

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
3 Situation: Democratic Republic of Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing
8 Friday, 26 February 2016
9 (Hearing starts in open session at 9.32 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: Good morning, your Honours. This is the situation in the
16 democratic republic of the Congo, in the case of The Prosecutor versus Bosco Ntaganda,
17 case reference number ICC-01/04-02/06.
18 We are in open session, Mr President.
19 PRESIDING JUDGE FREMR: Thank you, court officer.
20 Now appearances as usual starting with Prosecution.
21 MS SAMSON: Good morning, Mr President and your Honours. Appearing for the
22 Prosecution today are Mr Rens van der Werf and Mr James Pace, both assistant trial
23 lawyers; Ms Marion Rabanit, associate trial lawyer; Ms Dianne Luping, trial lawyer;
24 Ms Selam Yirgou, case manager; and myself, Nicole Samson, senior trial lawyer.
25 PRESIDING JUDGE FREMR: Thank you, Ms Samson.

1 Defence, please.

2 MR BOURGON: (Interpretation) Good morning, Mr President. Good morning your,
3 Honours. Good morning to all those in the courtroom. Representing Bosco Ntaganda,
4 who is here with us this morning, Isabelle Martineau, legal assistant on a temporary
5 basis; Dignité Bwiza, legal consultant on a temporary basis; and myself, Stéphane
6 Bourgon. Thank you, Mr President.

7 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

8 Now Legal Representatives of Victims, please.

9 MS PELLET: (Interpretation) Thank you, Mr President. Former child soldiers are
10 represented by Mohamed Abdou and myself, Sarah Pellet, counsel at the OPCV. Thank
11 you.

12 MR SUPRUN: (Interpretation) Good morning, Mr President. Good morning, your
13 Honours. The victims of the attacks are represented by the OPCV by Anne Grabowski,
14 associate lawyer, and myself, Dmytro Suprun, counsel.

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

16 And at the end duty counsel, please, for the record.

17 MR CIKONZA: (Interpretation) Good morning, Mr President. Good morning, your
18 Honours. Good morning to all participants in the courtroom. I have the honour to
19 appear as legal advisor to Witness P-55. My name is Mundere Cikonza of the Brussels
20 Bar and a member on the list of counsel at the ICC. Thank you, Mr President.

21 PRESIDING JUDGE FREMR: Thank you, Mr Cikonza.

22 Mr Witness, good morning. It's my duty to remind you that you are still under oath, so
23 you have to speak truth and nothing but the truth. We will continue with your
24 testimony by cross-examination conducted by Defence.

25 Mr Bourgon, I'm asking, clearly at the moment we are in public session, this witness is

1 protected, so subject to your upcoming questions, it's up to you to decide whether we
2 should remain in open or to move to private.

3 MR BOURGON: I believe, Mr President, that we can remain in public for a very short
4 while.

5 PRESIDING JUDGE FREMR: Okay. But please be vigilant.

6 So you may proceed, Mr Bourgon.

7 WITNESS: DRC-OTP-P-0055 (On former oath)

8 (The witness speaks Swahili)

9 QUESTIONED BY MR BOURGON: (Continuing)

10 Q. Good morning, Mr Witness.

11 A. Good morning.

12 Q. I would like to begin this morning by returning to a topic which was raised
13 initially or at the beginning of your cross-examination. And I refer here to the
14 transcript T-70 and this was at page 81 -- or 51, sorry, and this was at line 12 -- or 8 -- 9 to
15 15.

16 My topic has to do with the ANR. Do you recall us talking about the ANR?

17 A. Yes.

18 Q. And the ANR, if I understand correctly, is l'agence nationale de Renseignement.
19 Would that be correct?

20 A. Yes.

21 Q. Sir, you mentioned some individuals working in the ANR and I believe you
22 referred to a man called Rafiki; is that correct?

23 A. Yes.

24 Q. You also referred to a man called José. Do you recall this?

25 A. Yes, I remember.

1 Mr President, Defence counsel has mentioned the name José and I remember that the
2 Prosecutor had asked me the question about the family name of José. Now I remember
3 the name. The name is Bourassa. Bourassa José.

4 PRESIDING JUDGE FREMR: Thank you, Mr Witness.

5 MR BOURGON:

6 Q. Sir, just about José, do you recall that people used a derogatory name for him at the
7 time, if you recall?

8 A. Yes. I do remember.

9 Q. And what was that name, sir.

10 A. Munyato.

11 Q. And what does this mean because I'm not getting any translation of this? Is that a
12 term or is that a name?

13 A. It is somewhat of a nickname. When I arrived there, his nickname was Munyato.
14 It was not his name. I think that he was given that nickname because he was a very
15 humorous person and he used to enjoy listening to Congolese music. And so I don't -- I
16 can't say with certainty that I know why he was being called Munyato. In any event,
17 Munyato was his nickname, some sort of parody, so to speak.
18 It was a way of teasing him.

19 Q. Now, of course, sir, I don't speak Swahili, so to me Munyato doesn't ring a bell.
20 But if I say Munyato in your language, what does that -- what does that -- what image
21 does that bring to you?

22 A. Munyato is not a Swahili word. Maybe it is in Lingala, but I'm not very sure. In
23 any event, what is certain is that this is not a Swahili word. But even if it were a Swahili
24 word, I am not familiar with it.

25 Q. So I understand from your testimony that you -- that he was called Munyato but

1 that for you it was just a name and nothing else?

2 A. Yes. It was a name. People used to call him Munyato, but I don't know why he
3 was called by that name. But he was happy whenever people called him by that name.
4 But I do not know why he was called Munyato.

5 Q. One last question on this topic. At page 5, lines 1 -- line 3. You say, "It was a
6 way of teasing him." Do you know why the word "Munyato" would tease José? What
7 was teasing in the term "Munyato," if you know?

8 A. Well, when he was called Munyato, he was happy. But I never called him by that
9 nickname. So what I am providing here is explanations about what I know. But I
10 never personally called him Munyato and I don't know why he was given that
11 nickname.

12 Q. I'll leave this topic aside, because we will return to that later because if I am -- if I'm
13 correct, (Redacted) in the -- in the years that separate us from your time you were in
14 Bunia until today; is that correct?

15 PRESIDING JUDGE FREMR: Mr Witness, if you would be a little bit more specific
16 about your contacts, then probably we will have to move into private session.

17 MR BOURGON: I'm just looking for a yes or a no, Mr President, and I'm leaving it
18 aside.

19 PRESIDING JUDGE FREMR: Yes or no. Okay, then if yes or no, it's still fine.

20 MR BOURGON:

21 Q. So my question, sir, is (Redacted) after leaving UPC?

22 A. Now, if you want me to answer this question, then I would request that we go into
23 private session.

24 Q. Then we'll leave it aside and we'll come back later because I'd like to stay as long as
25 possible into public session, so we'll come back to that later.

1 Another individual that was (Redacted), correct me if I'm wrong, was a man
2 called (Redacted); is that correct?

3 A. Mr President, I would like to insist that we go into private session. Questions are
4 being put to me in relation to persons about whom I cannot provide answers in open
5 session.

6 MR BOURGON: Let's move in private session, Mr President.

7 PRESIDING JUDGE FREMR: Yeah. Otherwise we will probably just get limited
8 answers and it's better for us to make witness comfortable and to leave him express
9 freely.

10 So now we will have to move into private session. And for the information of the
11 public it's because this witness is protected, so he was given guarantee that his identity
12 will not be revealed during this proceedings.

13 (Private session at 9.46 a.m.)

14 THE COURT OFFICER: We are now in private session.

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- 25 (Recess taken at 11.02 a.m.)

1 (Upon resuming in open session at 11.38 a.m.)

2 THE COURT USHER: All rise.

3 Please be seated.

4 PRESIDING JUDGE FREMR: The short delay we are starting with was caused by some
5 technical problems, but I was told that this problem had been solved, so Mr Bourgon,
6 everything is, on your part, ready for --

7 MR BOURGON: (Microphone not activated)

8 PRESIDING JUDGE FREMR: Fine. At the moment we are in public session. Do you
9 think that the character of the upcoming examination will allow us to remain in open or
10 should we move into private?

11 MR BOURGON: Well, I -- we'll go into private session.

12 PRESIDING JUDGE FREMR: So it's for the public, because the witness is protected,
13 there is a guarantee that his identity will not be revealed and, because of that risk, we
14 have to move into private session.

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

16 (Private session at 11.39 a.m.) *(Reclassified partially in public)

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

18 PRESIDING JUDGE FREMR: Thank you, court officer.

19 Mr Bourgon, please proceed.

20 MR BOURGON: Thank you, Mr President.

21 Q. Welcome back, Mr Witness. I'd like to move on by referring to an interview that
22 was conducted with the Office of the Prosecution with yourself from (Redacted)
23 (Redacted). Do you recall this interview, sir?

24 A. Yes, I do.

25 MR BOURGON: Mr President, we again have the same problem here but we'll call a

1 technician and I'll try to continue.

2 PRESIDING JUDGE FREMR: Please.

3 MR BOURGON:

4 Q. Sir, that was a, according to the information I have, a five-day interview and it was
5 conducted here (Redacted). Do you recall the interview?

6 A. Yes, I do.

7 Q. And during this interview were you represented by counsel?

8 A. Yes, he was there with me.

9 Q. I have the name of a counsel here, I'm not sure if you can confirm, (Redacted)
10 would that be correct?

11 A. Yes, he's the one.

12 Q. Sir, it's my understanding, of course, that when you provided this statement or this
13 five-day interview, that at the end you were satisfied that everything contained therein
14 was the truth; is that correct?

15 A. Please kindly repeat your question.

16 Q. Yes. At the end of those five days, in the interview, you were satisfied that
17 everything that was in this interview was, to the best of your recollection, the truth?

18 A. Yes, my statement was true.

19 Q. Now, when you showed up to testify before the Chamber this week, it's my
20 understanding that you were given an opportunity to review this interview (Redacted)
21 (Redacted)

22 (Redacted) is that correct?

23 A. Yes.

24 Q. Now, I go to (Redacted), on the first day before this interview began. Do you
25 recall saying at that time, and I will read the name in French, and it says here:

1 (Interpretation) (Redacted)

2 Do you recall this -- signing such an accord?

3 A. Could you please show me the document first?

4 Q. Of course.

5 If we can show to the witness on the screen the document bears the number

6 DRC-OTP-0193-014. I apologise. 0014, the last four digits.

7 THE COURT OFFICER: Mr Bourgon, could you please repeat that number because we
8 cannot find that number in the --

9 MR BOURGON: Yes. DRC-OTP-0193-0014.

10 THE COURT OFFICER: Mr Bourgon, could we please have the ERN number of the
11 first page of the document because it's not there.

12 MR BOURGON: Well, I believe to me it is the first page of the document, but maybe it
13 was appended to the first statement. If so, we can try looking at DRC-OTP-0191-0269.

14 That's the first transcript of (Redacted). Maybe the accord, agreement, was appended to
15 that first date.

16 Well, maybe I can help you because now I have a different copy with a different number
17 of the exact same document. Number I have here is DRC-OTP-2057-0507.

18 PRESIDING JUDGE FREMR: I understood we had it; am I right?

19 MR BOURGON:

20 Q. Sir, do you see the document on your screen before you?

21 PRESIDING JUDGE FREMR: Ms Samson, any objection?

22 MS SAMSON: Well, only if this is intended-- if my friend is suggesting that this is
23 something associated with the (Redacted) interview, then I object.

24 MR BOURGON: I'm showing a document which is dated (Redacted), and I will ask
25 questions to the witness on the document on (Redacted).

1 PRESIDING JUDGE FREMR: Ms Samson.

2 MS SAMSON: And perhaps we can look at the date on the document that's on the
3 screen to see if it's (Redacted) because I do not believe it is. Thank you.

4 PRESIDING JUDGE FREMR: So give us a moment. I think we are waiting on that,
5 court officers. At the moment, I can't see the date. I just see the upper part of the
6 document.

7 MS SAMSON: The complete document is a two-page document, your Honour. For
8 some reason, there's only one page visible at the moment.

9 MR BOURGON:

10 Q. Sir, you see the document on your screen?

11 PRESIDING JUDGE FREMR: Ms Samson.

12 THE WITNESS: (Interpretation) Yes, I can see it.

13 MS SAMSON: It's just to clarify, your Honour, if the --

14 THE WITNESS: (Interpretation) Could you please scroll down?

15 MS SAMSON: If the question is in relation to a (Redacted) document, then I have no
16 objection. If my friend is asking about a (Redacted) document, then this is not that
17 document. Thank you.

18 PRESIDING JUDGE FREMR: Yeah. This is a problem, Mr Bourgon. I guess that you
19 both -- you can see the same document. This document is dated (Redacted). You said
20 that you will make inquiry from document on (Redacted).

21 MR BOURGON: And that's what I intend to do. I'm going to show him this
22 document and ask him if he ever saw it.

23 PRESIDING JUDGE FREMR: I don't know whether I misunderstood. You said that
24 your inquiry will concern document from (Redacted); and this document, at least this
25 one that I can see, is dated (Redacted).

1 MR BOURGON: Then I will use a different document.

2 PRESIDING JUDGE FREMR: Because I understood that you -- document
3 you -- probably you have mentioned is DRC-OTP-0193-0144. I got this information
4 that --

5 MR BOURGON: And now I have a different number --

6 PRESIDING JUDGE FREMR: So please.

7 MR BOURGON: -- which is DRC-OTP-0193-0145.

8 PRESIDING JUDGE FREMR: 145? Are you sure?

9 MR BOURGON: 0145.

10 PRESIDING JUDGE FREMR: So again, please wait a second. So now I can see, yeah,
11 document is from (Redacted). Is it the right document on your screen?

12 MR BOURGON: Indeed, Mr President.

13 PRESIDING JUDGE FREMR: Ms Samson, does it mean that you doesn't -- you don't
14 object?

15 MS SAMSON: I don't so long as the witness recognizes it. I note it's a translation, not
16 the original, but perhaps the witness will recognize it.

17 MR BOURGON:

18 Q. (Redacted)?

19 A. (Redacted).

20 Q. Now, let's begin by down at the bottom of this document where it says here on the
21 left side at the bottom: (Redacted) I take it that this is the counsel that was
22 representing you when you did your interview of (Redacted)?

23 A. Yes.

24 Q. Do you recall, sir, signing such a document? Because at the top part -- I do not
25 have the original, but it says your name. Can you confirm that the top of the document

1 on the right is your name?

2 A. Please scroll down a little bit. I would like the technician to bring the document
3 down.

4 MR BOURGON: Bring the top of the document down.

5 PRESIDING JUDGE FREMR: Court officer, please, I also can't see the upper part. Yes.
6 Now it's okay.

7 MR BOURGON:

8 Q. You can confirm, sir, that at the top of the document on the right is your name and
9 it says on top of it signé, signed?

10 A. Yes, that is my name.

11 Q. Sir, do you recall just by looking at the document, you've had it before you for a
12 few minutes, do you recall discussing such a document with the representatives of the
13 Prosecution before your (Redacted) interview?

14 A. That is about the meeting of (Redacted), isn't it? Otherwise, I would like to ask
15 the technicians to scroll down.

16 THE INTERPRETER: Says the witness.

17 MR BOURGON: If we can move the document down so we have the date at the
18 bottom.

19 PRESIDING JUDGE FREMR: Yes, please. Scroll the document down because the
20 witness requested that.

21 THE WITNESS: (No interpretation)

22 MR BOURGON: I did not get that.

23 PRESIDING JUDGE FREMR: The witness responded, but we haven't been provided
24 with translation, at least with English translation.

25 Interpreters, can you hear us because we got response from the witness but not the

1 translation.

2 THE INTERPRETER: Yes, we can hear you, Mr President. Maybe the witness could
3 repeat his answer.

4 In fact, the witness asked: "What was your question?" Mr President. "What was your
5 question?" That was the answer from the witness.

6 PRESIDING JUDGE FREMR: Mr Bourgon, we better please repeat your question. We
7 will just repeat your --

8 MR BOURGON: Thank you, Mr President.

9 Q. Sir, the question was: Do you recognize based on the date at the bottom of the
10 document whether you discussed this document on (Redacted) with the representatives
11 of the Prosecution?

12 A. Yes, I can see the document and I remember it.

13 Q. And you remember discussing this document with the representative of the
14 Prosecution?

15 A. Yes. Before my statement was taken down, we talked about it.

16 Q. And do you agree that you -- do you confirm that you also discussed this
17 document with the counsel who was representing you then?

18 A. We were altogether. It is not as if I had a separate discussion with my lawyer.
19 The Prosecutor and my lawyer and myself, we were altogether.

20 Q. Sir, you understand what was the purpose of this document, right?

21 A. As far as I know, it is an agreement.

22 Q. And the purpose of the agreement I suggest to you, if you can listen correctly,
23 carefully, Mr Witness, the object of the document is, on the one hand, you -- and I refer
24 here to the second paragraph where it says (Speaks French) -- the first paragraph:
25 (Speaks French), then there is your name. (Interpretation), (Redacted)

1 (Redacted).

2 (Speaks English) So that's one part of the agreement, right?

3 A. Yes, as it appears in this document.

4 Q. And then we go down to paragraph 1?

5 A. Paragraph 1 or 2?

6 Q. One. The first paragraph with the number 1.

7 A. Okay.

8 Q. Where it says, and I will read in French, I think we are in private session so I can
9 say the name: (Interpretation)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted). You understood that, right?

18 A. Yes.

19 Q. Now, of course the Prosecution, sir, also had an obligation or conditions imposed
20 on it and this we can find at paragraph 2, with number 2, where it says the following in
21 French: (Interpretation)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

- 1 (Redacted)
- 2 (Redacted)?
- 3 A. (Redacted).
- 4 Q. (Redacted)
- 5 (Redacted)
- 6 (Redacted). You understood that?
- 7 A. Yes, I did.
- 8 Q. I'd like to have the second page of the document --
- 9 PRESIDING JUDGE FREMR: Sorry, Mr Bourgon.
- 10 MS SAMSON: Sorry.
- 11 PRESIDING JUDGE FREMR: Ms Samson.
- 12 MS SAMSON: (Redacted)
- 13 (Redacted). Just to clarify.
- 14 PRESIDING JUDGE FREMR: Thank you, Ms Samson.
- 15 MR BOURGON: I omitted those words myself because they weren't in writing in
- 16 French because I thought I was going to say the word again but it's not in writing, it says
- 17 (Speaks French). Sorry, I apologise. The word is there.
- 18 PRESIDING JUDGE FREMR: All right.
- 19 MR BOURGON:
- 20 Q. On the second page of this document, and the number I take it is the following
- 21 page, Mr Witness, you see on your screen the following number, the following page.
- 22 And I'd like to see at the top of the document where it says your name and it says
- 23 "signed." Do you see this, sir?
- 24 A. Yes, I can see it.
- 25 Q. And I'd like to scroll down the document, sir, if we can have the last part with the

1 signatures at the bottom. And I will read in French here what it says, just the last
2 paragraph:

3 (Interpretation) "I declare having read the present agreement. I perfectly understand
4 the contents and fully agree with it. I have not in any case been coerced, threatened or
5 compelled."

6 (Speaks English) So basically, Mr Witness, my question is you signed this voluntarily,
7 right?

8 A. Yes, but I do not see my signature here.

9 Q. I agree. I do not have the version with your signature.

10 A. If you can scroll this document down, I may be able to see my signature.

11 Q. This is a copy that was reproduced and all we have is the medley where it says
12 "signed, signé" over your name. So that's why the question is important. Do you
13 recall and recognize having signed this document?

14 A. I think so. Even though I can't see my signature here.

15 Q. Sir, today I refer now to the transcript of this morning at page 23, lines 10 to 19.

16 PRESIDING JUDGE FREMR: Mr Bourgon, one question. As concern -- so we are
17 leaving this document?

18 MR BOURGON: No, this is related to document.

19 PRESIDING JUDGE FREMR: Yes, because I was seeking whether you want to tender
20 this document.

21 MR BOURGON: Yes, I will.

22 PRESIDING JUDGE FREMR: You will. Okay.

23 MR BOURGON: First I want to explain why.

24 PRESIDING JUDGE FREMR: Please proceed.

25 MR BOURGON:

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted).

7 PRESIDING JUDGE FREMR: Ms Samson.

8 MS SAMSON: Yes, I apologise for interrupting but when the headset is off you can

9 hear an echo, and given the technical problems with distribution of --

10 PRESIDING JUDGE FREMR: We will break.

11 MS SAMSON: -- voices into the public gallery, could this be checked please?

12 PRESIDING JUDGE FREMR: Sorry, Mr Bourgon we have facing -- we are facing again

13 technical troubles which could cause even more serious problems. So I just consulted

14 briefly with court officers, it would be better to break and hopefully it should be, as I was

15 informed, a matter of five minutes. We will then continue.

16 MR BOURGON: Mr President --

17 PRESIDING JUDGE FREMR: Mr Bourgon.

18 MR BOURGON: -- I could put two questions and we -- I will be done with this topic.

19 PRESIDING JUDGE FREMR: No, no. Sorry, it's a problem that, you know, the voice

20 of the --

21 MR BOURGON: Oh, it's a voice.

22 PRESIDING JUDGE FREMR: -- witness could be -- so, sorry. It's not your fault.

23 MR BOURGON: I thought it was computers, sorry.

24 PRESIDING JUDGE FREMR: So we break now for hopefully five minutes.

25 THE COURT USHER: All rise.

1 (Recess taken at 12.15 p.m.)

2 (Upon resuming in private session at 12.21 p.m.) *Reclassified partially in public

3 THE COURT USHER: All rise.

4 Please be seated.

5 PRESIDING JUDGE FREMR: So we have overcome another technical problem.

6 Thank you for indulgence.

7 Mr Bourgon, please proceed.

8 MR BOURGON: Thank you, Mr President.

9 Q. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted).

16 PRESIDING JUDGE FREMR: Sorry, sorry, sorry, Mr Bourgon. Mr Witness is raising
17 his hands.

18 Mr Witness anything urgent? You can't hear? Okay.

19 So please check Mr Witness' headphones. I thought it was the last technical problem
20 today. Doesn't seem to be the case. We had bad luck.

21 We can hear you. Mr Witness, now is it okay?

22 But I'm afraid Mr Bourgon you would repeat all your question, sorry.

23 MR BOURGON:

24 Q. (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. (Redacted).

9 MR BOURGON: Mr President, at this time I would like to seek this document be
10 admitted in evidence for the purpose of impeachment.

11 PRESIDING JUDGE FREMR: Before doing that, may I have correct number because
12 there are some doubts about the number. So it's DRC-OTP-0193-0144 or 45? Court
13 officer, could you please correct me? 44, okay.

14 MR BOURGON: That's what I have, Mr President, 44.

15 PRESIDING JUDGE FREMR: Very well.

16 Ms Samson any objection to that?

17 MS SAMSON: I have no objection to the admission of the document, your Honour.
18 The document itself does not impeach this witness however, and I indicate that for the
19 record. There is nothing in the document that contradicts what the witness has said.
20 Thank you.

21 PRESIDING JUDGE FREMR: Well noted. So this document ERN number
22 DRC-OTP-0193-0144 is admitted into evidence as a further Defence exhibit.
23 Mr Bourgon, you may proceed.

24 MR BOURGON: Thank you, Mr President. Of course I disagree with the last editorial
25 comment from my friend, but I would like to call a different document on the screen at

1 this time. And I would like to have document DRC-OTP-2057-0507.

2 Q. Sir, a different document will appear on your screen. Do you see the document
3 before you?

4 A. Yes, I can see it.

5 Q. Sir, this is an identical document that you would have signed in (Redacted). I'd like
6 to scroll down where we will see at the bottom some initials. I guess your initials are
7 not there because they have been redacted. So I'd like to move to the second page of
8 this document, which will be ending in 0508. And here I believe we will see the
9 signatures. Sir, do you recall or do you see on this document your signature?

10 A. Yes, I see it.

11 Q. And do you recall signing this document in (Redacted)?

12 A. Yes, I can see that that is what is indicated there.

13 Q. And, sir, do you recall that when you signed this document it was before a further
14 interview with representatives of the Prosecution which took place beginning on
15 (Redacted)

16 (Redacted)? Do you recall this interview with representatives from the
17 Prosecution?

18 A. Yes, I remember.

19 PRESIDING JUDGE FREMR: Ms Samson.

20 Hold on, Mr Bourgon, for the moment, please.

21 Ms Samson.

22 MS SAMSON: Yes, it's just a correction for the record. The witness's initials should
23 appear on the document on the first page. They are not redacted. What is redacted is
24 the initials of another representative of the Prosecution, which was the investigator at the
25 time when this document was disclosed, which was many years ago, and the

1 information has now been provided to the Defence. Thank you.

2 PRESIDING JUDGE FREMR: All right. Well noted.

3 Mr Bourgon.

4 MR BOURGON: Thank you to my colleague for bringing this up.

5 Q. Sir, the document here, we were discussing now just your interview in (Redacted)
6 (Redacted). Now, this interview, can you confirm that you had an opportunity to
7 review this interview, (Redacted) before your testimony?

8 A. Yesterday I told you that I did not read all the papers because there were a lot of
9 documents. I just tried to browse through them.

10 Q. To the best of your recollection, is the information you provided to the Prosecution
11 from (Redacted), to the best of your recollection, you stand by the
12 information you provided to the office of the Prosecution; is that correct?

13 PRESIDING JUDGE FREMR: Ms Samson.

14 MS SAMSON: For clarity, could the year of that interview be provided to the witness,
15 please, just the year?

16 MR BOURGON: I thought I did mention it, but I apologise. We're talking about
17 (Redacted).

18 PRESIDING JUDGE FREMR: Thank you.

19 MR BOURGON:

20 Q. So, sir, I repeat my question: To the best of your knowledge, the information you
21 provided to the Prosecution during that multi-day interview is accurate and correct?

22 A. Yes, they are correct.

23 MR BOURGON: At this time, Mr President, I would like to have this document that is
24 before the witness -- I believe we have to change documents so that the latest version of
25 the document is admitted, and I understand that the latest number is identical, but it has

1 at the end R01.

2 PRESIDING JUDGE FREMR: So are we sure about the -- correct number?

3 MR BOURGON: It's the same number, Mr President, but it has R01 at the end. Now
4 I'm saying somebody says there is, somebody says there isn't, redacted, not redacted.

5 PRESIDING JUDGE FREMR: So, court officer, is the name given by Mr Bourgon right?

6 MR BOURGON: So the one does not have R01 at the end. Now I got it correct.

7 PRESIDING JUDGE FREMR: So are we clear?

8 Ms Samson, any objection?

9 MS SAMSON: No, your Honour.

10 PRESIDING JUDGE FREMR: So in such a case this document now specified by
11 Mr Bourgon is admitted into evidence as a further Defence exhibit.

12 Please proceed, Mr Bourgon.

13 MR BOURGON: Thank you, sir. We can move on now to a different topic. Just two
14 quick final questions on this.

15 (Redacted)

16 (Redacted)

17 (Redacted)?

18 A. (Redacted).

19 Q. (Redacted)

20 (Redacted)?

21 A. (Redacted)?

22 Q. (Redacted)

23 (Redacted)

24 (Redacted).

25 A. (Redacted).

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1 We will break now.

2 And please bring witness -- or take witness out of the courtroom. I would like to
3 address one procedural issue briefly.

4 (The witness stands down)

5 PRESIDING JUDGE FREMR: Mr Bourgon, according to my information you still have
6 at your disposal roughly 6 hours, so I guess it's unrealistic to believe that you could
7 finish today; am I right?

8 MR BOURGON: Indeed, Mr President.

9 PRESIDING JUDGE FREMR: Okay, then so after the afternoon session we will address
10 this issue again and then we will have to find a right schedule for Monday, but now it's
11 clear that we will have to continue on Monday.

12 Now we break and we reconvene half past -- yes, half past 2 and we are going to
13 continue until half past 4 today.

14 THE COURT USHER: All rise.

15 (Recess taken at 1.08 p.m.)

16 (Upon resuming in open session at 2.30 p.m.)

17 THE COURT USHER: All rise.

18 PRESIDING JUDGE FREMR: Ms Samson.

19 MS SAMSON: Yes, your Honour, I just wanted to note that from the Prosecution's side
20 Mr Rens van der Werf had to leave this afternoon and he will not be in the courtroom.

21 PRESIDING JUDGE FREMR: Yes, I appreciate the announcement because you entirely
22 follow my previous guidance to keep our record accurate. So thank you for that.

23 We will continue with the witness's testimony.

24 Mr Bourgon, you may proceed.

25 MR BOURGON: Thank you, Mr President. I'd like to begin, Mr President, by -- I

1 provided a reference that appears to be erroneous this morning.

2 PRESIDING JUDGE FREMR: So, Mr Bourgon, I guess we will have to move again to
3 private?

4 MR BOURGON: Yes, Mr President.

5 PRESIDING JUDGE FREMR: So, court officer, please let's move into private session.

6 (Private session at 2.31 p.m.) *(Reclassified partially in public)

7 THE COURT OFFICER: (Redacted).

8 PRESIDING JUDGE FREMR: (Redacted)..

9 (Redacted) ..

10 MR BOURGON: (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted).

17 PRESIDING JUDGE FREMR: (Redacted).

18 MR BOURGON:

19 Q. (Redacted)

20 (Redacted)

21 (Redacted).

22 (Redacted)

23 (Redacted)

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1 (Redacted)?

2 PRESIDING JUDGE FREMR: (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted).

6 MR BOURGON: (Redacted).

7 Q. (Redacted)

8 (Redacted)?

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted).

14 Q. And when -- when was the fighting between the UPDF and the UPC in Bunia?

15 A. It was in 2003, unless I'm mistaken.

16 Q. And when, to the best of your recollection, was it in 2003?

17 A. You want to know the month or the date? I've told you that questions about dates
18 and months -- for years I can try, but as for the date, whether it is the 20th or some other
19 date, that's difficult for me to tell you. I don't remember.

20 PRESIDING JUDGE FREMR: And Mr Witness, at least would you be able to specify
21 whether it was in spring, summer, autumn, winter, on which part of the year
22 approximately, the beginning of the year, in the half of the year? If you can. Again, it is
23 up to you.

24 THE WITNESS: (Interpretation) Maybe. I think it was early in 2003 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted).

3 Q. (Redacted).

4 MR BOURGON: That was -- that's it from me for today, Mr President. Thank you very
5 much.

6 PRESIDING JUDGE FREMR: Mr Witness, thank you very much. It was really a very
7 long day. We appreciate that you really responded patiently. It was very fatiguing, I
8 know, but I have for you two news, as usual a bad one and a good one. Bad news that
9 you will have to stay with us until Monday, but the good news -- in fact, I have two good
10 news. The first one is that you can take some rest during the weekend, so I hope it will
11 give you more strength for Monday. And the second good news that Monday will be
12 really the last day of your testimony because we can't sit on Tuesday.

13 So thank you very much. And as usual, I have to remind you that you must not discuss
14 your testimony with anybody else.

15 Thank you and see you on Monday.

16 THE WITNESS: (Interpretation) Thank you.

17 (The witness stands down)

18 PRESIDING JUDGE FREMR: And now issue of planning. According my counting the
19 Defence still have at their disposal almost, almost, it's slightly less, but almost 4 hours.

20 You all are aware of the fact that we will have to finish by Monday late afternoon since
21 this courtroom is booked for another case, so there's no chance to prolong this evidentiary
22 block to Tuesday. We also have to spare some time for possible re-examination.

23 Ms Samson, could you indicate, I don't know, I'm rather premature, but still could you
24 indicate whether there will be some need of re-examination?

25 MS SAMSON: Your Honour, there may be. I will try to focus it and keep it quite

1 limited. At this point I would ask for 20 minutes, but I can't even be certain I would need
2 that. I will take a look at the transcripts.

3 PRESIDING JUDGE FREMR: I see the point. Also we would like to spare some time
4 for questions from the Chamber, even if not very extensive, and there is also some
5 possibility of having status conference, even if I have to say at the moment the Chamber
6 doesn't see the need for that because yesterday we inquired when the Defence intended to
7 send an email on scheduling, which had been previously announced. This email was
8 received yesterday for your information, yesterday evening, and contained a proposal to
9 have a status conference on this issue, on the issue of status conference.

10 We have obviously taken note of the content of that email and the Chamber is pleased to
11 hear first of all that Mr Boutin has recovered, but at the same time we obviously regret
12 that he will be unable to continue working on this case.

13 The Chamber notes that various matters are currently being addressed by the Defence
14 with either the Prosecution or the Registry. It was not, however, apparent to us what
15 role the Chamber would have at this point. And as we highlighted several times in the
16 past, it's only in the event of concrete disagreements between the parties regarding
17 scheduling or with the Registry regarding resourcing that the Chamber would become
18 involved.

19 It would be, therefore, not our intention to hold a status conference at this stage unless the
20 parties will identify for us specific issues requiring the intervention of the Chamber at this
21 time.

22 On this issue, Mr Bourgon, Ms Samson, do you want to add anything or?

23 MR BOURGON: Mr President, the issue of -- for us is twofold, one is scheduling, but we
24 can do a lot of work before and bring maybe some kind of proposal before the Chamber.

25 PRESIDING JUDGE FREMR: Yes, we would encourage you to solve this issue this way.

1 And then the second one?

2 MR BOURGON: The second issue will be, of course, we have not yet -- we have
3 informed the Registry of the situation, we have not presented any request, but we want to
4 do everything not to disturb the proceedings, but we will need some support from the
5 Registry in this regard because preparing a new associate counsel to be ready for
6 cross-examination for us takes some time and must be taken seriously so that he's able to
7 stand up and represent Mr Ntaganda in Court. Thank you, Mr President.

8 PRESIDING JUDGE FREMR: Thank you.

9 So the last point is scheduling for Monday. So as you can see, I know it is not a popular
10 arrangement, but we -- at least we can all console ourselves that it would be or it will be
11 really the last time we have sit in extended hours in this evidentiary block, of course. So
12 we will have to sit from 9 to 11, then from 11.30 to 1.30 p.m., and the third session should
13 be from 3 p.m. to 5 p.m.

14 It's still possible that maybe it will be shorter, but we will have just to create this plan
15 because, as I said, we have no further reserve.

16 So it's all for the moment. I wish you all you some -- Ms Samson.

17 MS SAMSON: Yes, your Honour, before we break I have just one request in relation to
18 the transcript from today. I would ask kindly that the Swahili spoken by the witness
19 today be checked in today's transcript page 83, line 24. It has to do with the issue of the
20 date on which there was fighting between the UPDF and the UPC in Bunia.

21 The quote in the English transcript from the witness on line 24, page 83, is, quote: "It was
22 in 2003, unless I'm mistaken."

23 We thought we also heard the witness use the term "mars" in French in this -- in his
24 Swahili answer. And if that's right, we would like to have the Swahili checked, please.

25 PRESIDING JUDGE FREMR: I would like to ask Swahili booth is the issue clear what

1 Ms Samson would like to clarify?

2 Are the interpreters still with us?

3 THE INTERPRETER: The interpreters are indeed with you. We will do those checks
4 for you.

5 PRESIDING JUDGE FREMR: Thank you very much.

6 And again thank you very much for being with us for such a long day. I wish all of you a
7 relaxed weekend and see you on Monday.

8 THE COURT USHER: All rise.

9 (The hearing ends in private session at 4.36 p.m.)

10 RECLASSIFICATION REPORT

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

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