING JUDGE FREMR: Mr Iverson -- Mr Bourgon, just be briefly please.

3 MR BOURGON: Mr President, of course I disagree with my colleague, but I need to take
4 this opportunity at this time to raise an issue. I hear my name in this courtroom all the
5 time. Where I come from we don't do this in the courtroom. Where I come from we say
6 "my colleague," we say "the prosecution," we say "my learned colleague." We make all
7 kinds of comments, but we never use names.

8 I don't understand why the Prosecution is always using names in this courtroom. This is
9 wholly inappropriate. This is not the proper behaviour of a lawyer in the courtroom.
10 He can call me anything he wants, but he should not personalise his comment. I call "the
11 Prosecution," I say "my learned colleague." I do not say names in the courtroom. I never
12 use names in the courtroom. This is inappropriate.

13 Now, the question he put just by his own -- the way he explains the question makes it
14 clear that he is leading the witness to where he wants to go. I can use another many
15 examples yesterday and today where he is taking the witness to particular places where
16 he wants the witness to go.

17 My objection is simply that the witness does not need these types of questions. He
18 knows his stuff and he can say his stuff. It will be better for the Prosecution if they don't
19 lead him. That's my objection, Mr President. Thank you.

20 PRESIDING JUDGE FREMR: So I will summarise that there are two points. As to the
21 first one, it is true that in other cases, we don't have any written rules on that, but it is true
22 that the prevailing way how to call the other party is "my learned friend," so I think I
23 would support that, I think in this point I can join Mr Bourgon. Even myself, I can call
24 you just "counsel" if you would prefer, but I think from the Chamber there is nothing
25 wrong to use name, because your teams are numerous, and I think it is not -- it should be

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1 clear who from the team is called by the Chamber.

2 As to the objection, this question I really found leading because it really clearly leads
3 witness to the desirable response.

4 So, Mr Iverson, please rephrase or move on.

5 And on the other hand, I don't agree with the statement that there were many leading
6 questions in the past. If Defence have such a feeling, feel free to object to any such
7 question. It's true that it's even our duty to even without such objection to cut this kind
8 of question, and I will do it. But as I said in the past I haven't found numerous leading
9 questions, but in this case I agree with Defence that this question is leading.

10 Mr Iverson, please proceed.

11 MR IVERSON: I'll rephrase of course, your Honour. And I just want to say this: By
12 calling Mr Bourgon "Mr Bourgon," I mean no disrespect. We come from very similar
13 legal cultures, and I know that it is very common to use that formulation to refer to
14 opposing counsel. If he doesn't want me to do that, he just needs to let me know. He
15 doesn't need to do that in open court. I'm happy to call him whatever he prefers to be
16 called. I'll call him "Defence counsel," I'll call him "learned colleague," although "learned
17 colleague," coming from an American person's mouth sounds a bit unnatural because we
18 don't usually say that. That's a British thing. But I'm happy to accommodate him
19 however, whatever makes him feel most comfortable.

20 So I just want to let the Chamber know I mean no disrespect in anything that I'm saying
21 when I use his name.

22 PRESIDING JUDGE FREMR: It is maybe for further discussion just to satisfy everybody,
23 it is true that in the Ruto and Sang case, the most often used name was "my learned
24 friend." I think the same from my culture, to call the opposite party "friend" is also a bit
25 strange. So I think there could be two different approaches.

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1 But I think in order to rebuild some atmosphere of mutual respect so, Mr Bourgon, what
2 would you prefer to be called by opposing party?

3 MR BOURGON: Mr President, it is not what I prefer, it is simply that I'm saying that in a
4 courtroom we refer to parties, we refer to opposing sides and we refer to -- there are all
5 kinds of words that are used in past practices, whether it's British or American.
6 Sometimes these words can have a second meaning. When I say "my learned friend," if I
7 say this in Canada, I say "Mon savant collègue," he knows that I'm really saying that he's
8 not savant.

9 But what is the issue, Mr President, is the personalisation of the debate. This is the issue
10 I'm bringing forward at this time because I hear that on and on and on. The issue should
11 be between parties and between professionals and not aimed at persons. Thank you,
12 Mr President.

13 PRESIDING JUDGE FREMR: But still, Mr Bourgon, and now I am talking to you, so I
14 have to say "Mr Bourgon," if you are making, for example, objection, then I really don't see
15 anything wrong to say "Objection made by Mr Bourgon." I think there is nothing
16 offending in there.

17 MR BOURGON: Mr President, the Chamber can call me by my name, of course. It is a
18 completely different thing. The Chamber is sovereign and the Chamber does what it
19 wants, when it wants and how it wants it. So there's no absolutely problem being called
20 by my name by the Chamber. It's by the opposing parties, because we are parties in a
21 trial, and we are professionals. And I consider myself a professional. I consider myself
22 as a professional. I think it's a manner to keep the debate professional. But, of course,
23 Mr President, you can call me anything you want, and I will say, "I respect whatever you
24 say." Thank you.

25 PRESIDING JUDGE FREMR: I appreciate that. But I meant it even in connection to

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1 Mr Iverson, because I can imagine that he can say "Yesterday Mr Gosnell objected or said
2 or two weeks ago Mr Boutin said." So sometimes it's even enough to say "defence" or
3 "my learned colleague," "my learned friend," but if sometimes it is necessary to be concrete
4 and say this connection.

5 So for sure as I said before, I would like to avoid any atmosphere of some, you know,
6 tension or some disrespect, which I didn't see so far. So I hope that we will continue in a
7 dignified manner.

8 Mr Iverson, please proceed.

9 MR IVERSON: And I'm not going to belabour the point. I will refer to him as "Defence
10 counsel." I think that's a neutral term and that's what I intend to do.

11 PRESIDING JUDGE FREMR: All right.

12 MR IVERSON:

13 Q. Sir, are you aware whether -- of whether or not any UPC/FPLC commander ever
14 pointed a weapon at or shot at any civilian accompanying the UPC/FPLC force?

15 A. I never saw that. I never saw a commander shoot or stop a civilian from pillaging
16 or stealing.

17 Q. And are you aware --

18 PRESIDING JUDGE FREMR: Mr Bourgon.

19 MR BOURGON: Thank you, Mr President. Here we have another example of a
20 perfectly leading question. The question was, page 21, lines 13, "whether or not any
21 commander ever pointed a weapon at or shot at any civilian accompanying the
22 UPC/FPLC force?" Yes or no, did a commander from the UPC aim a weapon and shoot a
23 civilian? Yes or no? It suggests an answer. The witness -- the question can be
24 answered by yes or no, and the witness knows exactly what is requested of him. It is
25 another example of a clearly leading question, Mr President. Thank you.

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1 PRESIDING JUDGE FREMR: Mr Iverson.

2 MR IVERSON: Well, I think the definition for me of a leading question, and I
3 understand that this is an issue in this institution, is that one that suggests the answer.

4 And so the leading question here would have been, "No commander ever pointed his
5 weapon or shot at a civilian, did he?" That would be the leading question.

6 I don't know the answer to this question. I don't know how I could lead him to the
7 answer because I personally don't know it. I'm asking him because I'm interested in
8 giving the information so that the Court knows. And I can try to ask it in a different way,
9 but I don't -- I don't believe this is objectively a leading question, your Honour.

10 PRESIDING JUDGE FREMR: It is true that even within our case we have still some
11 uncertainty about the definition or interpretation of leading question. I don't think that
12 the definition is so simple that the leading question could be defined by a question that
13 allows only to say "yes" or "no," it's not the case. The leading question should really in
14 fact push witness to give the only possible desirable, desirable from the point of the
15 person who is giving this question, but it also should just bring the answer with just no
16 connection with the previous responses.

17 As you have mentioned, if we establish some basis for going further to making some
18 further inquiry on issues who has been already responded by witness, then I don't see any
19 leading character of such a question which is a matter of this case.

20 So please, objection is overruled. Please proceed.

21 MR IVERSON:

22 Q. Sir, are you aware whether any UPC or FPLC commander ever threatened any of
23 the civilians accompanying the force with force?

24 A. Never, they never stopped them. The contrary actually happened whereby the
25 commanders called upon the civilian population to come and loot. They informed the

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1 civilians about the towns where they could pillage. They also asked the civilians to
2 transport weapons. They asked them to loot and to loot items of value and hand them
3 over to the soldiers. But they never stopped them from looting.

4 PRESIDING JUDGE FREMR: Sorry, Mr Iverson, I have to interrupt you. I would like
5 just to correct English realtime transcript, page 23, line 2, I didn't say "any legal," but
6 leading character.

7 Please proceed.

8 MR IVERSON: Thank you, Mr President.

9 Q. So you have told the Chamber about the plan. My next questions have to do with
10 the execution of that plan. Where were the -- in which locations were UPC/FPLC troops
11 staged in preparation for the second attack?

12 A. The UPC soldiers came from two different roads, from Aru to Kandoyi, and the first
13 attack was in Mbidjo where they fought against the Lendu. That was from the north.
14 Now, from the south there was planning, and that planning took place in Nizi and in
15 Dala. The soldiers left that first front and came to Dala. Others prepared themselves in
16 Nizi to link up with those who were in Dala, and then they travelled together to Dhamblo
17 and then to Mongbwalu. Now, when it comes to the Aru and Nizi Ndalun (phon) attacks
18 or those who came from Bunia, things were done in that direction as well.

19 MR IVERSON: And, your Honour, could I ask to move into private session please.

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

21 (Private session at 10.24 a.m.) *(Reclassified partially in public)

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

23 PRESIDING JUDGE FREMR: Thank you.

24 Mr Iverson, please proceed.

25 MR IVERSON: And I've asked to move into private session because I intend to ask a few

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1 questions (Redacted)
2 (Redacted)
3 (Redacted).
4 A. (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted), and the morale was high, everything was in place, and we were all
16 prepared and then the order was given to move.
17 All the officers, non-commissioned officers, Salumu, Commander Roy, and what have
18 you, they were all there. And then towards the end, Commander Bosco turned up, he
19 came and encouraged us and told us that the time to attack Mongbwalu had come and
20 that Mongbwalu was an enemy village.
21 At that time all the plans were in place. He told us that the arms were in place, that we
22 were in the company of our officers. He prepared Salumu and told him that everything
23 was in place and that it was time to move. Then he left. I don't know where he went
24 thereafter, but he must have gone to hold some other meetings.
25 Then the order was given and we left at around 10 for Mabanga and Dala. Then from

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1 Dala we continued -- or, rather, we spent the night in Dala and waited till the next day in
2 the morning and then we entered Mongbwalu at night.

3 We got to Dhamblo at around 6.30 or 7 p.m. And we were all part of an entire brigade.
4 So there was many soldiers, but the space we found were rather small and we were asked,
5 however, asked to be calm, to stay with the civilians, we had some civilians in our
6 company who had weapons as well. And then we were told that the battalion would go
7 to Dhamblo, and we went to Dhamblo and attacked that location without firing a single
8 shot.

9 And the civilians found out later that the soldiers had come in. It was raining. People
10 were keeping warm around fireplaces in their houses around 7 p.m. And so we were
11 asked at that time to conduct a Turquoise Operation in a calm manner, but then later on
12 we proceeded to a very silent attack. There was firing, many people were killed. And
13 so we set up an ambush around the airport. And then the intelligence service infiltrated
14 Mongbwalu that very night to try and gather information through various sources in bars
15 and what have you.

16 Then we went on to Gangala, and then there were a number of soldiers who fired shots at
17 the airport in order to distract the enemy.

18 It was later in the morning, around *7:30 a.m. when people were coming out of their
19 houses that we launched the attack at Gangala. All the soldiers had fled because the UPC
20 had come in. There was -- whistles were being blown, drums beaten here and there.
21 People fled to Sayo, they went up to the hills. And there was shelling. There was a lot
22 of gunfire and people fled to the area known as Sayo. And that is how we occupied
23 Mongbwalu from 7.30 to noon.

24 And then they received reinforcements, and they came along with the population who
25 were whistling and shouting and making a lot of noise, and they occupied Mongbwalu.

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1 We fought back, but it was very, very heavy fighting. And at some point we were -- we
2 were asked to retreat to Dhamblo Dala. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. And I just want to verify here I was asking you about the movement for the second
8 attack. So are you -- are all of the -- the account that you just gave, that's in relation to the
9 second attack; is that right?

10 A. No, the first attack when we entered Mongbwalu by way of a single road.

11 Q. I think we've extensively covered what you have referred to as the first attack. I'm
12 not going to be asking you questions about the first attack today. Like I said, my focus is
13 on what you had referred to as the second attack after the first failed attack. And so as I
14 said in my initial question I'm asking about the execution of the plan for the second attack
15 and the movement that you made to Mongbwalu. If you could explain that to the
16 Chamber and not -- we're not dealing with the first attack.

17 A. Very well.

18 Once we had suffered a defeat during the first attack, Americain told us to stay calm and
19 he said that they were planning a second attack with the chief of staff responsible for
20 operations. He would go there all the time. He said to us, "We are preparing for a
21 second attack upon Mongbwalu."

22 A few days later, he said to us that a brigade would come from Aru. And that was a
23 decision that had just been taken. Manu's brigade would come. Thus, Mongbwalu had
24 to be attacked from two different directions using two different roads. And people
25 realised that the troops' strength of the enemy was very high. And that is why the

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1 decision was made to attack from the north and the south.

2 We were told that Manu's brigade, which was in Kakwavu's sector, was heading towards
3 Mongbwalu by way of Kandoyi and Makofi. So since it was quite a distance between the
4 two places, we had to wait for them to get closer to Mongbwalu so that we, too, could
5 move in that direction. So we stayed put.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. (Redacted)?

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted).

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 We got to Dhamblo at 1830 hours. And we were told to stop because there was another
21 group that was already ahead and they were conducting an operation called Operation
22 Turquoise. This group surrounded Dhamblo and began to enter the houses there and
23 began to very quietly execute people. That was at 1900 hours and it was raining. We
24 heard the final shots - bang, bang, bang - and we were told that the operation was over
25 and we were told to move forward.

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1 We were curious and we went into those houses to see what had happened. We found a
2 number of corpses, many corpses in those houses, but we were not allowed to shoot
3 because the Mongbwalu airport was close to that place. We did not want the people in
4 Mongbwalu to realise that we were on the road, in the process of attacking because, you
5 see, in actual fact, if you shoot a great deal or if you fire shells the people in Mongbwalu
6 could hear the fire.

7 So we left Dhamblo and, once we got close to the airport, the intelligence officers left for
8 Mongbwalu. They went into bars, camps throughout the entire town of Mongbwalu to
9 gather information.

10 At about 3 or 4 in the morning, these intelligence officers came back to report back. And
11 they said that everyone was distracted, the officers of the enemy are drinking and so it
12 was time to attack. We said to ourselves that first we should wait for sunrise.

13 Salumu was the commander of operations because he was the brigade commander. And
14 there were other battalions that were behind.

15 At about 6.30 or 7 in the morning, when people were arriving, they began to come -- as
16 people were starting to emerge from their houses, firing began on Gangala close to a
17 military camp. And another group that had remained behind attacked the airport.

18 Gangala was attacked. The enemy camp was distracted because their officers had spent
19 the night drinking alcohol. And in Sayo people said, "Well, the UPC has just attacked."

20 We continued to attack and we chased the enemy to behind the factory and the plant.

21 And the enemy headed towards Sayo. We took control of Mongbwalu at that point.

22 At about 12 noon they came with reinforcements. First attack --

23 Q. Are you -- are you talking --

24 A. Help me, Counsel.

25 Q. Are you talking about the first attack, sir?

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1 A. I'm talking about the first attack.

2 Q. Okay. Again, I want to make this as clear as possible. I'm not going to ask you
3 any questions about the first attack. We're not interested in hearing information about
4 the first attack. We covered that yesterday. I just -- my questions pertain only to what
5 you refer to as the second attack that occurred after the first failed attack, okay, so I'm
6 asking you about the planning and execution. My questions all relate to the planning
7 and execution of that second attack. And it's important that you let the Chamber know
8 again how you learned information, so that's why it's important for the Chamber to know
9 where you were, what your vantage point was, things of that nature.

10 So I think it's best that I -- just to make it clear, I'm going to have to go back to the
11 beginning again. I don't want to hear anything more about the first attack, I'm just
12 asking about the second attack, if you remember.

13 All right. So we had heard your testimony about the planning for the second attack.
14 Now I'd like to ask you questions pertaining to the execution of that plan. So where were
15 you when the plan began to be executed?

16 A. I beg your pardon. You see between -- I started with the second attack, but I sort of
17 mixed up two events.

18 Now, the second part of my account had to do with the first attack. Please accept my
19 apologies.

20 Now, during the second attack, during the preparations, (Redacted)
21 (Redacted). During the morning parade we were told that the preparations for the
22 second attack on Mongbwalu were being -- were underway in Nizi. I was
23 (Redacted). These were high-ranking officers. And they told us that
24 Mongbwalu would be attacked a second time and that preparations were underway.
25 (Redacted) told us that Mzee Tango was preparing the second attack. The

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1 officers came (Redacted) as well as

2 some traders, and they said they had come there for these preparations.

3 Q. Okay. And I want to, because we are concerned about the time, I want you to

4 listen carefully just to the question that I'm asking and try to answer the question that I'm

5 asking. We heard your testimony about the planning. What I'd like to know is where

6 you were physically when the second attack began to be executed?

7 A. (No interpretation)

8 Q. And I mean for the movement toward Mongbwalu, where were you?

9 A. I was (Redacted)

10 (Redacted).

11 Now, on the day of the attack (Redacted) we went to Nizi by way of

12 Mabanga and Dala. The last preparations were done in Dala.

13 Q. Okay. Now you're in Dala. (Redacted)

14 (Redacted)?

15 A. In Dala, (Redacted)

16 (Redacted). I was with some soldiers who were

17 alongside some civilians.

18 Q. (Redacted)

19 (Redacted)?

20 A. (Redacted)

21 (Redacted).

22 Q. (Redacted)

23 (Redacted).

24 A. (Redacted) company was going along with the civilians, they were called a

25 reserve group. That company was helping the civilians so that the civilians

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1 wouldn't be taken surprise by the enemy and attacked by the enemy and killed. (Redacted)
2 (Redacted).

3 Q. And where, if anywhere, did you go from Dala?

4 A. I was part of the convoy. You see, a brigade is made up of many soldiers and we
5 were going in single file, so the single file was a kilometre long. The advance party was
6 ahead. And, you see, the single file might have been a full kilometre long. We moved
7 forward. Once we got across from the airport, down from the airport we (Redacted)
8 (Redacted)
9 (Redacted).

10 Q. All right. And when you say "airport," which airport do you mean?

11 A. The Mongbwalu airport.

12 Q. All right. And how long if you could you approximate were you at the
13 Mongbwalu airport?

14 A. The soldiers who got to Mongbwalu first arrived in the town at about 6 in the
15 morning.

16 THE INTERPRETER: Correction: 1500 hours or 1600 hours.

17 A. The civilians spent the night down from the airport waiting for Manu's brigade to
18 arrive. When Manu's brigade attacked, that was about 1800 hours 30 or 1900 hours, very
19 early in the morning, we entered Mongbwalu, and there were still -- well, you could still
20 hear gunshots, for two days in actual fact.

21 Q. Okay. I'm going to have to ask a clarification from the transcript. I have that
22 when Manu's brigade attacked, that was about 18 hours 30 or 1900 hours, very early in the
23 morning.

24 So could I just have you repeat the time and the time of day so that it's clear in the
25 transcript.

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1 A. Well, I just said this: Manu's soldiers began to attack earlier, at about 1500 hours.
2 And the other soldiers from Bunia, who were stationed at the airport, began to attack at
3 about 1500 hours. And the two groups met up with one another at Mongbwalu at about
4 1800 hours as it grew dark. The civilians remained down by the airport and they had
5 received an order to enter Mongbwalu the next morning. And when Mongbwalu was
6 attacked there were only soldiers. It was only in the morning that the civilians entered
7 the town of Mongbwalu and the fighting continued.

8 Q. Okay. And could I ask you to explain to the Chamber how you know that
9 the -- when the two brigades attacked and that it was 1800 hours as it grew dark, just so
10 that the Chamber is aware how it is that you know this information so they can best
11 evaluate it.

12 A. All the commanders had Motorola radios and they were always in touch with one
13 another. And before they used the phonic equipment. When Jérôme's troops were still
14 far away, they used the radiophonic equipment to communicate amongst themselves.
15 As they grew closer they would be on the same frequency using the Kenwood, the
16 Kenwood and the Motorola. And the information would be relayed individually, people
17 would talk to one another. The soldiers who were walking in single file would pass on
18 the information from one to another.

19 Q. So do you recall whether you learned that information via the radio or via other
20 soldiers?

21 A. I heard that Mongbwalu had just fallen, because I was a few kilometres away
22 and we could hear the shells dropping, we could hear the gunshots. (Redacted)
23 (Redacted) they were in communication with the people in
24 Mongbwalu who had told them Mongbwalu has just fallen, stay calm, you will be
25 receiving instructions later.

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1 But at the place where we were, we could hear the gunshots and we could hear the shells.

2 (Redacted)

3 (Redacted).

4 Q. All right. And that answers my final question for this session, which is where you
5 physically were.

6 MR IVERSON: Mr President, it is 11 o'clock. I would ask that we take the break now.

7 PRESIDING JUDGE FREMR: All right. Let's move into open session just to announce
8 our break.

9 (Open session at 11.00 a.m.)

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

11 PRESIDING JUDGE FREMR: Thank you, court officer.

12 We break now and we will reconvene half past 11.

13 THE COURT USHER: All rise.

14 (Recess taken at 11.01 a.m.)

15 (Upon resuming in open session at 11.30 a.m.)

16 THE COURT USHER: All rise.

17 Please be seated.

18 PRESIDING JUDGE FREMR: So we are in open session. We are going to continue with
19 examination of our Witness 907.

20 Prosecution concretely, Mr Iverson, you have the floor.

21 MR IVERSON: Thank you, Mr President. Just to begin with, I believe we saw a mistake
22 in the transcript and I'd just like to correct it.

23 PRESIDING JUDGE FREMR: All right.

24 MR IVERSON: So it's page 36, line 17 in the English transcript. And it could cause a bit
25 of misinterpretation. And the word is "earlier," and we believe that that is actually

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1 "Pluto" rather, a place name, and the confusion comes from the similarity between the
2 place name "Pluto" and the French word "plus tôt," which means earlier. So I just wanted
3 to ask -- I will ask the witness though to clarify this.

4 Q. Sir, just a few minutes ago when we were --

5 And I believe this still can be covered in open session.

6 PRESIDING JUDGE FREMR: All right. So we still remain in open session.

7 MR IVERSON:

8 Q. Just a few minutes ago I was asking you a question, and your response at page 36,
9 line 16 was: "Well, I just said this, Manu soldiers began to attack earlier at about 1500
10 hours."

11 Did you mean earlier, as in plus tôt, or they began to attack Pluto, the location within Ituri
12 at 1500 hours? Could clarify that for the Chamber.

13 A. Okay. What I said is that they got to Pluto, a place, at 3 a.m. -- rather at 3, and it is
14 3 kilometres away from Mongbwalu.

15 Q. And since I'll be from here on out asking questions about your whereabouts, your
16 location, I would ask that we move to private session.

17 PRESIDING JUDGE FREMR: All right. Court officer, let's move into private session
18 now.

19 (Private session at 11.34 a.m.) *(Reclassified partially in public)

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

21 PRESIDING JUDGE FREMR: Thank you.

22 Mr Iverson, please proceed.

23 MR IVERSON:

24 Q. (Redacted)

25 (Redacted)

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1 And this is in the context of the second attack at the Mongbwalu operation. Were those
2 the first shells and gunfire that you heard for that operation, or was there -- were there
3 prior gunshots and shelling?

4 PRESIDING JUDGE FREMR: Mr Bourgon.

5 MR BOURGON: Thank you, Mr President. Just the last question that was asked, I'm
6 not sure that the witness said, as was put in the question, that he was -- (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 PRESIDING JUDGE FREMR: (Redacted).

15 MR IVERSON: (Redacted)

16 (Redacted).

17 Q. (Redacted)

18 did you hear shelling or gunshots?

19 A. That is what I said. The attack started in two locations at the same time. Bombs
20 were exploding in Pluto. At 3 p.m. Jérôme's people attacked from Pluto. (Redacted)

21 (Redacted)

22 And the attackers went towards Mongbwalu, where shells were dropped all the way to
23 Mongbwalu. So the attack was from two fronts at the same time.

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted).

5 Q. (Redacted)

6 (Redacted)?

7 A. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted).

12 Q. (Redacted)

13 (Redacted)?

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted).

21 Q. Okay. And the next morning when you started the mop-up or cleaning-up

22 operation, searching the houses, can you describe that to the -- that event to the Chamber

23 in detail about what did you specifically do? Which houses did you enter?

24 A. Very well. At that time, (Redacted)

25 (Redacted), we started to loot. We will go into shops. Given that the

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1 inhabitants of Mongbwalu had fled and that Mongbwalu was occupied, we broke into
2 houses, we searched the houses. And if we found people within the house, we would
3 kill some, some would be taken hostage and taken back to the camp.

4 So there was total chaos. Civilians were involved in pillaging, they would break into
5 houses and loot various items. Houses were looted, shops were looted, depots were
6 looted. Everybody took whatever they wanted to.

7 (Redacted)

8 (Redacted). We also had some civilians with us who would transport those
9 items to a location to the headquarters. Every soldier looted, every civilian
10 looted as much as they wanted. And this lasted about a week.

11 Q. And are you aware of what happened to the civilian hostages that were taken?

12 A. The civilian hostages were taken to Appartements where Tiger One was, and others
13 were taken to Manu and to Salumu's camps. And whenever a soldier for Salumu would
14 arrest a hostage, they will take that hostage to Salumu's camp. And the same would
15 apply for troops under Manu who would arrest people and take them to Manu's camp.
16 So there was -- if a soldier was working under Tiger One and arrested somebody, they
17 would take you to the Kasangaki camp. So some were at Appartements, some were at
18 Salumu, some were at camp Gangala, others at camp Goli, where Manu had set up his
19 headquarters.

20 So all the hostages that were taken would be taken to the commander of the various
21 brigades, and then the commanders would decide on the fate of the hostages, either some
22 would be killed or some would be tried or some would simply be arrested. And if a
23 hostage was Lendu, that hostage would be killed if they resisted. And so others were
24 killed on the spot, and others were taken to the authorities. This is how things unfolded
25 at that time.

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1 Q. And how are you aware that Lendu hostages in particular would be killed if they
2 resisted?

3 A. While we were pillaging, those troops, the troops were scattered all over the city and
4 they would go from house to house. But you know that in Mongbwalu houses are built
5 close to each other, very close to each other. They are barely separated by a few metres,
6 not up to 5 metres. So whenever a soldier found a civilian in a house, that civilian would
7 be taken out and the house would be looted. And if that person dared to resist, they
8 would be shot.

9 So we -- we looted together, all of us. We would go into houses, and every now and then
10 it would happen that two people would go into a house. And if you found somebody
11 who was trying to flee or trying to resist, then you shot that person. And that's what
12 happened.

13 Q. And did you personally observe any, as you describe them, hostages being shot and
14 killed?

15 A. Well, they shot many Lendus. They would take them outside. (Redacted)
16 (Redacted)
17 (Redacted)

18 Now, those who had decided to remain in their homes may have thought that the Lendus
19 were going to defeat the UPC because it was being said that they were not very strong,
20 and that is how some of those who remained in their houses were killed during the
21 pillaging. I was an eyewitness to that. (Redacted), I saw civilians being killed
22 with my own eyes, soldiers shot them dead.

23 Q. (Redacted)?

24 A. (Redacted). The attack went on till night-time, so there were civilians
25 who were confused and did not know who had occupied the town.

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1 So that neighbourhood is within Mongbwalu (Redacted). The people who were
2 there did not know who had actually occupied the city.
3 (Redacted)
4 (Redacted). That day -- or, rather, the next morning we found some civilians
5 who had locked themselves up in their houses. They did not have the right information
6 since there had been gun-firing the whole night long. And that is how I became aware of
7 information that civilians had been killed (Redacted).

8 Q. And you mentioned previously that there was -- that the -- you and others, among
9 the UPC/FPLC troops were looting in the houses. Do you recall specifically what items
10 or what types of items were being taken?

11 A. We looted all types of goods. I for one looted some chairs, some beds, some
12 mattresses, radio sets, television sets, boxes of clothes and -- and, you see, if you took a
13 motorbike or any item of value, the commanders will take them away from you.
14 The troops at the market looted various shops and they took whatever they wanted to,
15 anything they found interesting.

16 As for me I took household items because I wanted to furnish my house.

17 Q. And you just said on page 44, line 19 to 21, that your troops killed Lendus. And I
18 was curious to know from you why is it specifically that you mention Lendus and why
19 specifically were Lendus killed?

20 A. From the time of the beginning of this movement our enemy was the Lendu. Even
21 during training we were taught that the enemy was the Lendu. So for us, whenever we
22 came across a Lendu we did not even have to give them the opportunity to say anything
23 because we knew that they were the enemy, so whenever we came across a Lendu we had
24 to shoot to kill.

25 Q. And can you tell the Chamber how -- as the attack unfolded, the second attack in

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1 Mongbwalu, how the commanders, the UPC/FPLC commanders were able to
2 communicate with each other?

3 A. The commanders communicated among themselves using the Kenwood/Motorola,
4 these are walkie-talkies that function on batteries. All commanders, all battalion
5 company and brigade commanders each had a Kenwood radio and each had a call sign
6 and a frequency.

7 Now, when it came to the general staff or the headquarters there was the phonie system
8 which was used. As for the commanders who were in the villages and at various
9 positions, each of them had a Kenwood radio.

10 Q. And are you aware whether Mr Ntaganda was communicating on those radios with
11 his commanders?

12 A. During the second attack on Mongbwalu he was not there. Communication with
13 him was through the phonie, especially from Tiger One's headquarters at Appartements
14 there was a phonie, and when we got there Kasangaki had a phonie. Mbale, who was a
15 signaller, also had a phonie. When we went back to Tiger One and in Salumu's camp,
16 David Pigwa also had a phonie, so communication with him was by phonie because he
17 was not present in Mongbwalu.

18 Q. And just to be clear, did you -- during the entire duration of the second operation in
19 Mongbwalu did you ever see Mr Ntaganda present in Mongbwalu, you personally?

20 A. During the second operation he came in a few days later, two days later. He came
21 to Mongbwalu. We were at the centre when we heard troops being called and being
22 informed that the chief of general staff, Bosco, had arrived and that he was in Mongbwalu,
23 so there was need to assemble in Salumu's brigade because he wanted to speak to the
24 troops. We heard that he had arrived, but he was not part of the fighting during the
25 attack. He came in when Mongbwalu had already been captured. That is, he came in

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1 on the second day.

2 Q. And did you assemble and actually listen to Mr Ntaganda speak to the troops?

3 A. He -- by the time he arrived other soldiers had already moved to other positions, but
4 he had a meeting at Salumu's camp, he thanked the soldiers who were there for what they
5 had done, and then he went on to have a meeting with the officers.

6 Q. What if anything do you recall Mr Ntaganda mentioning about civilians or Lendu,
7 or anything that had happened in the second operation? Did he mention anything
8 specifically or not?

9 PRESIDING JUDGE FREMR: Mr Bourgon.

10 MR BOURGON: Mr President, before we get the witness's answer I would just like
11 to -- my colleague to clarify on page 48, lines 1 to 4, I'm not sure the witness is present
12 during that meeting. So I'd just like to clarify whether the witness is present and then we
13 can move on to the next question. I think my colleague will not mind doing this. Thank
14 you.

15 PRESIDING JUDGE FREMR: Mr Iverson.

16 MR IVERSON: Absolutely, I can do that. We can get some clarity as to whereabouts
17 here.

18 Q. Sir, so what Defence counsel is driving at is -- the Court would like to know -- you
19 say that "Mr Ntaganda had a meeting at Salumu's camp. He thanked the soldiers who
20 were there for what they had done and then he went on to have a meeting with the
21 officers."

22 Were you present when he thanked the soldiers for what they had done?

23 A. I have told you that all the soldiers were called to assemble, all the troops. They
24 were told that the chief of staff had come and that he wanted to meet with the troops.
25 And Salumu's camp was a big camp. So we went to the camp, then he came for the

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1 parade and he said that he wanted to encourage the troops for the work that had been
2 accomplished. He said that they were going to continue with the officers who were
3 present who would give them further instructions, then he thanked the troops and asked
4 them to obey the instructions that they would receive from their commanders.

5 So we had assembled and then, thereafter, we all dispersed and went back to our various
6 positions.

7 Q. Do you recall if at that speech, since you were present, whether Mr Ntaganda
8 expressed any displeasure over what his troops had done or accomplished in the second
9 operation in Mongbwalu?

10 A. No, he just said that he was happy with the work that we had done, that is to say we
11 had attacked and we had won the battle. He said he was happy with our work. "You
12 worked hard. You will receive -- you won the battle. You will receive further
13 instructions." That is what he said. I forgot anything else he might have said, but he
14 came to encourage us.

15 Q. I want to ask you a few questions about the crime of rape as it pertains to the second
16 operation in Mongbwalu. Did you personally observe any rapes during this second
17 operation, or shortly after the second operation?

18 A. During the operation, at the very beginning of the operation, during the looting, we
19 spent the night in the house of (Redacted)
20 (Redacted)
21 (Redacted)?

22 PRESIDING JUDGE FREMR: (Redacted).

23 THE WITNESS: (Interpretation) (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Then we went on to Tiger One, in his apartment. And I saw some soldiers bringing
8 women to the camp. And they would take the women for a few days or a week and then
9 would let them go. Others would marry them. That was in Tiger. As for rapes, I just
10 saw one rape myself with my own eyes.

11 Q. And I'm not -- I don't intend on asking you very graphic details or anything like that,
12 but just so that the Chamber understands with the -- the rape committed (Redacted), did
13 you actually view that with your own two eyes? Did you watch it happen? Or if not,
14 could you explain how you're aware that (Redacted) raped this woman?

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 Q. And were you able to hear any sounds?

3 A. I just told you that the rapes -- the rape occurred just beside the *banana trees we
4 heard everything. That was about 1900 hours at night. We could hear it. It was only a
5 few metres away. After that, he said to her, "Put your clothes on and go into the house",
6 you see, because the two houses were side by side.

7 Q. And did this rape happen while there were still active shooting going on, so combat,
8 or did it happen during a lull in the combat or after the combat? Can you, kind of, place
9 that in time for the Chamber during the second operation?

10 A. It was while the fighting -- it was once the fighting was over. We had just finished
11 looting. And after the looting, after each person had served himself, we went back to the place
12 where we were and we set up a kind of headquarters. It was two or three days after the
13 fighting. That was when he raped her. (Redacted)
14 (Redacted).

15 Q. And within the UPC and FPLC, did you hear of any other sexual violence that
16 occurred during the second operation in Mongbwalu or shortly thereafter?

17 A. I saw the rape committed (Redacted). But I also know that some soldiers forcibly
18 married some women. Even I was at Tiger One's place, most of the soldiers would go
19 and find women and have them marry them. (Redacted), some soldiers had
20 two or three women per soldier. But as for the rapes, I only saw one rape once. But the
21 soldiers would take women and marry them.

22 Q. And if you could explain to the Chamber how did you learn that other UPC/FPLC
23 soldiers were taking women and marrying them, as you put it?

24 A. (Redacted), they would go and take women and say, "You are going to
25 become my wife. If you stay here the soldiers will come and rape you." (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 And at the camp I saw some soldiers who came in with women, and they had weapons,

9 and they stayed with that woman for two or three days and then they would drive out the

10 woman and then go get others. So they would change women.

11 Q. (Redacted)

12 (Redacted)?

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 THE INTERPRETER: Correction: Changing women, that was -- inaudible.

17 MR IVERSON:

18 Q. The tail end of the interpretation and the answer to that question was inaudible. So

19 if you could just continue with -- you say (Redacted)

20 (Redacted)

21 (Redacted).

22 A. (Redacted)

23 (Redacted)

24 (Redacted). I also said that the soldiers who I saw, who were constantly

25 switching women, (Redacted). And you

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1 might see a soldier bring a woman and she would stay for a few days, then he would
2 throw her out and then he would go and find another one.
3 (Redacted)
4 (Redacted), you could also might see a soldier with two
5 or three women and you wouldn't know where he had found them and the women
6 would stay there as his wives. That is what I just told you.

7 Q. (Redacted)

8 (Redacted)

9 (Redacted).

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted).

14 Q. Okay, well, we have a lot of names and I see that very few of them are actually
15 captured in the transcript. The issue that I face, your Honours, is that to correct all these
16 names and to go over them and get the spellings takes an awful lot of time. What I
17 would propose is that we try to accomplish that through the corrected transcript if that's
18 acceptable to the Chamber?

19 PRESIDING JUDGE FREMR: Defence any position on that?

20 MR BOURGON: Well, Mr President, I would prefer to have the names now in the
21 transcript because to correct them later -- I'm trying to match the French and the English
22 and sometimes it is very difficult. If that means giving more time to the Prosecution I
23 don't mind, but I would prefer if we have a corrected transcript now.

24 PRESIDING JUDGE FREMR: Okay, let's correct it now, but we will take it into account
25 when measuring your time, Mr Iverson. So we will not count it in.

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1 MR IVERSON: All right. Thank you, your Honour. And I'll try to be efficient about
2 the task.

3 Q. Just so you know, sir, whenever you mention a name, like a proper name of a person
4 or of a place, try to just pause so that -- and be very clear about it so that we can get that
5 information in the live transcript. Do you understand that, sir?

6 A. Yes.

7 Q. So could you say the names again of the -- you mentioned the escorts to the platoon
8 commanders. Could you mention their names again.

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted).

14 Q. (Redacted)

15 (Redacted)

16 A. (Redacted).

17 Q. (Redacted)

18 (Redacted).

19 MR IVERSON: Just one moment, your Honour.

20 PRESIDING JUDGE FREMR: There's also a possibility -- there's also a possibility,

21 Mr Iverson, try to, for example, to put it on paper and then after -- during the break, for
22 example, and then after, because you still have time after the lunch break, and then to
23 confront Mr Witness with this list of names after the break. I don't know how many
24 names you still want to clarify.

25 MR IVERSON: I think that -- that's it for now, your Honour, but I will take your

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1 suggestion. If it comes up again I think that's a very good idea and we'll try to do that.

2 Q. (Redacted)

3 (Redacted)?

4 A. (Redacted)

5 (Redacted)

6 (Redacted).

7 Q. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)?

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted).

20 Q. (Redacted)?

21 A. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted).

2 Q. (Redacted).

3 So while you were at Mongbwalu from (Redacted), did you
4 receive weapons?

5 A. Yes. When we were defeated in Mongbwalu -- when we -- when we fought in
6 Mongbwalu and regained control, the aircraft began to drop off equipment.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted).

13 Q. And do you know who was sending those aircraft with weapons to Mongbwalu for
14 you to distribute to other locations?

15 A. We were told that the planes came from Rwanda, all the planes that brought the
16 weapons came from Rwanda. That is what the UPC troops knew. It was being said
17 that the planes would bring us weapons and ammunition, but we do not know who was
18 sending that material. (Redacted)

19 (Redacted)

20 (Redacted). In any event, we were told that the ammunitions and the weapons came on the
21 planes from Rwanda. That is what we, us soldiers, learnt at the time.

22 Q. (Redacted)

23 (Redacted)

24 (Redacted)?

25 A. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted).

9 Q. (Redacted)

10 (Redacted)?

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted).

23 Q. So it's weapons and other military equipment. Sir, are you aware who was the

24 person who would make the call on the Thuraya to Tiger One to inform him that a

25 weapons shipment was coming?

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1 A. He used to speak Kinyarwanda on the Thuraya. And for us, we would only speak
2 Swahili. He would tell us in Swahili at what time the plane would land.
3 Every now and then he said that he was talking with Safari, but most of the time he spoke
4 in Kinyarwanda and then would tell us that the material would soon arrive by plane. He
5 also said that he was talking to Safari, or with Safari.

6 Q. When you were at -- when you were stationed or deployed in Mongbwalu during
7 that December to March period, did you have an opportunity ever to speak on the phonie
8 or the radio?

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted).

16 Q. And when you spoke on the radio what call sign would you use? Let me be more
17 specific: Did you have a call sign to identify yourself?

18 A. My call sign was (Redacted).

19 Q. And was this specific -- this call sign, was it specific to you, or are you aware that
20 anyone else in the UPC/FPLC used this call sign?

21 A. My call sign was (Redacted). That was my call sign. Each person had their own
22 call sign. (Redacted).

23 Each commander had their personal call sign and each individual had a personal call sign.

24 But maybe another commander in a distant position could have used the same call sign,

25 but in any event each commander had their own call sign.

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1 Q. And are you familiar with the call signs used by UPC/FPLC as a general matter?

2 A. I only knew the call signs of the commanders with whom I worked and some of the
3 senior authorities. One cannot know all the call signs because there were so many of
4 them. It was possible to know the call signs of those within one's headquarters, but not
5 necessarily the call signs of those who are (Redacted), so it was only possible to know
6 the call signs of people within one's zone of work. It was possible to know the call signs
7 of one's close collaborators, so to speak.

8 Q. So I'd like to slightly change topics to ask about your time in Mongbwalu and some
9 of the -- the questions related to the inhabitants of Mongbwalu at that time.

10 So when you were first there in December, after the military operation had taken place,
11 was Mongbwalu still inhabited by people?

12 A. Are you referring to the first war?

13 Q. So, again, I'm just asking questions related to the second operation. And what I'm
14 driving at is after the bullets stopped flying and there were no more explosions or military
15 actions in Mongbwalu, who were the inhabitants of the city?

16 A. After the firing, it was the people with whom we had come to loot. Those are the
17 people who were from Hema north and south who had taken over all the houses that
18 were there. Anyone who did not have a house was free to occupy any house, whether
19 belonging to a Lendu or not. However, those who had houses were able to enter their
20 former houses, but as time went on Alur inhabitants and Nyali inhabitants began to
21 return, but it was not possible for a Lendu to return to that village. All other ethnic
22 groups could have returned except the Lendus.

23 PRESIDING JUDGE FREMR: Mr Iverson, for the upcoming series of questions, is there
24 still a need to remain in private?

25 MR IVERSON: Yes, it's a good point. I think that the following questions can be asked

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1 in open session, your Honour.

2 PRESIDING JUDGE FREMR: Very well.

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

4 (Open session at 12.44 p.m.)

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

6 PRESIDING JUDGE FREMR: Thank you.

7 Please proceed, Mr Iverson.

8 MR IVERSON:

9 Q. And are you aware of whether any Lendus returned to Mongbwalu while you were
10 there, or attempted to return?

11 A. What I said is that all the ethnic groups began to come back one by one except the
12 Lendu. No Lendu returned to the village.

13 Q. And do you recall if there were ever any instructions or orders, what to do if a
14 Lendu were to return to the city or the locality?

15 A. Even if there were no orders, it was clear right from the beginning that the Lendu
16 was a sworn enemy and that if one saw a Lendu they should be killed. We had been
17 trained to understand that the Lendu was the enemy and, it is for that reason, that no
18 Lendu could dare to return to the village.

19 Q. And are you aware of any UPC/FPLC soldier during that second operation in
20 Mongbwalu and its aftermath ever being punished for -- for killing any civilians or any
21 Lendus? Do you recall any punishments?

22 A. I never heard of it. I never heard that an FPLC soldier had been arrested for having
23 killed a Mulendu. I never heard mention of any such thing.

24 PRESIDING JUDGE FREMR: And sorry to interrupt. I have an additional question:

25 And do you have any knowledge about punishment and arrest of FPLC soldier for

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1 another delict?

2 THE WITNESS: (Interpretation) Yes, I heard that an FPLC soldier, whose name was
3 Asimwe, had taken some money from a civilian and who had been arrested. There is
4 also another soldier who was killed because he had killed a Hema civilian, but I never
5 heard mention of a soldier being punished for having killed a Lendu.

6 PRESIDING JUDGE FREMR: Thank you.

7 THE WITNESS: It was possible for a soldier to be arrested for having killed a Hema
8 civilian but not for a Lendu civilian, no.

9 PRESIDING JUDGE FREMR: Thank you, Mr Witness.

10 Mr Iverson, please proceed.

11 MR IVERSON: And I just have a few more similar questions and then I'll move on.

12 Q. Do you have any knowledge of any UPC/FPLC punishments for the crime of rape?

13 A. I never heard mention of a soldier being punished for having raped a woman.

14 Q. Are you aware of any punishments of UPC/FPLC soldiers for crimes where the
15 victim happened to be of Hema ethnicity?

16 A. I told you earlier that they shot a soldier in Mongbwalu because he had killed a
17 Hema civilian. At that time the civilians were about to demonstrate. And for that
18 reason, the chief of staff ordered the soldier to be killed. That soldier was called up and
19 executed publicly because he had killed a Hema civilian.

20 I also mentioned another soldier called Asimwe who had taken away some money from a
21 civilian in the Mongbwalu market. But what I said is that I never heard mention of a
22 soldier being punished for having killed a Lendu. I never heard mention of any such
23 thing.

24 Q. So I'd like to move on to another topic, but it will take far longer than the time we
25 have allowed, so for the remaining minutes I do have a few follow-up questions that can

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1 be asked and then when we come back from lunch I'll start on a new topic. When -- let
2 me ask the ones that can be asked in open session.
3 You've previously mentioned a Commander Roy, page 25, line 10, in today's transcript.
4 Do you happen to know the full name of this person? And if so, could you state the full
5 name and if necessary spell it.

6 A. Are you talking about Brigade Commander Roy, or the Roy (Redacted)
7 (Redacted)? Because there were two commanders who both bore the name
8 Roy.

9 Q. Well, in order to avoid confusion, if -- if I could ask, first, for private session.

10 PRESIDING JUDGE FREMR: All right.

11 Court officer, let's move into private session.

12 (Private session at 12.54 p.m.) *(Reclassified partially in public)

13 THE COURT OFFICER: We're in private session.

14 PRESIDING JUDGE FREMR: Thank you, court officer.

15 Mr Iverson, please proceed.

16 MR IVERSON: (Redacted)

17 (Redacted)

18 (Redacted).

19 PRESIDING JUDGE FREMR: I can confirm, yes.

20 MR IVERSON:

21 Q. I'd like to ask you to -- for information on both commanders. So the first
22 Commander Roy, if you could state his full name and if -- and also just spell the name. It
23 would be helpful.

24 A. Are you talking about Roy Ndim Christ, or the Roy (Redacted)

25 (Redacted) because there are two people bearing the name Roy?

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1 Q. And that's why I'm asking, so I'm just starting to try to clarify this so we understand
2 it. Could I actually have you spell the first name, so Roy Ndima Christ.

3 A. R-O-Y for Roy. Ndima is N-D-I-M-A for Ndima. And Christ is C-H-R-I-S-T.
4 Roy Ndima Christ.

5 Q. And since there are two Commander Roys, could you tell the Chamber who -- who
6 was Roy Ndima Christ and what was his role in the UPC/FPLC?

7 A. Roy Ndima Christ was the Mabanga brigade commander. But during the first and
8 second wars, he was the senior officer in charge of public relations, and then he
9 subsequently became battalion commander in Dhego and later on brigade commander in
10 Mabanga. I am referring here to Roy Ndima Christ, who was the senior officer.

11 Q. All right. And could I have you explain who was the other Commander Roy, the
12 one who was at the Appartements. What was his full name and then if you could
13 explain who he was and what was his role in the UPC/FPLC?

14 A. The other was Banoba Byakunaga Roger. His nickname was Roy. But his full
15 names were Banoba Byakunaga Roger. But the entire village called him Roy. In the
16 army he was called Commander Roy. He was a sergeant. And after his training in
17 Mandro, he was sent to *Nizi where he worked as a sergeant.

18 Thereafter, following negotiations with Americain, he was sent to *Nizi because he had
19 suffered. (Redacted)
20 (Redacted)

21 he became a company commander under Tiger One, under the sector under Tiger One.
22 He was the sector commander, rather.

23 Q. All right. Thank you for that clarification. And I have just one last question: Do
24 you know a commander by the name of Saidi, and if so where was he deployed within the
25 UPC/FPLC?

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- 1 A. I know Commander Saidi. He was of Hema ethnicity and he was in Kabakaba.
- 2 You would go to Kabakaba through Kilo and Nyangarai. He was a Hema commander in
- 3 Sota and Machari (phon).
- 4 Q. All right. I have no further questions for this -- for this -- before lunch, so I would
- 5 ask that we now take the lunch break. Thank you.
- 6 PRESIDING JUDGE FREMR: All right.
- 7 Let's move into open session.
- 8 (Open session at 1.01 p.m.)
- 9 THE COURT OFFICER: We're back in open session, Mr President.
- 10 PRESIDING JUDGE FREMR: Thank you, court officer.
- 11 So we will break now. Before doing that I would like to remind Mr Iverson he still has
- 12 roughly 90 minutes for the rest of his examination. And please also bear in mind that if
- 13 you want to tender some documents or exhibits, according our previous practice, it's
- 14 relatively time consuming exercise.
- 15 Otherwise we are breaking now and we will reconvene half past 2.
- 16 THE COURT USHER: All rise.
- 17 (Recess taken at 1.01 p.m.)
- 18 (Upon resuming in open session at 2.31 p.m.)
- 19 THE COURT USHER: All rise.
- 20 Please be seated.
- 21 PRESIDING JUDGE FREMR: Good afternoon, everybody.
- 22 We will continue with examination of Witness 907.
- 23 Mr Iverson, you have the floor. Do you want to remain in open or is there a need to
- 24 move into private session?
- 25 MR IVERSON: Mr President, I'd like to request that we remain in open session for the

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1 time being. I think there will come a moment where I will request private session.

2 PRESIDING JUDGE FREMR: All right. So the floor is yours.

3 MR IVERSON:

4 Q. Sir, and I'm referring to today's transcript, page 69, lines 2 and 3. I just want to ask
5 you about a clarification. When you say that there was -- a Commander Roy Ndima
6 Christ was in charge of public relations, could you describe for the Chamber what you
7 mean by public relations?

8 A. When I said so it was in relation to our entry in Mongbwalu during the second
9 attack. He had not yet been appointed to a position of responsibility and that is why he
10 was in charge of public relations; namely, coordinating activities between traders and
11 gold miners, and the soldiers as well as civilians. In that case, civilians who were gold
12 diggers were expected to provide food to the soldiers as well as make contribution to the
13 war chest, and that is why there were a number of meetings that held in order to support
14 the war effort. All of that was taking place in Mongbwalu.

15 So in my case, for example, if I needed some food for the soldiers, I would contact him
16 and then he would be in charge of public relations; namely, to contact members of the
17 population in order to obtain supplies of food.

18 Q. And turning now back to a few last questions about the Mongbwalu operation and
19 the second attack in Mongbwalu. Are you aware of how senior level commanders, the
20 highest level commanders in the UPC and FPLC were able to receive reports of activities
21 in Mongbwalu? Do you know how that happened?

22 A. Reports were transmitted according to various stages of hierarchy. The chief of
23 section would report to the commander of the platoon. The platoon commander will
24 report to the company commander. The company commander will report to the
25 battalion commander. And the battalion commander would report to the brigade

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1 commander. And the brigade commander would report to the sector commander. And
2 the sector commander would then forward the report to the chief of general staff in charge
3 of operations, who would then report to the chief of general staff.

4 Q. So I think that provides a good general understanding of how information went
5 upward through the chain of command. Was -- how did information then come down
6 from the top of the chain of command?

7 A. Reports or information would trickle down in the same manner; for example, if an
8 operation were to be conducted somewhere, the chief of operations will receive orders
9 from the sector commander. The sector commander contacts the commanders of its three
10 brigades, and then they would plan together and then report to the chief of staff in charge
11 of operations.

12 And so it is in the same manner that the sector commander contacts the various battalion
13 commanders, who would then meet with the company commanders and so on and so
14 forth. When it came to the foot soldiers or the troops, the information is provided to
15 them during the parades. When the platoon commanders bring their troops together for
16 a parade, then such information is given to the soldiers.

17 Take the case of an operation. The officers are usually present and each officer would
18 report in a hierarchical manner, the least high ranking starting first and ending with the
19 sector commander. So if the chief of general staff is in attendance, he would also speak
20 and at that time he would speak to the troops prior to the launching of an operation.
21 So it's the same system that is in place for the transmission of information from down to
22 up and from up to down.

23 Q. And at the very top of the hierarchy with Mr Kisémbu and Mr Ntaganda, could you
24 explain to the Chamber what -- what was the difference between Mr Kisémbu's role and
25 Mr Ntaganda's role, if any? What were the -- what were the two roles and distinguish

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1 them, if you can?

2 A. They had different roles and duties. Kisembo's roles were different from Mzee
3 Tango's role. Both of them were chiefs of general staff, but Mzee Tango was the chief of
4 general staff in charge of FPLC operations, from *Komanda to Aru, which was Jérôme's
5 sector, he was the one in charge of FPLC operations in that area and he was the one who
6 deployed all commander sectors for operations.

7 Now, when it came to the chief of general staff, Kisembo, he received reports from the G
8 officers, all the Gs; G4, for example, who was in charge of logistics, would report to him.
9 The G in charge of administration also reported to him. So he was the one who
10 centralised all the reports from the G officers.

11 Furthermore, he is the one who attended the political meetings. Kisembo did not miss a
12 single political meeting in which or at which Thomas Lubanga was in attendance.

13 So the planning of the operations was done under Tango Romeo, but Kisembo was the
14 one who received all the reports from all the offices, office 1, office 2, office 3, office 4 and
15 office 5 as well as reports from the transmission officers.

16 Q. While you were -- let me ask this in a different way, keeping in mind that we're in
17 open session. Could I ask, were you generally familiar with the UPC/FPLC operations in
18 the Walendu-Djatsi region and specifically Kobu, Bambu, Lipri? Were you generally
19 familiar with those operations?

20 A. I was fully informed of the Kobu-Lipri operation.

21 Q. And could I ask that we move into private session, Mr President?

22 PRESIDING JUDGE FREMR: Certainly.

23 Court officer, let's move into private session.

24 (Private session at 2.43 p.m.) *(Reclassified partially in public)

25 THE COURT OFFICER: We are in private session.

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1 PRESIDING JUDGE FREMR: Thank you, court officer.

2 Mr Iverson, you may proceed.

3 MR IVERSON:

4 Q. And do you remember where you were during those operations in Walendu-Djatsi?

5 A. (Redacted)

6 (Redacted).

7 Q. (Redacted)

8 (Redacted)

9 (Redacted)?

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Salumu attacked Kobu, and Tiger One and his PPU opened the Lipri road in order to

22 attack Mwanga and Lipri. And Salumu attacked Kobu and Lipri, (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted).

3 Q. (Redacted)

4 (Redacted)?

5 A. (Redacted)

6 (Redacted)

7 (Redacted).

8 Q. (Redacted)

9 (Redacted)?

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 There were problems with radio communication and that is why they often resorted to
14 using the phonie. There was also a lot of movement here and there of the troops. You
15 know, between Kobu and Mongbwalu there is a distance of about 30 kilometres. And so
16 soldiers would come to hand in their operations reports, and otherwise such reports
17 would be transmitted by phonie, mainly because the Kenwood radios didn't function
18 properly and the signals were not strong enough.

19 Q. And just to be clear, did you hear from any other radio operators other than Salumu
20 during the Walendu-Djatsi operation, or was Salumu the only other radio operator that
21 you heard on the radio?

22 A. Salumu was not an operator, he was a brigade commander, and he is the one who
23 supervised the Kobu operations. He is the one to whom the assignment of the operation
24 had been given. Tiger One, sector commander is the one who conferred that operation
25 upon him, so to speak. Tiger One had received orders from Tango. And so the mission

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1 was to attack Kobu and then await further instructions by telephonie. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted).

7 Q. And how did Tiger One receive orders from Mr Ntaganda to attack Kobu? Can
8 you explain that?

9 A. I'm not in a position to know how he received the order. Maybe by phonie or by
10 some other channel. I don't know. What we simply became aware of is that an order
11 had come in from Bunia and that the troops had to be on standby because there was going
12 to be an operation on Kobu.

13 Now, whether that message was transmitted by radiophonie or otherwise, I don't know.

14 In any event the information was given to us at a parade one morning when we were told
15 that there was a plan in place for Kobu to be attacked, and that Salumu's brigade would
16 launch the attack, and that all escorts needed to be ready to be able to open up the Lipri
17 road and that reinforcements will come subsequently.

18 THE INTERPRETER: Mr President, from the Swahili booth: The interpreter was
19 unable or did not hear the last part of the witness's answer.

20 PRESIDING JUDGE FREMR: Mr Witness, your answer at our English transcript is
21 concluded by a sentence, "... and that Salumu's brigade would launch the attack and then
22 all escorts needed to be ready to be able to open up the Lipri road and that reinforcements
23 will come subsequently."

24 According our Swahili interpreters, you also add something, but they were not able to
25 capture that. Could you repeat the very end of your response?

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1 THE WITNESS: (Interpretation) What I said is that Salumu's brigade launched the
2 attack on Kobu and surrounding areas and that Tiger One's escorts, the PPU's, were
3 supposed to intervene and open the Bambu to Lipri road. And that is another road.
4 While Salumu's troops were in charge of the left road leading to -- rather, it's Tiger One's
5 troops who were in charge of the Lipri road so that the two roads could be opened and
6 freed up.

7 PRESIDING JUDGE FREMR: Thank you, Mr Witness.

8 MR IVERSON:

9 Q. And what was Mr Ntaganda's role, if any, in the Walendu-Djatsi attack, to the best
10 of your knowledge?

11 A. He is the one who put Tiger One in charge of the operation. He supervised the
12 unfolding of the operations given that all the reports were transmitted to him. Salumu
13 would send the report to Tiger One through the radiophonie and Tiger One would then
14 send the report to Bunia. Now, as for the rest, I really do not know what he may have
15 done in relation to this operation apart from what I have already told you.

16 Q. And I won't ask any more questions about that, but just to clarify: How -- could
17 you explain to the Chamber how you knew that Salumu would send the report to Tiger
18 One through the radiophonie and Tiger One would then send the report to Bunia?

19 A. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted).

11 Q. And I know this is -- it was a long time ago, sir, but I just want to ask you: Do you
12 recall hearing anything on the radiophonie at that time with regard to Walendu-Djatsi
13 that stands out in particular that you would like to tell the Chamber about? Anything
14 that you remember about the content of those radio conversations? Or if not, just let the
15 Chamber know that you don't recall anything specific about the conversations.

16 A. Well, what I heard one day over the phonie, (Redacted), "If we have
17 already surrounded Buli village and there were some Lendu found alive, now we will
18 bring them and you will receive them."
19 That evening they arrived. That evening they brought some of them that they had
20 captured and they sent them on to Bunia. I heard that being said. They had already
21 surrounded Buli, they had captured the Lendu. Some had even hidden under rocks, but
22 they had found them. That was in the village of Buli.

23 Q. And is that all? Do you remember any other specific conversation or is that the
24 only one?

25 A. That's what I remember for right now. Perhaps other events will come to mind.

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1 You know, it was a long time ago when all of that happened.

2 Q. All right. Well, right now I would like to ask you just a few questions about what
3 you referred to as the third attack in Mongbwalu just for a few minutes, and then I plan
4 on playing an audio exhibit and asking questions about that, and then I will likely be
5 finished. So it should be just a matter of a half an hour, I estimate, maybe a little bit
6 longer depending on -- as long as everything runs smoothly.

7 Could I just have you tell the Chamber when did the third attack on Mongbwalu occur?

8 PRESIDING JUDGE FREMR: And again, Mr Iverson, if you are intending to deal with
9 third attack generally, couldn't we move into open?

10 MR IVERSON: Yes, of course, your Honour.

11 PRESIDING JUDGE FREMR: Court officer, let's move into open session please.

12 (Open session at 15.04 p.m.)

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

14 PRESIDING JUDGE FREMR: Thank you.

15 And just to correct English transcript, line 21 I didn't say with certain things, but with
16 third attack.

17 Mr Iverson, you have the floor.

18 MR IVERSON:

19 Q. Sir, so I'll just pose that question again. You had mentioned that there were three
20 attacks, three military operations in Mongbwalu, so I just wanted to ask, when was
21 the -- and you can give a month, year range, if you're able to do so -- when was the third
22 attack, or what you refer to as the third attack in Mongbwalu.

23 A. Yes, the third attack occurred early in June, the first day when the Mirage aircraft
24 from the force arrived in Bunia.

25 Q. And could you just let the Chamber know in what year was the -- was that? You

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1 said June. If you recall the year, that would be helpful.

2 A. That was in June. Early in June 2003 when we came back from exile in Medi. It
3 was early in June. It might have been the 5th. I can't be more specific than that. But it
4 was early in June in the year 2003, that is when the third attack occurred on Mongbwalu.

5 THE INTERPRETER: Interpreter correction: The force mentioned in the previous reply
6 was the Artemis force.

7 MR IVERSON:

8 Q. And who led this attack for the UPC/FPLC?

9 A. It was led by Mzee Tango himself. That day he was at the front lines. We had
10 prepared for the attack, we stayed at Dhego waiting for the aircraft, but the aircraft had
11 had an accident. That aircraft was supposed to provide us with munition. We spent
12 three weeks there and on 12 May they went to attack Bunia. The airplane that was
13 supposed to bring us munition had an accident. A battalion stayed there to protect that
14 airplane. It was -- it was Ndimba Christ's battalion.

15 Q. Thank you. Sir, for the sake of time, I'm going to -- those were the only questions I
16 had about the third attack. I just wanted to establish a few things.

17 MR IVERSON: What I would like to do now is I would ask that we be able to play an
18 audio excerpt. And I have the ERN number right here. It is DRC-OTP-0162-0115, and it
19 is track 2, minutes 3 to 9. And my understanding is this particular exhibit and the
20 particular minute marks have already been submitted into evidence. And so what
21 I'm -- what I'd like to do is have the witness listen to that excerpt. It's not in a language
22 that any of us will understand. And I don't intend to provide the translation for the
23 understanding of it for your Honours, I just want to ask the witness several questions
24 about that audio. And I don't want to describe the audio right now because I want the
25 witness to be able to describe the audio for himself.

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1 PRESIDING JUDGE FREMR: Do you want to -- maybe first question goes to court
2 officer. So could you just confirm that this excerpt has been already admitted into
3 evidence.

4 THE COURT OFFICER: I would like first to know the level of confidentiality of the
5 document.

6 MR IVERSON: It is a confidential document -- or exhibit, excuse me.

7 THE COURT OFFICER: We will then need to go into private session.

8 MR IVERSON: Yes. I was about to ask that. Thank you.

9 PRESIDING JUDGE FREMR: Yes, we will do it now.

10 Let's move into private session.

11 (Private session at 3.09 p.m.) *(Reclassified partially in public)

12 PRESIDING JUDGE FREMR: So I got assurance that this document has been already
13 admitted.

14 Defence, your position to the use of this exhibit with this witness?

15 MR BOURGON: As much as I would like to raise a Maduna objection, no comments,
16 Mr President.

17 PRESIDING JUDGE FREMR: Good joke.

18 So, Mr Iverson, you have the floor.

19 MR IVERSON: And with the leave of the Chamber I would like to ask if the witness
20 would like to take notes during the six-minute audio, I would invite him to do so, of
21 course with your permission and the understanding that those notes would be -- if the
22 Defence would like to view them or if any other party, they would be available to the
23 parties.

24 PRESIDING JUDGE FREMR: Defence, any objection to this proposal?

25 MR BOURGON: No objection, Mr President. I'd just like my colleague to -- if he can

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1 confirm that this -- the audio exhibit we are about to hear was played to the witness
2 during his preparation session so at least we know that it's not the first time that he sees it
3 today -- that he hears it today. Thank you.

4 PRESIDING JUDGE FREMR: Mr Iverson.

5 MR IVERSON: It was. And again, I don't want to say too much because I would like
6 the witness to speak to this exhibit, but in order to -- for me to determine whether or not it
7 would be relevant to play it for the Chamber during his testimony, I played the entire
8 audio for the witness in the preparation session so that I would know whether or not it
9 would be worthwhile to do this in the first place.

10 PRESIDING JUDGE FREMR: That's all right.

11 Now, Mr Witness, are you ready for this exercise? You will be provided with audio
12 lasting approximately 6 minutes, and then Mr Iverson will put some questions concerning
13 this audio. So if you -- if it would help you, you can just make some notes. Do you have
14 enough paper? So I think it's even recommended by the Chamber make your notes and
15 then he will put questions concerning this audio.

16 So I guess we can start.

17 And, Mr Witness, if there is some problem to hear anything, just raise your hand.

18 (Playing of the audio excerpt)

19 MR IVERSON:

20 Q. So that's just -- that's the end of the excerpt that we're going to play, sir.

21 Had you ever heard this audio prior to last week?

22 A. I only heard this the last time when it was played to me.

23 Q. And let me ask you, do you recognize this audio excerpt?

24 A. Yes, I certainly do recognize it.

25 Q. And you -- can you tell the Chamber how it is that you recognize this audio excerpt?

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- 1 A. Yes. I recognize that those are UPC commanders who were conducting or leading
2 the battle. I heard them transmit the reports between one another. And one said that
3 he had just captured 40 people. The other one said "Tie them up." That was close to
4 Buli. I heard them say, mention Nyangarai, a place. Another commander -- two
5 commanders greeted one another, and one was a Rwandan commander, and that's
6 Whiskey. I would recognize him today. They were joking and I heard them introduce
7 themselves to one another. One was calling from Buli, the other from Nyangarai. One
8 said, "I'll go down to Kilo," he must have said that. And they talked about Buli, Kilo and
9 Nyangarai. They talked about those particular locations.
- 10 And then Alpha also spoke, he was saying, "Alpha, Alpha." That was
11 Commander Alpha, Commander Noirée and the Rwandan commander. (Redacted)
12 (Redacted). They are the two who were speaking
13 to one another. And it's as if I heard the voice of a commander called Kaguma, I
14 heard his voice in this audio extract as well. He was speaking, but his voice wasn't
15 very clear, but it was indeed Alpha and the Rwandan commander.
- 16 Q. And you mentioned earlier today that you were -- well, instead of referring back to
17 your testimony I'll just ask the question again. Were you because of your service in the
18 UPC/FPLC familiar with the call signs of individuals within that armed group?
- 19 A. Yes, I know several call signs.
- 20 Q. And in this particular audio, are you able to hear any familiar call signs, or call signs
21 that you already know from your previous experience?
- 22 A. I even recognize the person who's referred to as Romeo Whiskey, the Rwandan
23 commander. Roméo Whiskey. And I heard Appointment Alpha, that was
24 Commander Alpha Noirée. Appointment Alpha, he was called first Commander Alpha.
25 I know those two people. Even Romeo Whiskey, the Rwandan, he still goes by that

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1 name, even nowadays.

2 Q. And you were able to place the locations based on the conversation. Would you be
3 able to place the time frame when this conversation occurred based on the content of the
4 conversation itself?

5 A. Yes. They mentioned Bambu, Kilo, Buli. They mentioned those places. They
6 mentioned Bambu, Nyangarai, Kilo, Buli. I took note of those place names. I think it
7 must have been after the capture of Mongbwalu during the second attack in January or
8 February of 2003. It must have been in January or February 2003 because by early March
9 all those soldiers, at that time the road was already opened, so I think this was the
10 operation conducted in January/February 2003.

11 Q. And again can you tell the radio communication device that was used based on the
12 content within the conversation that you heard?

13 A. Yes. One person, you see, was reporting to another. He said "Appointment
14 Alpha, Appointment Alpha." So he was calling Noirée. When he did not hear, he used
15 the call sign and then he said, "I've just captured 40 people." And the other person
16 responded saying, "Hit them all. Tie them up," that is to say shoot at them, because
17 when they said "Tie them up," it really meant kill them. And the other one said, "I will
18 torch the house and go down to Kilo today."

19 Q. Could I ask -- I'd like to ask you to spell a person you referred to, a Noirée. If I
20 could have you just spell that phonetically, Noirée.

21 A. Noirée is spelled the way it is pronounced in French, with two Es at the end.
22 N-O-I-R-E-E. Commander Noirée, because he was very dark-skinned, that is why he
23 was called Noirée. It was because of his skin colour. He was very, very dark-skinned.

24 Q. I thought so and that's how I spelled it in my notes, but I just wanted to make sure
25 that it was recorded correctly in the transcript.

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1 Sir, do you know how Bosco Ntaganda became the deputy chief of staff in charge of
2 operations within the UPC/FPLC?

3 And, your Honour, actually we could move into open session for this question.

4 PRESIDING JUDGE FREMR: Yes, court officer, let's move into open session. But I'm
5 not sure this question is really proper with this witness, but okay, let's try.

6 (Open session at 3.28 p.m.)

7 THE COURT OFFICER: We are back in open session.

8 PRESIDING JUDGE FREMR: Thank you, court officer.

9 Mr Iverson, please proceed.

10 MR IVERSON:

11 Q. Well, let me ask the question again slightly differently. During the -- during the
12 time of the UPC/FPLC back in 2002/2003, did you learn or come to know how
13 Mr Ntaganda, Bosco Ntaganda, became the deputy chief of staff in charge of operations of
14 the UPC/FPLC?

15 A. I didn't hear your question. I just was hearing the English channel.

16 Q. All right. Sir, are you hearing the Swahili channel now?

17 A. Yes, I can hear now.

18 Q. Okay. So during the time of the UPC/FPLC in 2002/2003, did you come to learn
19 how Mr Bosco Ntaganda became the deputy chief of staff in charge of operations for the
20 UPC/FPLC?

21 A. Yes. We were told this: The officers told us that the officers who took part in that
22 meeting told us what happened, they told us that there was an election of chief of general
23 staff, and Bosco Ntaganda was the one, because initially at the beginning of the movement,
24 in July, there was no chief of general staff at that point.

25 In August we were told there had been an election, and the chief of general staff had been

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1 appointed, Kisembo. But Bosco was supposed to hold that position. But they said that
2 we had to appoint a native person, a local person, so Kisembo was appointed, and then
3 Bosco was appointed deputy in charge of operations. That is information came to me by
4 way of people who had actually been at that meeting. That is what I heard.

5 Q. Thank you, sir. That concludes my questioning. I appreciate your having listened
6 to my questions and having fully answered them. And thank you for your patience.
7 Thank you, Mr President, and your Honours.

8 PRESIDING JUDGE FREMR: And we also thank, I mean the whole Chamber, we also
9 thank you, Mr Iverson, because you proved in practice that even such extensive testimony
10 could be covered in 7 and a half hours, which is much less than in the previous
11 comparable cases.

12 Now usual procedural step, we got two requests from our Legal Representatives of
13 Victims, requests on granting possibility to question this witness. Mr Suprun originally
14 indicated eight topics, Ms Pellet five topics. So my usual question goes to them, whether
15 you are insisting on your request, and if yes, on what topics?

16 Starting with Mr Suprun -- Ms Pellet, ladies first. Sorry.

17 MS PELLET: (Interpretation) Thank you, Mr President. I maintain my application,
18 but only with regard to points C and D of the request, that is in relation to the living
19 conditions within the UPC training camps and the measures pertaining to discipline that
20 were applicable within the FPLC/UPC.

21 PRESIDING JUDGE FREMR: Ms Pellet, you are reading my thoughts.

22 Now, Mr Suprun.

23 MR SUPRUN: (Interpretation) Thank you, Mr President. Yes, indeed, I maintain my
24 application relating to all the identified themes, and I would like to make some
25 submissions to support this in the absence of the witness if possible.

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1 PRESIDING JUDGE FREMR: Mr Suprun, I have one problem I would say because as
2 concerns topics A to G, they were not covered, and please remain just in this abstract way
3 of discussion, topics A to G were not covered by examination-in-chief. So I frankly think
4 I find it a little bit problematic to allow you to question witness if he was not questioned
5 by Prosecution, so I would understand that H is fine, but from A to G, I see some
6 problems. So maybe you can just comment on it in abstract or in a general way.

7 MR SUPRUN: (Interpretation) Yes, Mr President, indeed these topics were not touched
8 by the OTP, but the scope of my representation is in relation to the special and personal
9 interests that are represented here and which touch on this witness. And it is for this
10 reason that we would like to put these questions to the witness, which do not cause
11 prejudice either to the interests of justice or to the interest of the witness. So these
12 matters have a direct bearing on the direct interests of the witness, who is also -- I mean,
13 this is as much as I can say, Mr President, in open session.

14 PRESIDING JUDGE FREMR: It is fine. It's I think sufficient for the moment.
15 Now, any observation from the Prosecution on that issue? I mean on both requests.

16 MR IVERSON: Well, I think I don't really have any substantive observations. I'm just
17 looking at the time and I see that there is time, so time probably shouldn't factor into
18 your Honours' consideration of the matter. But I would invite them to -- the Legal
19 Representatives of the Victims to ask the questions that they deem are within the scope of
20 their representation of their clients for certain.

21 PRESIDING JUDGE FREMR: As a rather general observation, but okay, fine with that.
22 Defence now.

23 MS BWIZA: Yes, your Honour. The Defence would like to object to the questioning of
24 the witness because for -- thank you. Sorry.

25 Regarding the request of the Common Legal Representatives of the Victims of the Attack

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1 to a question on point H, it's not established why this witness would be the best witness to
2 give information about this point, because the point is whether the witness is aware of
3 what happened to the civilian women who were taken as wives by other UPC and in his --

4 PRESIDING JUDGE FREMR: Mr Bourgon.

5 MR BOURGON: Mr President, I don't think we should do this in front of the witness.

6 PRESIDING JUDGE FREMR: Court officer, please take Mr Witness out of the courtroom
7 for a while.

8 Sorry, Mr Witness, because there are some issues that could concern you, so it is bit early
9 to discuss this in your short absence.

10 (The witness stands down)

11 PRESIDING JUDGE FREMR: Do you think we could remain in open session, or it
12 depends on the character of your comment, or would it be better to move into private?

13 MS BWIZA: Private session, your Honour.

14 PRESIDING JUDGE FREMR: I thought so.

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

16 (Private session at 3.38 p.m.) *(Reclassified partially in public)

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

18 PRESIDING JUDGE FREMR: Defence please.

19 MS BWIZA: Thank you, your Honour.

20 As I was saying, the Defence objects to the request of the Common Legal Representatives
21 of the Victims of the Attack to question Witness 901, because the points A to point G were
22 not covered during the main examination-in-chief of the witness.

23 And point G, whether the witness is aware of what happened to civilian women who
24 were taken as wives by other UPC soldiers, the witness stated in his testimony, the
25 witness did not make it clear whether he knew that those wives were taken -- whether

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1 those wives were raped or not; (Redacted)

2 (Redacted)

3 And with regards to the request of the Legal Representatives of Former Child Soldiers, the
4 points -- all the points we -- the Defence considers that all the points have been covered by
5 the witness during his examination-in-chief, hence there is no need to ask further
6 questions on those topics. Thank you, your Honour.

7 PRESIDING JUDGE FREMR: Thank you.

8 Do you want to respond, Ms Pellet?

9 MS PELLET: (Interpretation) Thank you, Mr President. Now, regarding the Defence
10 objection that we have just heard, my questions are in relation to living conditions, and
11 these were not dealt with, as well as disciplinary measures which may have been applied
12 in the camps as well, and that was not dealt with either during the examination-in-chief.
13 Thank you, Mr President.

14 PRESIDING JUDGE FREMR: Mr Suprun. Mr Suprun first.

15 MR SUPRUN: (Interpretation) Thank you, Mr President. In fact, the Defence
16 objection about point H is based on the argument that this subject was not dealt with by
17 the witness. But let me refer to the English transcript for today, page 22, line 21, to page
18 52, line 20 -- 53, line 11, where the witness said that there were UPC soldiers who came
19 and took girls and women as wives. And that's why we are looking at this from the
20 point of view that there were civilian girls and women, and not soldiers, that's why it is
21 important for us to deal with this.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted).

2 PRESIDING JUDGE FREMR: Thank you, Mr Suprun. We don't need any further
3 submissions. Give us a moment, we will silently deliberate.

4 (Trial Chamber confers)

5 PRESIDING JUDGE FREMR: So our ruling is that we are granting Mr Suprun leave to
6 question Witness on topic H, whether he was also aware of what happened to the civilian
7 women, et cetera, and Ms Pellet on topics under C and D. And we are granting to each
8 of the legal representatives 10 minutes for such a questioning.

9 If there is some, if there is some slight overlapping with issues already covered by
10 Mr Iverson, please avoid any repetition.

11 Now, please bring witness back to the courtroom.

12 And we will start with topics questioned by Ms Pellet.

13 Ms Pellet, do you think we could move into open session, or what do you think?

14 MS PELLET: (Interpretation) Mr President, mindful of the witness's answers, I think
15 we can receive them in open session, but the questions will be referring to answers
16 provided to my colleague of the OTP in closed session, so maybe I could put my questions
17 in closed session or private session.

18 (The witness enters the courtroom)

19 PRESIDING JUDGE FREMR: Then I find it safer not to -- rather to avoid any risk of
20 violating rules of confidentiality, so we will for those questions remain in private session.

21 And now, Ms Pellet, you have the floor and you have your 10 minutes.

22 MS PELLET: (Interpretation) Thank you, Mr President.

23 QUESTIONED BY MS PELLET:

24 Q. Good afternoon, Witness.

25 A. Good afternoon.

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1 Q. Just to make things clear for everybody, we met briefly last week, and I'm going to
2 be putting a few questions to you in my capacity of Legal Representatives of Former Child
3 Soldiers. Can you -- do you understand that?

4 A. Yes, I do.

5 Q. (Redacted)

6 (Redacted)

7 (Redacted)

8 I'm referring here to the French transcript of yesterday, page 34, lines 9 to 19.

9 What type of suffering were you referring to, Mr Witness?

10 A. In Mandro, there was a lot of suffering. (Redacted)

11 (Redacted) There was all

12 types of sufferings in Mandro. We did not have enough food. Sometimes there

13 was ashes in our food. They served us rotten beans. They would serve us maize

14 with weevils. Instead of using oil, they used ashes. And they served us food that

15 could not even be eaten by anyone. So people had no value. It is only the

16 commanders who had food with oil, and that's why they put hot ashes into our food.

17 That's a form of suffering. Another form of suffering was asking us to do excessive

18 exercises. And all the trainers would hit you, they would beat one up. Even if you

19 hadn't made any mistake, if you had not done anything wrong, we were mistreated.

20 And the impression was that it was making us ready for combat. You would be asked,

21 for example, when it was raining to destroy houses that you had just built and then to

22 rebuild them again, and all of that being done under the rain.

23 Even the clothes that we were wearing at the time were full of lice, and so we had to keep

24 scratching ourselves because it was all itchy. And the idea was that a recruit was neither

25 an insect nor an animal nor a bird, so recruits were completely valueless people, and for

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1 all those reasons I felt extremely saddened when I thought about these things and that is
2 why I started to cry.

3 Q. Thank you, Witness. Just to clarify things, and although you made it clear
4 yesterday and today, when you talk about recruits, you're talking about all the recruits,
5 the adults and the children, or are you referring only to one of the groups?

6 A. When I talk about the recruits, I'm referring to all of them without distinction,
7 whether they were big or small or women or children and of all ages, even those who had
8 just arrived and who had been there for a month or two months or three months, all of
9 them. All those who were still there and who had not been deployed were receiving the
10 same treatment, whether they were younger or older. Regardless, they were all treated
11 in the same manner.

12 Q. Thank you, Mr Witness.

13 Now, let me deal with issues of discipline. Today in your testimony you referred to a
14 few disciplinary measures taken within the FPLC. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Now, throwing someone into jail, was that the only disciplinary measure applicable to
20 deserters as far as you know?

21 A. Punishment was meted out for all types of faults or offences. One could be locked
22 up, one could be beaten up, one could also even be killed. So the punishment depended
23 on the nature of the offence. People were mistreated. People were asked to perform
24 very difficult drills and exercises.

25 Q. Last question, Mr Witness: Those disciplinary measures you have referred to, were

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1 they in place also in the training camps for military training? And if yes, can you tell us a
2 few examples of the types of issues that would give rise to disciplinary measures during
3 the training period?

4 A. Anyone who deserted or who fled from the training was arrested and shot. All
5 officers had issued those orders, even the chief of general staff in charge of operations.
6 Anyone who deserted and was caught would be shot. If you deserted and you were
7 caught, you would be put up against a tree and shot at or fired. Now, those who stole or
8 who committed other offences were flogged.

9 In Mandro, there was no prison for the recruits. Most of those who committed these
10 faults or offences were either flogged or asked to roll in mud or denied or deprived of
11 food. Even the type of beans that was cooked with ashes, which I talked about, even that
12 was not given to those who committed these faults.

13 There was another type of punishment known as target for those who were deserters and
14 who would be caught and then executed. This was drilled into our minds everyday
15 morning and evening as an order.

16 Those who would be caught would be locked up in an underground prison, which was
17 called the go down. In each camp there was a go down, otherwise known as a military
18 prison where soldiers who had committed offences would be kept after having been
19 flogged or whipped. That is how things happened.

20 Q. Thank you, Mr Witness.

21 Thank you, very much.

22 PRESIDING JUDGE FREMR: And thank you, Ms Pellet, for observing your time limit.

23 Now, Mr Suprun, topic H and your 10 minutes.

24 MR SUPRUN: (Interpretation) Thank you, your Honour.

25 QUESTIONED BY MR SUPRUN: (Interpretation)

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1 Q. Good afternoon, Mr Witness.

2 A. Good afternoon.

3 Q. Now, we met a while ago. My name is Dmytro Suprun and I represent *1859
4 victims of the attacks on civilian people and who have been granted standing as
5 participants in the case. I have a few questions for you to clear up a few points from
6 your testimony.

7 Witness, this morning you said that the UPC/FPLC soldiers would take civilian girls and
8 women as their wives. Could you explain what would happen with these civilian girls
9 and women who were taken as spouses by the soldiers belonging to the UPC/FPLC?

10 A. The UPC soldiers had women in the camps. Most of them had one (Redacted)
11 (Redacted)

12 (Redacted)

13 (Redacted)

14 That is why each time a soldier saw a pretty girl, he would go and would say to the girl, "I
15 would like to marry you. You must come with me to the camp. And if you refuse, I will
16 use my weapon and take you there by force."

17 Once at the camp where each soldier had a hut, they would take their women there. In
18 each military camp there were manyatas or little huts, straw huts. And the woman
19 brought there by the soldier, be she in agreement or not, were taken as the man's wife.

20 Q. (Redacted)

21 (Redacted)

22 (Redacted)?

23 A. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted).

8 Q. (Redacted)

9 (Redacted)

10 (Redacted)?

11 A. No. At that time they had no choice. Whether they wanted to or not they had to
12 marry the soldier. There was this saying: Each woman belongs to a soldier. So it wasn't
13 a matter of asking a woman "Do you like me?" No, it wasn't like that. You had to find
14 one, say a few words to her, and if she wasn't in agreement you -- you would force her to
15 go with you.

16 MR SUPRUN: (Interpretation) I realize that we're in private session, but I think I can
17 ask my questions in open session.

18 PRESIDING JUDGE FREMR: Okay. Let's move into open session, but be vigilant,
19 please, Mr Suprun.

20 (Open session at 4.00 p.m.)

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

22 PRESIDING JUDGE FREMR: Thank you.

23 Mr Suprun, you may proceed.

24 MR SUPRUN: (Interpretation)

25 Q. Witness, can you explain in greater detail what was the role of these girls and

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1 women who were taken as wives by the UPC/FPLC soldiers?

2 A. No, they had no other role to play. They were there to sexually satisfy the soldiers.
3 They were supposed to stay at the camp. They were not allowed to go up. There was
4 no coming and going from the camp. So they were there to sexually satisfy the soldiers.
5 And when there was an attack, the women were supposed to help the soldiers carry their
6 possessions, their military clothing, some munitions. They were supposed to help us by
7 carrying goods for us; our suitcases, our clothing, the boots. They were supposed to
8 carry the suitcases of the soldiers. And when we occupied a particular locality, those
9 women were supposed to sexually satisfy the soldiers.

10 Q. To your knowledge, Witness, what happened to these girls and women who were
11 sexually abused once they became pregnant? Did they usually give birth to the children
12 or did they get abortions?

13 A. (No interpretation)

14 PRESIDING JUDGE FREMR: Mr Bourgon.

15 MR BOURGON: Thank you, Mr President. Could the witness take his earphones off,
16 please?

17 PRESIDING JUDGE FREMR: Mr Witness, could you kindly take your headset off.

18 Okay, please proceed, Mr Bourgon.

19 MR BOURGON: Well, Mr President, it's just a comment that is an observation. My
20 colleague just put a question as to "What happened to these women who were sexually
21 abused?" Now, I don't know what "sexually abused" refers to, but I don't recall that the
22 witness said that the sexual relationship, if any, were not consensual. And so to suggest
23 to the witness that these women were abused I believe is inappropriate. I would like my
24 colleague to rephrase his question. Thank you, Mr President.

25 PRESIDING JUDGE FREMR: Mr Suprun, please, maybe it would be fine just to follow

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1 your previous vocabulary just to remain precise.

2 So now we can put witness headphones back.

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

4 Q. Witness, to your knowledge, what happened to these civilian girls and women who
5 were taken as wives by the UPC/FPLC soldiers when they became ill -- I beg your pardon,
6 when they became pregnant?

7 A. It would depend on the financial means of the husband of that woman. If it was a
8 commander who had some money or resources, she could have her baby. If it was a
9 rank and file soldier, sometimes he would ask for the woman to have an abortion.

10 (Redacted)

11 (Redacted).

12 PRESIDING JUDGE FREMR: Stop here. We have to move into private session and we
13 will have to redact the previous part of the response.

14 (Private session at 4.05 p.m.) * Reclassified entirely into public.

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

16 PRESIDING JUDGE FREMR: And just to warn those who were present when the
17 witness was giving this part of his -- they can't hear me now, yes.

18 Sorry, it is my fault. Please return back for this warning for a while back into open
19 session.

20 (Open session at 4.05 p.m.)

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

22 PRESIDING JUDGE FREMR: Now my message goes to public gallery: The last
23 response given by the witness inadvertently was made public, but it should remain
24 confidential, which also cover you, so please keep this response confidential, otherwise
25 you will be in trouble.

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1 Now, let's move back into private session.

2 (Private session at 4.06 p.m.) *(Reclassified partially in public)

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

4 PRESIDING JUDGE FREMR: And, Mr Witness, sorry to interrupt you, but it was for
5 your benefit. So could you just finish your response, because so far we had this part of
6 your response, (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 MR SUPRUN: (Interpretation)

23 Q. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 Could we go into open session, your Honour?

3 PRESIDING JUDGE FREMR: We can, Mr Suprun, and you have your last two minutes,
4 please. Take it into account.

5 Now, let's move into open session.

6 (Open session at 4.10 p.m.)

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

8 PRESIDING JUDGE FREMR: Mr Suprun, please proceed.

9 MR SUPRUN: (Interpretation)

10 Q. Now, you mentioned a number of cases of girls or women who had been raped and
11 ultimately died. Are you familiar with any such cases?

12 A. Yes. The women were raped. We knew about that. We heard about that. They
13 were raped. But I don't know whether they were killed. Many women were raped.
14 We had reports, we learned that there had been rapes, *and we would drive away the
15 persons who brought such a report, because at night it was not possible to identify the
16 soldier who committed the rape. I never saw any cases of someone -- I never saw any
17 cases of a woman being killed.

18 Q. My last question, Witness --

19 PRESIDING JUDGE FREMR: Sorry, Mr Suprun, Mr Bourgon is on his feet. Mr Bourgon.

20 MR BOURGON: Thank you, Mr President. To the best of my recollection, my
21 counsel -- my colleague was authorised to ask questions under point H, and I don't
22 believe that this last question is included in point H.

23 PRESIDING JUDGE FREMR: Yes, you are right. But anyway I think the answer was
24 very, very general, very general hearsay, so I think that even if I'm rather premature, the
25 probative value of this response is minimal.

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1 Mr Suprun.

2 MR SUPRUN: (Interpretation)

3 Q. Witness, I think the last question really comes under the heading H because it was
4 mentioned "Whether he is aware of what happened to the civilian women who were taken
5 as wives by the UPC soldiers." (Interpretation) Does not come into this -- fall into this
6 category.

7 Once again, my last question, and I think it does fall into this area, your Honour.

8 Witness, when the civilian girls and women were taken as their wives and then rejected or
9 discarded by the soldiers and went back to their communities, did you hear anything
10 about what sort of situation they found themselves in once they were back in their own
11 community?

12 A. Some would go back pregnant and others would stay with the soldiers. Sometimes
13 when the soldier realised that the woman was pregnant, he would throw her out, often
14 saying that, well, a soldier can't get some girl pregnant. Only a few soldiers agreed to
15 continue living with their wife. Most of them threw them out.

16 And I don't know what happened when they went back home. Most went back
17 pregnant. And I saw many who were crying as they left. And they were told, "Get out
18 of here." And some -- even now I see some of them. Many of these former wives of the
19 soldiers are in the village in Mongbwalu, in Bunia, and I see them often.

20 Q. Thank you very much for your responses, Mr Witness. Your Honour, I have no
21 further questions for this witness.

22 PRESIDING JUDGE FREMR: Thank you, Mr Suprun.

23 One additional question from my part, Mr Witness: How many wives in DRC you can or
24 any man can get married? Legally I mean, just one or more?

25 THE WITNESS: (Interpretation) The law in Congo allows one to marry only one wife.

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1 The civil status does not authorise marriage to more than one wife. Only one wife is
2 recognized.

3 PRESIDING JUDGE FREMR: Thank you, Mr Witness.

4 Now, let's move into -- we are in open session.

5 Now question to Defence, Mr Bourgon, do you find reasonable to start with
6 cross-examination now, because from the Chamber's point of view we can I think adjourn
7 now, because we have 12, 13 minutes? It probably doesn't make any sense to start
8 tomorrow. But it's up to you, if you want to start, we can.

9 MR BOURGON: Well, I'm willing to start, Mr President, maybe just to address this last
10 topic which I can put aside before I begin my cross-examination, per se.

11 PRESIDING JUDGE FREMR: All right then.

12 I will also ask court officer to inform me how much time Mr Iverson used. I think it was
13 roughly 7 and a half hours, something like that? Yes. So, Mr Bourgon, you know our
14 main principles, generally you should take the same time. If you would think that you
15 need more, then you can make a submission on that.

16 Now, Mr Witness, before we move to cross-examination, I would like to remind you that
17 this Court is governed by a fair trial, which means that both parties are treated equally.
18 And as concerns you, it means that you should, indeed, you responded very well, so you
19 should respond in the same mode to the questions put to you by Defence. Is it clear to
20 you?

21 THE WITNESS: (Interpretation) Yes, I am ready.

22 PRESIDING JUDGE FREMR: Very well.

23 Mr Bourgon, the floor is yours.

24 MR BOURGON: Thank you, Mr President.

25 QUESTIONED BY MR BOURGON:

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1 Q. Good afternoon, Mr Witness.

2 A. Good afternoon.

3 Q. I just have a few questions for you this afternoon just to follow up on your previous
4 answers. If I understand your testimony correctly, (Redacted)

5 PRESIDING JUDGE FREMR: Sorry, sorry, Mr Bourgon, we will have to move into
6 private session.

7 MR BOURGON: Indeed, Mr President.

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

9 And for the information of the public, this witness is protected, this is why he was granted
10 that his identity will not be revealed, that is why we have to move into private session.
11 Sorry for that.

12 (Private session at 4.18 p.m.) *(Reclassified partially in public)

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

14 PRESIDING JUDGE FREMR: Thank you, court officer.

15 Mr Bourgon, you may proceed.

16 MR BOURGON: Thank you, Mr President.

17 Q. (Redacted)

18 (Redacted)?

19 A. (Redacted).

20 Q. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)?

25 A. (Redacted).

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1 Q. (Redacted)

2 (Redacted)

3 (Redacted)?

4 A. (Redacted)

5 (Redacted)

6 (Redacted).

7 PRESIDING JUDGE FREMR: Mr Bourgon.

8 MR BOURGON:

9 Q. Thank you, Mr Witness. I have no longer questions. I look forward to meeting
10 you for the rest of my cross-examination. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted). Thank you,

14 Mr President.

15 PRESIDING JUDGE FREMR: I will remind it to Mr Witness.

16 Now let's move into private session -- into open session. I'm a bit tired.

17 (Open session at 4.35 p.m.)

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

19 PRESIDING JUDGE FREMR: Thank you, court officer.

20 So we approach the end of today's session. I by error said that we will continue

21 tomorrow. We will not continue tomorrow since tomorrow is a holiday. So we will

22 continue on Thursday, 9.30.

23 And it is my duty, Mr Witness, to remind you that you, in the meantime, you must not

24 discuss the content of your testimony with anybody else, including the person mentioned

25 by Mr Bourgon. Is it clear to you?

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- 1 THE WITNESS: (Interpretation) Yes, Mr President.
- 2 PRESIDING JUDGE FREMR: So I guess there are no further requests for the floor, so
- 3 thank you and we will reconvene on Thursday, 9.30.
- 4 THE COURT USHER: All rise.
- 5 (The hearing ends in open session at 4.36 p.m.)
- 6 RECLASSIFICATION REPORT
- 7 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
- 8 the public reclassified and lesser redacted version of this transcript is filed in the case.