

1 International Criminal Court
2 Trial Chamber VI
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 - *Courtroom 2
7 Friday, 24 June 2016
8 (The hearing starts in open session at 9.33 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 And for the record, we are in open session.
18 PRESIDING JUDGE FREMR: Thank you, court officer.
19 Now appearances as usual, starting with Prosecution.
20 MS LUPING: Good morning, Mr President. Good morning, your Honours.
21 Appearing this morning on behalf of the Prosecution are Ms Selam Yirgou, case
22 manager; Mr James Pace, assistant trial lawyer; and myself, Dianne Luping, trial
23 lawyer.
24 PRESIDING JUDGE FREMR: Thank you, Ms Luping.
25 Defence now, please.

1 MR BOURGON: (Interpretation) Good morning, Mr President. Good morning,
2 your Honours. Good morning to everyone here in the courtroom. Representing
3 Bosco Ntaganda, who is present today, we have Elisa Binon, Marlène Yahya, William
4 St-Michel and Chloé Grandon, as well as myself, Stéphane Bourgon. Thank you. I
5 forgot to mention, I'm terribly sorry about this, I had to turn back for a moment to
6 glance, Ms Sandrine De Sena.

7 PRESIDING JUDGE FREMR: You have very numerous team today.
8 And now Legal Representatives of Victims, please.

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

11 MS GRABOWSKI: Good morning, Mr President, your Honours. Anne Grabowski
12 for the victims of the attacks. Thank you.

13 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Ms Grabowski.
14 And before we move to upcoming testimony, the Chamber was informed that
15 Prosecution would like to address us.

16 So, Ms Luping, you have the floor.

17 MS LUPING: Thank you, Mr President, your Honours. It was brought to my
18 attention that there was some discussion as to the timing potentially necessary for the
19 examination-in-chief of Witness 888, who's been recalled. The Prosecution did send
20 an email yesterday evening indicating that we would be needing to question the
21 witness in relation to a further document. It's an historical document and the
22 Prosecution does give the Chamber its apologies for the late admission and provision
23 of these documents. Unfortunately, this is partly a result of these legacy cases, if you
24 like, that we have a large collection in some instances of handwritten almost illegible
25 documents that have not been OCRed.

1 It is fortunate that this document was found. It appears to be the records of the
2 school named by the witness. We will find out obviously when he's questioned.
3 But looking at the entry -- I can't explain more in open session, but looking at the
4 entry it appears as if this would require a bit more time to ask the witness to explain
5 exactly what is contained in this record and to clarify whether it does -- it is indeed a
6 record that relates to him.

7 So for this reason, Mr President, your Honours, we would be seeking more than the
8 10 minutes as indicated. We believe that it may require approximately 20 minutes in
9 total to get a real clarification from the witness as to the names that appear in these
10 documents, including names of whether or not they correlate to him, the name of the
11 individual, the name of the parents, the date of birth and so forth.

12 PRESIDING JUDGE FREMR: All right. Ms Luping, it's not just about minutes,
13 whether it will be 15 or 20, but really your questions should be relevant.

14 But, Mr Bourgon, any comment from your part?

15 MR BOURGON: Indeed, Mr President. I'm glad that we have the opportunity to
16 make some submissions before the witness is called in.

17 As we mentioned in our first response to the Prosecution urgent request yesterday,
18 we indicated that any examination-in-chief should be strictly limited in, not only in
19 time but in terms of scope because we have the testimony of the witness as to whether
20 he would have attended a school or not, we have the information from the witness as
21 to what school it was. But more importantly, we have some documents now that
22 have been brought forward and these documents were very likely never seen by this
23 witness. He probably does not even know that these documents exist.

24 If it was a document that pertained to him, a report card like we've seen previously,
25 when we give a report card of a witness, then of course it's his report card. Now

1 I believe the Prosecution expects to show a document which is a list of all students
2 from the school from a period of seven years, and I doubt it very much that the
3 witness is aware that such a list even existed. And besides the names that will be
4 shown to the witness, there are some comments. It's too late to get evidence as to the
5 reason why he would or would not have been excluded from school because he
6 already testified on this. He already told us that he was excluded because of the
7 events he said in his testimony. He already said that he was excluded because of the
8 armed conflict.

9 Now, in the document of course we see that there are other reasons why he was
10 excluded. It's too late to come back now and to show, "Well, oh, by the way, is there
11 another reason why you were excluded? Do you remember now by seeing a
12 document that you don't know the existence of?" That's inappropriate.

13 We want this trial to be fair and that's why we did not oppose calling back the witness,
14 we did not oppose getting a new document in because we want things to be fair. But
15 fairness depends that this not be a second chance or, as we say, a second kick at the
16 can.

17 So we have the testimony, very few questions are needed from the witness.

18 Prosecution can make an argument whether the documents are relevant or not,
19 whether they have any probative value, and I will answer to the same and then we
20 proceed.

21 Now, in cross-examination now they're making new issues that I'd like to raise, but
22 very shortly, with the witness and that won't take much time in terms of with the
23 witness. The most time will be arguing on those documents and that should take
24 place not even in the presence of the witness.

25 Thank you, Mr President.

1 PRESIDING JUDGE FREMR: Ms Luping, any reaction?

2 MS LUPING: Yes, Mr President, your Honours. One comment I would make first
3 off is that the Prosecution understands the Defence's concerns in terms of the timing.
4 However, the documents are before us. The Defence has had an opportunity to
5 review them, so in that regard we would argue that there's no prejudice as such,
6 they've had an opportunity to review them.

7 As to the fairness of the proceedings, it's simply for the Chamber to be able to
8 properly assess the truth of the matter. It's important that very specific questions are
9 asked of this witness and he's asked to clarify certain circumstances and information
10 provided.

11 Now, the witness stated very clearly, and I refer to transcript 106, page 81, lines 3 to 9,
12 when asked about his date of birth and various records that may contain his date of
13 birth, that the school records would be one such record.

14 Now, unfortunately at the time, obviously as your Honours are aware, we did not
15 have the correct name of the school. Now we do and now we have the records. He
16 is here, he's present, he's before the Chamber, he can now have an opportunity to
17 explain to the best of his knowledge what he is aware of, whether or not the records
18 indeed correlate to him or not.

19 I think it's an artificial exercise to simply say, "Is that the same name as yours?" You
20 know, in my submission, your Honours, this would not be a helpful exercise at all.
21 We need to be able to get to the bottom of the truth of it. It's not a question of having
22 a second kick at the can, as Defence counsel has suggested. It's an issue of the truth,
23 it's an issue of getting to understand and have some clarity. And, as I say, this is -- it
24 will be an artificial exercise if I'm simply limited to saying, "Is this a name that is very
25 similar to yours?" or "Do you recognize this name?" There are other aspects in the

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1 document that are necessary to ask the witness about before we can really be certain
2 that it's the same person.

3 And just as an example, just simply going over the records, what I saw just from a
4 very quick read is that there were at least three individuals from the same year with
5 the same last name, as an example. So it does need a little bit more than simply the
6 name, your Honours. Thank you.

7 PRESIDING JUDGE FREMR: Mr Bourgon, sorry, I don't need any further
8 submissions because I would like to proceed and I would like to sum it up, our
9 position.

10 I think we all should have in mind mainly the interest of justice. It's our main role, I
11 mean the Chamber, to find the truth in this case. In fact, there are still some doubts
12 about this part of witness's testimony because Prosecution came with objections and
13 with arguments that would really, some part, you know what part I mean, in doubts.
14 And there is ideally chance to dispel these doubts which should be, in my view, in the
15 interest of all of us. So we would like to give Prosecution and Defence this chance.
16 But my main concern, it was why just opened this issue about timing, is not to repeat
17 testimony we have already listened to. Really just to focus questioning, at least from
18 Prosecution part, on conditions that would allow to tender those documents. It's
19 really not about whether 15 or 20, simply those questions should be relevant to that
20 issue.

21 And then I agree with Mr Bourgon, the position of Defence is a bit different so that we
22 can be maybe more generous. But I think everything will be driven by the direct
23 examination by Prosecution.

24 So now we can start. Please, court officer, bring Mr Witness into the courtroom.

25 Mr Bourgon.

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1 MR BOURGON: Mr President, just at least to inform the Chamber that I will be
2 objecting to the witness commenting on a document he has never seen before.
3 Thank you.

4 PRESIDING JUDGE FREMR: All right.

5 (The witness enters the courtroom)

6 PRESIDING JUDGE FREMR: Mr Witness, good morning.

7 WITNESS: DRC-OTP-P-0888

8 (The witness speaks Swahili)

9 THE WITNESS: (Interpretation) Good morning.

10 PRESIDING JUDGE FREMR: Mr Witness, we have already met because you already
11 testified here a short time ago. And because of special circumstances there is a need
12 to conduct some really short further examination of you. So we will do that this
13 morning and, as I promise, it shouldn't take long. I just would like to assure you that
14 the protective and special measures we granted previously remain in place. So I will
15 not repeat it again. So everything will be the same with your testimony like two
16 days before. Again, you are a protected witness so we will do anything what is
17 possible that would prevent the public from identifying you. And the only thing we
18 have to repeat is your solemn undertaking.

19 So first of all, you agree with my instruction that everything will be under the same
20 condition, do you? Do you understand that?

21 THE WITNESS: (Interpretation) Yes, I've understood, your Honour.

22 PRESIDING JUDGE FREMR: Very well. So exactly the same like last time, you
23 should see in front of you a piece of paper. So please now make your solemn
24 undertaking to tell the truth again by reading out this declaration.

25 THE WITNESS: (Interpretation) Yes, I see.

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1 PRESIDING JUDGE FREMR: So could you just read it out.

2 THE WITNESS: (Interpretation) I solemnly declare that I shall tell the truth, the
3 whole truth and nothing but the truth.

4 PRESIDING JUDGE FREMR: Thank you, Mr Witness. So I am repeating myself.

5 It means that you are now under oath and I have to remind you, as the last time, that
6 it is an offence within the jurisdiction of this Court to give false testimony. So you
7 must tell the truth and only the truth.

8 Do you understand that?

9 THE WITNESS: (Interpretation) I understand, your Honour.

10 PRESIDING JUDGE FREMR: Very well. So far we conducted this proceedings in
11 open session, but since I know what will be the topic of direct examination, we will
12 have to move into private session now.

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

14 (Private session at 9.49 a.m.) *(Reclassified partially in public)

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

16 PRESIDING JUDGE FREMR: Thank you, court officer.

17 And, Ms Luping, you have the floor.

18 MS LUPING: Thank you, Mr President. Thank you, your Honours.

19 QUESTIONED BY MS LUPING:

20 Q. Good morning, Mr Witness. As has been explained to you I will -- both parties
21 will have some questions to ask of you as there are -- certain records have come to
22 light that the Chamber would benefit hearing about.

23 I want to first of all refer to your prior testimony at transcript 105, this is the edited
24 English version, at page 11, lines 25 to page 12, line 3 when you indicated the school,
25 (Redacted) that you attended and you stated that the (Redacted) was the

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1 (Redacted) secondary school located in the (Redacted)

2 Now, before I show you certain documents, I wanted to ask you if you recall the
3 name of the teacher that taught you that year. You indicated you attended the first
4 year of -- first year of school. Do you recall any names of teachers that taught you at
5 secondary school?

6 A. Yes. There was a teacher who taught us French.

7 Q. And do you recall the name of any of the titulaire for the classes that you
8 attended in secondary school, the main teacher?

9 A. The teacher where I was going to school was our mathematics teacher, he was
10 the main teacher. And I've forgotten his name for the time being.

11 Q. (Microphone not activated)

12 PRESIDING JUDGE FREMR: Ms Luping, I'm afraid your mic is not on.

13 MS LUPING: Sorry, my apologies.

14 Q. I know this is a very long time ago, Mr Witness, but do you recall the names of
15 any of your classmates when you attended secondary school?

16 A. Yes, I do remember one name, one of my classmates who was a close friend
17 from the Hema ethnic group, (Redacted) was his name.

18 Q. And do you recall any other name for (Redacted)

19 A. He did have another name, but I've forgotten it. He did have another name,
20 but the name I remember was (Redacted)

21 Q. Thank you.

22 MS LUPING: Court officer, with your leave, Mr President, I would ask to first show
23 to the witness document DRC-OTP-0118-004 -- sorry, I will ask -- my apologies. One
24 moment.

25 I would ask in fact to first show him DRC-OTP-2094-0034. I note actually that this

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1 document, which is a 124-page document, it is very difficult to read and there is
2 another version that was used in the Lubanga proceedings. It might -- and I
3 understand that the court officer has access to this other version which is just ever so
4 slightly more legible. I don't know whether it would be seen as possible or not to be
5 able to show the witness this version of the document, but I have the ERN for that.

6 PRESIDING JUDGE FREMR: Mr Bourgon?

7 MR BOURGON: Thank you.

8 PRESIDING JUDGE FREMR: In the presence of the witness?

9 MR BOURGON: Well, he can maybe take his earphones off, try to save some time.
10 I don't think he speaks a lot of English.

11 PRESIDING JUDGE FREMR: Yes, I would find it safer.

12 Ms Luping.

13 MS LUPING: The witness does speak an amount of English, Mr President.

14 PRESIDING JUDGE FREMR: Okay. So it would be safer.

15 Sorry, Mr Witness, for inconvenience. We will for a while take you out of the
16 courtroom.

17 Court officer, please assist.

18 (The witness stands down)

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

20 MR BOURGON: Thank you, Mr President. Before the witness can be shown this
21 document, no basis has been established whatsoever as to what the document is.
22 She said "I'm going to show you some records," she led the witness immediately
23 starting her examination-in-chief saying now new records have come up. But we
24 don't know what record this is. We don't know if the witness is aware that such a
25 record was produced. We don't know what is in that record and now we're going to

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1 show a piece of paper and ask the witness to recognize some names without
2 providing any information as to what the document is. This is inappropriate,
3 Mr President, and this document should not be shown to the witness.
4 If my colleague wants to ask a question about the contents, is this your name, is this
5 this, yes, but not about the document itself unless of course she establishes a basis for
6 doing so. This is not the report card of the witness. This is a school document that
7 covers eight years and has the names of all students in the school for a period of eight
8 years or something like that. How is he able to assist the Court with this document?
9 Thank you, Mr President.

10 PRESIDING JUDGE FREMR: Mr Bourgon, one minor remark. I don't find proper
11 to refer to Ms Luping as "she."

12 Ms Luping, do you have any reaction on that?

13 MS LUPING: Yes, Mr President, your Honours. The witness has already indicated
14 the name of the school he attended. He has already indicated what year he attended
15 (Redacted). What I'm simply seeking to do is to clarify indeed if these records
16 correlate to the school that he said he attended. What I can do, because I appreciate
17 and accept that this first document I intended to show doesn't have as clear a
18 reference to the name of the school as the other documents, I can show a different
19 initial document which clearly refers to the institute (Redacted) and there is a
20 reference to (Redacted). I can certainly switch the order. There is in fact, just for your
21 information, a reference to a student in the same class, (Redacted) I found the name
22 (Redacted) So there are sufficient indicia, even on the basis of what the witness has
23 already stated, to link the first document - as I say, I'll switch the order - to this
24 witness and we could start with that one first.

25 PRESIDING JUDGE FREMR: It I think sounds more reasonable. So in fact, now

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1 you would like to start with what document?

2 MS LUPING: It's 0118-0043. I can start with that. I would have to not complete
3 all my questions in relation to this document because I want to go back to other
4 questions in relation to the document, but I can do that and then that should provide
5 me sufficient basis to ask about the other document which contains the record of the
6 dates of birth of various children.

7 I mean, one response also in relation to Defence counsel's submissions regarding
8 these records is that whilst we don't have perhaps a type of record that we may be
9 used to in our cultures or systems of a separate school record relating to one
10 individual, these are records that summarise results of groups of children. And in
11 terms of the larger 124-page exhibit I had first intended to start with, that simply
12 records en masse all children's date of births, their names, names of parents and there
13 should be sufficient information from this witness to be able to show him also this
14 record, a specific entry at least. I'm not intending to go through 124 pages with him.
15 I'm intending to go through pages that enable us to situate him with the names and
16 acronym for the school and to show him a specific entry which appears to be a name
17 very similar to his and with the name of a father which appears to be similar to the
18 name of his father.

19 PRESIDING JUDGE FREMR: Mr Bourgon, any change of your position?

20 MR BOURGON: Yes, Mr President -- no, there's no change. More submissions.
21 The document that my colleague intends to use now -- and I apologise if I used the
22 word "she" because that's not my style at all, Mr President.

23 PRESIDING JUDGE FREMR: I can confirm.

24 MR BOURGON: My colleague will probably show the document 0 -- ending 0043,
25 and there is indeed a name that appears close to the name of the witness. However,

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1 just beside the name of the witness is the reason why he was excluded from school.

2 That, we already have on the record and what is here is different from his testimony.

3 That's what I don't want the witness to see, the reason why he was excluded from

4 school because once he looks at his name, he will see "excluded 10 per cent, 5 students

5 and I was excluded because of my age and because of my conduct." I don't want the

6 witness to see that because he has already testified on this.

7 PRESIDING JUDGE FREMR: And don't you think that even Chamber probably

8 would have those factors you now mentioned in our consideration if witness would

9 completely change his testimony on this point?

10 MR BOURGON: Well, Mr President, I have no doubt that you would consider, but

11 certainty and when I write a brief at the end I have to know for sure and when I make

12 an argument, and I don't know the wisdom of the Chamber when the Chamber

13 deliberates, I don't know this.

14 PRESIDING JUDGE FREMR: Doubts about our wisdom?

15 MR BOURGON: It's not doubts. It's certainty on behalf of my client. Certainty

16 not doubts with about the Chamber. Thank you, Mr President.

17 PRESIDING JUDGE FREMR: Okay.

18 Ms Luping.

19 MS LUPING: Mr President, your Honours, just one final submission in relation to

20 that. The witness is here, there is an opportunity for the Chamber to hear directly

21 from the witness as to what his explanations are for what is written next to his name.

22 I think in fairness really to the Chamber, not only to the witness himself, it's

23 important to understand and clarify what the language is here and what the

24 reasoning is here.

25 PRESIDING JUDGE FREMR: Yes, I have to say that the Chamber -- the Chamber in

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1 fact shares the view now presented by Prosecution and the objection is overruled.

2 So please bring witness back into the courtroom.

3 And Prosecution may use this document ERN number ending with 0043 with this
4 witness.

5 (The witness enters the courtroom)

6 PRESIDING JUDGE FREMR: So, welcome back, Mr Witness. And as I said, we
7 will now continue with your testimony. We solved one procedural issue and now
8 we can move to your testimony.

9 Ms Luping, you have the floor.

10 MS LUPING: Thank you, Mr President.

11 Court officer, if I could first call up document DRC-OTP-0118-0043. And I would
12 ask that the first page be shown.

13 Q. Now, Mr Witness, as you have been granted reading assistance as a special
14 measure, I'm going to read for you the top of the document (Interpretation) (Redacted)
15 (Redacted)

16 (Speaks English) And then we have written here a reference to (Redacted) again and
17 the numbers (Redacted).

18 Now, my first question, Mr Witness, is when you referred to your (Redacted) of
19 (Redacted), is this the school, is this the same name as the school that you attended?

20 A. It is this school. That was called (Redacted)

21 Q. And I'm also just going to read to you the reference to "Palmarès 2000 2001" and
22 then written there is (Interpretation) (Redacted) 2001."

23 (Speaks English) And then we have a reference to a (Interpretation) (Redacted)
24 (Redacted)

25 (Speaks English) Do you recognize that name, Mr Witness, the name for the préfet?

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1 A. Yes, I remember that name. That was the director of the school (Redacted)

2 MS LUPING: Now, court officer, if we could turn to page 0046 of this document.

3 PRESIDING JUDGE FREMR: Mr Bourgon.

4 MR BOURGON: I would ask, Mr President, that the witness at least be asked to
5 provide some information as to what he is about to be shown because we have no
6 information at this stage what year he was in, what class he was in, what -- so at least
7 before we go and we give him a document to provide him with information, we can
8 at least establish whether he can tell what class he was in. Now he's got the
9 document, of course he's going to recognize everything that's in there, Mr President.

10 PRESIDING JUDGE FREMR: Ms Luping, please, please do that. And I will be
11 more generous as to the timing, so I agree with that.

12 MS LUPING: Thank you, Mr President. The witness has already stated that he
13 (Redacted), but indeed I can ask a
14 supplementary question.

15 Q. Mr Witness, you stated previously that you only completed your (Redacted)
16 (Redacted) in your prior testimony. And I refer again, I've already stated it,
17 it's transcript 105, English realtime, page 11, line 25 to page 12, *line 23 and also at
18 page 12, line 17 to 22.

19 My question is this: When you said you finished the (Redacted)
20 do you remember what first year class you were in?

21 A. I remember -- I no longer remember whether I was in first year A, B or C, but
22 I was in the (Redacted). I don't remember whether it was A or
23 B because it would say first year A, B, C, but I have no precision in that regard with
24 regards to the exact class it was.

25 MS LUPING: Mr President, the witness has indicated he doesn't recall. He has

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1 stated that it was classes A, B and C. Could I be, with your leave, granted

2 authorisation to show him now page 0046?

3 PRESIDING JUDGE FREMR: All right. Please proceed.

4 Mr Bourgon.

5 MR BOURGON: I would just like to know if that page was already on the screen of
6 the witness when he answered those questions.

7 PRESIDING JUDGE FREMR: I have no idea.

8 MR BOURGON: Because I see he's looking at the screen. I'd like to know if that
9 page was already on the screen.

10 PRESIDING JUDGE FREMR: I imagine it was. Okay. We will also take it into
11 consideration, but nevertheless, Ms Luping, please proceed.

12 MS LUPING:

13 Q. Mr Witness, I first want to ask you a question about a name that appears on this
14 document. It's in the middle of the page there's a heading looks like number 2 and
15 then the number 6 there's a name there and it's written (Redacted)
16 (Redacted). Now, you've referred in today's testimony to a
17 classmate that you recalled called (Redacted) Is this the same individual, Mr Witness?

18 A. Yes. Yes, that's (Redacted) He was my friend. We were in the same
19 class.

20 Q. And the name of the individual at the very top it says (Redacted)
21 (Redacted) Do you recall if this was the name of your titulaire?

22 A. Yes, that was the person who was our titulaire. He was the maths teacher.

23 Q. Now, you've already stated what your various names were and you've already
24 stated that one of your names was (Redacted) Do you remember the name, the
25 precise name that was used at school for you?

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1 A. The name (Redacted) was used.

2 MS LUPING: Mr President, I'm just waiting for the transcripts to come up. I'm not
3 sure whether we had a full transcription just now or full interpretation of the name.
4 I was hearing something else on my headphone.

5 THE INTERPRETER: (Redacted)

6 MS LUPING: All right. Now we've got it now on our headphones. And we have
7 it already in the French. I just note for the record that we have a different -- yeah,
8 now it's in the English as well.

9 Q. And there is a reference to a name further down the page to a -- there are two
10 references to (Redacted) on this page. There is a (Redacted) and a
11 (Redacted). Turning to the (Redacted), that's number 4
12 on this list, under a heading (Interpretation) "5 to 10 people are excluded." (Speaks
13 English) And one of the names there is (Redacted)
14 Do you recognize this name, Mr Witness?

15 A. (Redacted) is my name.

16 Q. And the reference to this name (Redacted) with the reference to
17 (Redacted), is that -- is that you?

18 A. Yes, it's written and that is me. I don't remember the percentages that I
19 obtained.

20 MS LUPING: Before I ask any further questions in relation to this document,
21 Mr President, your Honours, I'd like to turn to the next document,
22 DRC-OTP-2094-0034. And as I was trying to explain earlier, there are -- it's not a
23 fantastic copy. It's illegible on a number of pages. There is in the system but in the
24 Lubanga case, as I understand it, a better -- well, marginally better version, and if I
25 could refer to that version, as I understand the court officer may have access to that,

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1 it's DRC-D01-0003-4868. If I could ask the court officer to show the better version,
2 better quality version.

3 Q. Now, Mr Witness, you're seeing the first page of this document.

4 I would ask the court officer to show page 4870 which corresponds to page 0036 of the
5 document as disclosed in this case.

6 Mr Witness, do you see the page in front of you?

7 A. Yes, I do.

8 Q. It states "Registre Matricule" and then you have the initials (Redacted) My first
9 question is: Do you know what the initials (Redacted) stand for?

10 A. Yes. (Redacted) is the Institute (Redacted) to the best of my knowledge.

11 MS LUPING: Court officer, if you could turn to page first 4905. It corresponds to
12 page 0071 of the disclosed version of this document in this case.

13 Q. Mr Witness, I'm just going to -- I'm going to refer to the very top of the page.
14 It's been slightly cut off, but then it runs through to the next page. It says "Année"
15 and then the letters (Redacted) which appear to relate to scolaire and then (Redacted)
16 and then there's a 9 and the last number is cut off.

17 And then could I ask the court officer to show the next page, which is 4906 or 0072 in
18 the disclosed version of the document.

19 And now we see at the top of the page a number 9 and then a line and 2000. Do you
20 that, Mr Witness?

21 A. Yes, I see it.

22 MS LUPING: And if the court officer could scroll down the page to the bottom.

23 Q. And we see what appears to be a letter I and B. Do you see that, IB?

24 A. Yes, I see it.

25 MS LUPING: And now if the court officer could turn to the next page to entry

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1 (Redacted) So that's page 4907 which corresponds to page *0073 of the disclosed
2 version of this document.

3 Q. Now, Mr Witness, I appreciate it's not so terribly easy to read. Can you see a
4 name next to an entry (Redacted) *in the left column?

5 PRESIDING JUDGE FREMR: Mr Bourgon.

6 MR BOURGON: Mr President, the witness should be asked to provide everything
7 he can read on that line complete from the beginning until the end, what he sees, and
8 then we can put some questions to him.

9 PRESIDING JUDGE FREMR: Why not.

10 MS LUPING: I don't have a problem with that proposition, Mr President. I was
11 simply going to first ask if he can read the name and then -- and so on, but I was
12 going to break it down bit by bit.

13 PRESIDING JUDGE FREMR: Still fine with the Chamber.

14 MS LUPING:

15 Q. So first of all, the name next to an entry (Redacted) could you state the name if
16 you can read it.

17 A. Yes, I can read it. (Redacted)

18 Q. And the entry after that, can you read that?

19 A. The name that follows, (Redacted)

20 Q. And after the name (Redacted) you see another column. Are you
21 able to read what it says in that next column, Mr Witness?

22 A. No. I can't read it. It's unreadable, illegible.

23 Q. Now, moving on to the next column, can you --

24 PRESIDING JUDGE FREMR: But allow me one comment. I am not sure that the
25 enlargement now in this case is helpful because it's a bit unclear. Maybe if you

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1 would -- something in between the original and maybe a -- let's try again with the
2 witness.

3 MS LUPING:

4 Q. Mr Witness, is that easier to read now?

5 A. I don't see the first description, but after it there's a date that I can read.

6 Q. And what -- what date do you read?

7 A. (Redacted). I can't read the last figure correctly,
8 but it's certain that it's (Redacted)

9 Q. And I will ask you questions in relation to this, but first I would like you to read
10 the column after that. Can you read what is contained in that next column?

11 A. (Redacted) is written.

12 Q. Now, I'm going to now ask you a few questions in relation to this, Mr Witness.
13 You've already -- and I'm going to refer to your testimony. You've already stated
14 what your father's name is. That's at transcript 106, realtime, page 33, lines 8 to 16,
15 the name you gave was (Redacted). This name that is stated here,
16 (Redacted) do you recognize this name?

17 A. Yes, I recognize this name. It's the name of my father. (Redacted) is the name
18 of my father. (Redacted) is the name of our paternal grandfather. My father didn't
19 often use the name (Redacted). He used the name (Redacted). And it is (Redacted)
20 who used the name of our grandfather (Redacted) but the other members of my family
21 of my father didn't use the name of (Redacted).

22 Q. And looking at the first name that you stated, (Redacted) do you
23 recognize that name?

24 A. Yes, I recognize that name.

25 Q. And how do you recognize the name? Who is it?

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1 A. (Redacted) is my name.

2 Q. Now, looking at this record, you said that from what you could read it looked
3 like either (Redacted). Now, to the best of your knowledge,
4 would either of these dates be accurate or not?

5 A. I can't know that. What's true is that the date and the month is correct. Now,
6 with regards to the year, I'm not sure.

7 Q. But based on what you know of your -- well, to the best of your knowledge as to
8 your date of birth --

9 PRESIDING JUDGE FREMR: Mr Bourgon.

10 MR BOURGON: Asked and answered, Mr President.

11 PRESIDING JUDGE FREMR: Yes, objection sustained. Please proceed.

12 MS LUPING: Understood.

13 I just actually would like to go back to page 4905 because there are a couple of
14 headings that I need to bring to the attention of the witness. So, court officer, if you
15 could bring up page 4905. It's just so that when the Chamber goes back to try to
16 assess the information, we also have the headings of what everything relates to.

17 PRESIDING JUDGE FREMR: But it should be the last point on this.

18 MS LUPING: On this document.

19 PRESIDING JUDGE FREMR: Mr Bourgon.

20 MR BOURGON: How can the witness assist us in knowing what the headings are
21 other than to read what is there as the trial Chamber can do.

22 PRESIDING JUDGE FREMR: We will see. Please proceed.

23 MS LUPING: Thank you, Mr President. I'm just going to read out. It says,
24 (Interpretation) "Surname, first name, place and date of birth, name of father, name
25 of mother."

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1 Q. (Speaks English) Now, Mr Witness, I'm just noting that the third heading
2 along, "Nom du père" is the same column as the (Redacted). So does that "Nom
3 du père, (Redacted)," just to clarify your response, does that then relate to your
4 father?

5 PRESIDING JUDGE FREMR: Mr Bourgon.

6 MR BOURGON: Asked and answered, Mr President.

7 PRESIDING JUDGE FREMR: I think objection sustained again.

8 Ms Luping, I think we had enough about this document.

9 MS LUPING: Understood. Understood, Mr President. I can move on.

10 THE INTERPRETER: The interpreter notes there was overlapping speakers, so he
11 was unable to state the answer of the witness at the time.

12 PRESIDING JUDGE FREMR: Just for the record, I just said that we heard enough.
13 So in fact we agreed that Ms Luping will move on.

14 MS LUPING: Understood.

15 I would like to return to the first document, DRC-OTP-0118-0043 and I'd now like to
16 return to page 0046.

17 Q. Now, Mr Witness, I want to go back to the heading under which you identified
18 a name that you believed to be yours which appears to read (Interpretation)
19 (Redacted)

20 (Speaks English) And then we have a number which looks like (Redacted) and
21 then we have the notes (Interpretation) (Redacted)

22 PRESIDING JUDGE FREMR: Mr Bourgon.

23 MR BOURGON: Objection, Mr President, in advance because the reason this
24 information was already elicited from the witness during his first time he testified
25 before the Chamber. He was asked -- now of course he can hear me saying this, but

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1 during the examination-in-chief he did provide the reason why he was not able to
2 continue school and he only did one year of school. So there's no reason in going
3 back to this information for the purpose because he was recalled for a date, nothing
4 else. Thank you.

5 PRESIDING JUDGE FREMR: Objection overruled. The Chamber is still interested
6 even in explanation of that.

7 MS LUPING: Thank you, Mr President.

8 Q. So, Mr Witness, I'm going to repeat my question. A name that you have
9 indicated to be yours appears under the heading (Interpretation) (Redacted)
10 (Redacted)

11 (Speaks English) And then we have a note next to your -- to the name that you
12 indicated to be yours saying (Interpretation) (Redacted)

13 (Speaks English) Did anybody explain to you what this meant in the context of a
14 record that you state believes to be yours -- a name that you believe to be yours in this
15 record? Did anybody ever explain (Redacted)

16 A. No. Nobody explained it to me.

17 Q. And when you have your name or what appears to be your name appearing
18 under the heading (Redacted)
19 (Redacted)

20 A. No idea.

21 MS LUPING: Mr President, I have at this stage no further questions in relation to
22 this document. There are two additional documents I want to show simply for the
23 cover page at this stage.

24 PRESIDING JUDGE FREMR: All right.

25 MS LUPING: Court officer, if we could have the next document

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1 011 -- DRC-OTP-0118-0020.

2 Q. I'm just going to refer to the very top first of this document where it says

3 (Redacted)

4 (Redacted) and then there's a reference to

5 (Redacted)

6 My first question is, Mr Witness, you've referred to a school that you attended, the

7 (Redacted). Is this the same school?

8 A. Yes, that is the school I went to, (Redacted)

9 MS LUPING: Court officer, if you could please scroll down the page, or court usher,
10 rather.

11 If we could stop there for now. And I'm just going to read Palmarès Scolaire

12 (Interpretation) 2001 to 2002.

13 (Speaks English) And written there is (Interpretation) (Redacted) 2002."

14 (Speaks English) And if we could scroll down further to the bottom of the page.

15 And stated there is (Redacted) and we had the name (Redacted)

16 (Redacted)

17 Q. Mr Witness, is this the same préfet that you mentioned when I showed the first

18 Palmarès scolaire?

19 A. Yes, that's him. That's the person I mentioned in response to your other
20 question.

21 MS LUPING: I'm now going to ask that the next document be shown,

22 DRC-OTP-0118-0003. And if we could -- I'll read the top of this page again. It
23 states (Redacted)

24 (Redacted), I think, though it's

25 very hard to read the second letter, (Redacted)

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1 Q. Could you just confirm again, Mr Witness, if this is the same school, (Redacted)
2 (Redacted), that you attended?

3 A. Yes --

4 Q. And if we could --

5 A. -- that is indeed the same school, (Redacted)

6 MS LUPING: And if we could please scroll down to the middle of this document
7 and it's stated "Palmarès scolaire" and then we have the numbers (Redacted)

8 If we could please move to the bottom of the page, it states (Redacted)

9 2003." And then we have (Redacted)

10 Q. Mr Witness, is this the same préfet that you mentioned in relation to the two
11 prior documents as being the préfet des études?

12 A. Yes, that's indeed him.

13 MS LUPING: Mr President, your Honours, with your leave I would seek to have all
14 four documents admitted at this stage.

15 PRESIDING JUDGE FREMR: Defence, your position?

16 MR BOURGON: Well, for starters, Mr President, I think we should wait until the
17 end of cross-examination before admitting these documents. Three of them we will
18 have no objection, but one we will have. But this will depend, of course, on
19 cross-examination. Thank you.

20 PRESIDING JUDGE FREMR: All right then. We can defer it.

21 So now we will move to cross-examination.

22 Mr Bourgon, please proceed. How much time you think you will need for -- you
23 would like to get for that?

24 MR BOURGON: Well, in accordance with the practice, at least the same as the
25 Prosecution, but I expect to be much quicker.

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1 PRESIDING JUDGE FREMR: I think so because anyway the scope was a bit limited
2 and some time was taken by going through documents, so questions itself didn't take
3 so much time.

4 Anyway, please proceed.

5 QUESTIONED BY MR BOURGON:

6 Q. Good morning, Mr Witness.

7 Did you hear me, Witness? I was just saying good morning.

8 A. Good morning.

9 Q. You've been asked a few questions this morning regarding school records. I
10 still understand that you maintain the fact that you attended only (Redacted)
11 (Redacted) You're not changing that part of your testimony, are
12 you?

13 A. That is true. I only went to the (Redacted)

14 Q. Sir, I'd like to refer to your testimony, but first, sir, let's look at your statement.
15 I refer, Mr President, to the statement provided by the witness DRC-OTP-2075-0613.
16 And I read from paragraph 13 and paragraph 13 I believe is on page 0615. But we
17 can display it on the screen but not for the witness, please.

18 Sir, my first question is: I'd just like you to confirm what you said in paragraph 13,
19 and I will read this in French:

20 (Interpretation) "I only did the (Redacted) because of the events
21 that I will give an account of in this statement."

22 Sir, you recall providing this information to the Prosecution in your statement?

23 A. Yes.

24 Q. Now, when testifying before this Chamber under oath, you said the following
25 on the same topic, and I quote from transcript 106 -- sorry, 105 and this is on page 16

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1 and this is going from lines 9 and 10. But I will read you the full question so from
2 lines 6 to 10:

3 "And you said that you were only able to attend the (Redacted)

4 Could you explain to the Judges why you could only attend that first year?"

5 And your response was: "I did just (Redacted), and I couldn't go
6 on because I was taken and enlisted in the army."

7 Do you recall saying this, sir, under oath?

8 A. Yes, that is correct.

9 Q. I'd like now to refer to your testimony on page 20 and also transcript 105 and I'd
10 like to read from lines 3 to 8 where it says the following -- so from line 3, I do not have
11 the question but your answer, of course, will be clear what the question was:

12 "Yes, yes. Before kidnapping us and taking us and putting us in the army, I was
13 with friends. We went to fetch some water, and we were" ready -- sorry, "we were
14 getting ready to go to school, because, you see, that day it was my turn to go and fetch
15 water before school, because the other members of my family had already done their
16 turn."

17 Do you recall this testimony, sir?

18 A. Yes.

19 Q. Sir, my question is which school were you going to on that morning?

20 A. The school that I was going to, the institut (Redacted)

21 Q. Sir, I recall that you are under oath and we have just seen a document saying
22 that as of August 2001 you have been excluded from school. The Prosecution has
23 shown the first page of two additional documents saying that you are not in school in
24 2001-2002 and you are not in school in 2002-2003. So I'm telling you, sir, that you
25 were not going to school when you say you were abducted, and in fact, sir, the whole

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1 thing about the abduction is an entire lie; isn't that the truth, sir?

2 A. No. I was stopped before I went to the school. In 2003 I was in the armed
3 group that I told you about, but when I was stopped, that was the day that I was
4 getting ready to go to school. I was getting ready to go to school.

5 Q. Sir, you've already mentioned that you were going to school. I'd like to know
6 which school because the documents we have, unless you say they are incorrect, says
7 that you're not going at any school in 2002. So which school are you going to?

8 PRESIDING JUDGE FREMR: Asked and answered, Mr Bourgon. Mr Witness
9 simply insists on his previous testimony.

10 MR BOURGON:

11 Q. Sir, for the record, I have -- I will refer to the document which was mentioned
12 by the Prosecution and the number of the document is document that the Prosecution
13 showed you and asked you some questions on and the number is ending with 0043.

14 Now, in this document, if I can turn to page 0046, and this is the page where your
15 name appeared and you recognized your name at number 4. Do you recall this, sir?

16 A. Yes.

17 Q. Looking at the first page of this document, it says that this document was made
18 in (Redacted) 2001. My understanding, sir, is that this date is the end of the
19 school year 2000-2001. Can you confirm this?

20 A. I no longer recall whether it was the end of the school year or not. What I
21 remember was --

22 THE INTERPRETER: Inaudible.

23 THE WITNESS: (Interpretation) I don't remember. I don't remember if it was the end of the
24 *school. All I remember is the name. I don't remember the date of the end of the school year.

25 MR BOURGON:

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1 Q. Sir, the Prosecution showed you your name and we will take a look at this page.

2 If the page can be displayed for the witness, 0046.

3 The Prosecution showed you this page where it states at paragraph 4 (Redacted)

4 (Redacted)

5 (Speaks English) And then we have your name at number (Redacted) according to

6 your testimony, (Redacted) and then there is a (Redacted)

7 You've already stated that you don't remember the percentage.

8 You were then asked whether you were -- it was explained to you the words

9 (Redacted) and you said it was not explained to you. Well, I'm suggesting to you, sir,

10 that in fact you were excluded from school at the end of the school 2000-2001 because

11 of your age and because you were too old to go to school. Isn't that the truth, sir?

12 A. No. (Redacted)

13 (Redacted). It was not

14 because of my age. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. Sir, is it your testimony now that you continued for another year at (Redacted)

20 Is that what you're saying today?

21 A. Yes. At (Redacted) I was studying in the same class the (Redacted)

22 (Redacted) but during two consecutive school years. The first year I failed,

23 but then I went back and I did another year in the same class. And the second year,

24 the second school year I did not finish.

25 Q. Sir, I also suggest to you that the reason you did not finish in addition to your

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1 age where it says (Redacted) it is because you were older than the other kids and you
2 simply did not fit in the group. Do you recall this, sir?

3 A. No. I don't remember being kicked out because of age. I remember the first
4 year I had failed, but the second year I was expelled because I was a troublemaker. I
5 remember sometimes I even skipped school.

6 Q. Sir, you said under oath that the reason you were expelled was because of the
7 war. I will quote your testimony in this regard. We said this at the beginning.

8 You said, "I did (Redacted) school and I couldn't go on because I was
9 taken and enlisted in the army." So now you're saying you did two years; is that
10 your testimony today?

11 A. I didn't say that I had done just one school year the first year, but I didn't specify
12 how many times I did that school year. I just wanted to say that after the first year of
13 secondary school, I was not able to go on to the second year of secondary school.

14 Q. And, sir, when you said that you couldn't go on because "I was taken and
15 enlisted in the army," you know that this is -- this is entirely false. You could not go
16 on because of the reasons you just mentioned, that you were a troublemaker. It had
17 nothing to do with the army; is that correct, sir?

18 A. The first year, being a bad student, so I would be expelled, but my father
19 intervened and then I went back to school and I continued. And it was the second
20 year I was not able to continue and that is when I was abducted and put in the army.

21 Q. We will let the Judges appraise your testimony.

22 My next question has to do with the document that was shown to you by the
23 Prosecution and I refer here to the document bearing the number 000 -- no.
24 0118-0020.

25 It's a mix of numbers, Mr President, with the old system and the new system.

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1 Now this document, sir, is the -- was shown to you by the Prosecution, the first page,
2 and it says "Palmarès scolaire 2001 - 2002." Now, I could not find your name in this
3 document. Do you agree with me or do you want to look at the document?

4 A. I don't know whether my name is there or not. If it's not there, well, I don't
5 know why it's not there.

6 Q. Sir, I suggest to you that during the school year 2001-2002 you were not in
7 school; do you agree with me?

8 A. If I recall correctly, I was still at school that year during that school year.

9 Q. Sir, I refer to the next document which was shown to you by the Prosecution,
10 document 0118-0003. This is a similar document. Prosecution showed you the first
11 page and this is for the school year 2002-2003. And I have not been able to find your
12 name in this document and I suggest to you, sir, that you were not in school in
13 2002-2003. Would you agree with me?

14 A. In 2002-2003 that particular school year I was already in the army so I couldn't
15 have been going to school.

16 PRESIDING JUDGE FREMR: Sorry to interrupt, Mr Bourgon.

17 Just to have a clear idea, Mr Witness, what was the normal duration of the school year?
18 What time such a school year in this school normally started and what time used to
19 end?

20 THE WITNESS: (Interpretation) I no longer recall which month, but I do know
21 that in the Congo there are school holidays throughout the year, but I don't remember
22 how many months made up a school year. I can't tell you about that.

23 PRESIDING JUDGE FREMR: If you don't remember, no problem.

24 THE WITNESS: (Interpretation) It might have been eight or nine.

25 PRESIDING JUDGE FREMR: Mr Bourgon.

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1 MR BOURGON:

2 Q. Sir, I only have a few more questions for you very quickly. I'd like to confirm
3 what you said in your statement at paragraph 13, 2075-0613 is the number, the exact
4 page 0615 and paragraph 13 you say here, (Interpretation) "I do not remember when
5 I finished primary school."

6 (Speaks English) Do you maintain this information, sir?

7 A. I no longer recall which year I finished primary school in.

8 Q. And we already --

9 PRESIDING JUDGE FREMR: Sorry, Mr Bourgon.

10 Ms Luping.

11 MS LUPING: It's just a question of situating the witness, Mr President. I'm just
12 referring -- I'm looking at the same page of this statement. We do have in that same
13 paragraph -- if it could be shown to the Chamber again because I don't want to
14 influence the response if it can be shown again. I'm asking if the Chamber can see it.

15 PRESIDING JUDGE FREMR: So it should be shown to us shortly. Yes, now it's
16 there. Okay. Fine.

17 MR BOURGON: I don't know what part of the statement my colleague is referring
18 to and --

19 MS LUPING: It's just -- if we're talking -- if we're asking the witness about timing of
20 when he may have finished the first year primary school, I would just bring to the
21 Chamber's attention the sentence just before when he started the studies and the age
22 he was at when he started his studies. I just think out of fairness, it's not meant to be
23 exactly a memory test, but it certainly may assist the witness in providing potentially
24 an answer to the question if he is read the prior sentence as to the age he was when he
25 started the studies at primary school. So (Interpretation) "I began that education

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1 when I was 6 years of age."

2 PRESIDING JUDGE FREMR: Mr Bourgon.

3 MR BOURGON: It wasn't part of my question, but I can certainly put it to the
4 witness.

5 PRESIDING JUDGE FREMR: I think there is no need.

6 Continue.

7 MR BOURGON:

8 Q. Mr Witness, we already know also that before this Chamber at transcript 105,
9 page 15, lines 7 to 9, you also said, "I don't remember what age I was when I started
10 school."

11 Do you recall this testimony, sir?

12 A. Yes. At that time I was about six years of age, approximately, but I don't
13 remember the exact age I was.

14 Q. Sir, I only have two more questions and these questions relate to the location of
15 the school (Redacted). So you can confirm, sir, that this school is located right
16 beside (Redacted). Do you agree with me, sir?

17 A. If you go from the centre – if (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. And from that school to quartier (Redacted) it's much further; is that
21 correct, sir?

22 A. Yes, from the (Redacted) to the

23 neighbourhood it's a longer distance. (Redacted) is after the town,

24 (Redacted)

25 Q. Well, sir, I'm going to give you one last chance to maybe remember by

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1 refreshing your memory that in fact in 2002 you lived in (Redacted)

2 (Redacted) Would you agree with me, sir?

3 A. We first lived in the (Redacted) because we had the

4 house and then it was after (Redacted) that the family moved to go to (Redacted)

5 Q. And I'd like to have a year, sir.

6 A. I no longer remember the year exactly. I've forgotten.

7 Q. And, sir, I put it to you that you were not going to school, that what we've done

8 today changes nothing to the fact that your date of birth is (Redacted)-- or sorry,

9 (Redacted), the date I said, but that you were born in 1984, that you did not go to

10 school in 2001-2002, and that you were not abducted by the UPC, that all this is a

11 story you concocted with (Redacted). That's my case, sir.

12 A. I never spoke with (Redacted) about that. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted) All I know is that

16 I was abducted into the army.

17 MR BOURGON: That concludes my cross-examination, Mr President. Thank you

18 very much.

19 PRESIDING JUDGE FREMR: And I appreciate that you made it really efficient way.

20 Mr Bourgon, now question as concerns your previous position to -- your position to

21 the request of Prosecution to admit those four documents, what is your position now?

22 MR BOURGON: Well, Mr President, we -- regarding the document which

23 establishes -- the numbers of the documents, the one ending with 0043, which is for

24 the school year 2000-2001, we have no objection. This document should go in. It is

25 very important for impeachment purposes, but it should go in for the truth of its

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1 contents.

2 The document number -- the following document with year 2001-2002 should also go
3 in for the truth of its content, as well as the third document for the years 2002-2003.

4 These documents, Mr President, of course we see in the first one that we have the
5 name of the witness and the other two we do not have the names. So we have no
6 problems with for these three documents going in for the truth of their contents.

7 As for the other document, the one bearing the number -- I do not have the number
8 the document, the long document of 124 pages, we certainly object to this document
9 going into evidence because the main reason this document was brought before this
10 Chamber this morning was to attempt to show a date, and what we have in the
11 testimony of the witness is that the date that would correspond, if that document has
12 any connection with the witness, it would be either he said a 4 or a 9, 1984 or 1989.
13 1989 does not match his testimony, and not only does it not match his testimony, but
14 it's not corroborated by anything in the sense of why he would be excluded before age.
15 As to 1984, well, yes, well, that could have some corroboration because we know that
16 1984 makes him 18 years old when he is excluded. So now we have some -- maybe
17 some probative value.

18 But the document itself is illegible. It is of no assistance and all we can know is to
19 guess based on the figures that were advanced by the witness.

20 So for all of these reasons, Mr President, this document should go in but for
21 impeachment purposes only and nothing else. And certainly not for the truth of its
22 contents. Thank you, Mr President.

23 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

24 Ms Luping, I think we don't need any further submissions on that.

25 Give us a moment.

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1 (Trial Chamber confers)

2 PRESIDING JUDGE FREMR: So after silent deliberation in the courtroom our ruling
3 is that all four documents specified by Ms Luping are admitted into evidence as
4 further Prosecution exhibits.

5 This concerns objection made by Defence: In our view all those four documents
6 have some relevance, have some prima facie indicia of reliability. We don't see any
7 prejudice if all of them are admitted. On the contrary, we believe that they should be
8 evaluated in complex and then even maybe could serve as a rebutting argument.

9 Now, Mr Witness, your testimony is I believe really now finished. So thank you
10 very much again for coming. Thank you very much for testifying. We believe that
11 your testimony will help us in finding the truth. So thank you very much and once
12 more all Chamber wish you safe journey home. Thank you very much.

13 Now, court officer, you may escort Mr Witness out of the courtroom.

14 And we now can move into open session.

15 (The witness is excused)

16 (Open session at 11.11 a.m.)

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

18 PRESIDING JUDGE FREMR: Thank you, Court officer. So we break now. We
19 resume 11.40 and then we will continue with further witness.

20 Now court is adjourned.

21 THE COURT OFFICER: All rise.

22 (Recess taken at 11.11 a.m.)

23 (Upon resuming in open session at 11.46 a.m.)

24 THE COURT USHER: All rise.

25 Please be seated.

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1 PRESIDING JUDGE FREMR: I see there are some changes in composition of the
2 teams. I would like first ask for putting those changes into record starting with
3 Prosecution.

4 MR VAN DER WERF: Your Honour, the Prosecution is represented by Julieta
5 Solano, trial lawyer; Marion Rabanit, associate trial lawyer; Selam Yirgou, case
6 manager; and myself, Rens van der Werf, assistant trial lawyer.

7 PRESIDING JUDGE FREMR: Thank you, Mr Van der Werf.
8 Now Defence.

9 MS GRANDON: (Interpretation) Good morning, your Honour. The only change
10 for the Defence is Elisa Binon has left the room.

11 PRESIDING JUDGE FREMR: Thank you.

12 And as concerns Legal Representatives, there is no change.

13 Before we move to testimony, there are a few procedural issues we have to solve first
14 and the first one has to be made in private session.

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

16 (Private session at 11.48 a.m.) *(Reclassified partially in public)

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

18 PRESIDING JUDGE FREMR: Thank you.

19 So first the Chamber wishes to put some email exchanges on the, record, including its
20 ruling on Defence request number 1414.

21 In accordance with an oral decision rendered on 22 June 2016, (Redacted) provided
22 the Chamber and the relevant appointed Legal Representative with an overview of
23 (Redacted)

24 (Redacted)

25 On the same day and upon receipt of this overview, the Chamber informed the

1 parties via email that the information (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 On 23 June 2016 and upon receipt of proposed redactions from (Redacted)
7 (Redacted) the Chamber transmitted a redacted version of (Redacted) overview to
8 the parties applying redactions to (Redacted)
9 (Redacted).
10 The Chamber notes that this overview provides the Defence, as requested, with
11 additional information concerning the (Redacted)
12 (Redacted).
13 I know that the Registry has been instructed to file by Friday, 24 June 2016 both
14 unredacted and redacted versions of this overview.
15 Now, concerning the classification of these documents, I note that the Legal
16 Representative of former child soldiers sent an email requesting to be provided with
17 the part of the overview concerning (Redacted). Noting that these
18 documents were included on the Defence list of items, the Chamber finds it
19 appropriate to direct that the redacted overviews to be filed by (Redacted) may be
20 classified as confidential so as to grant both LRVs access to them.
21 The Chamber also deemed it appropriate to order the transmission to the parties of
22 redacted versions of (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted). Accordingly, on 23 June 2016 the Chamber also

1 instructed the Registry to proceed with the transmission of redacted versions of those
2 (Redacted).

3 Noting that the transmission may not be possible prior to the Defence
4 cross-examination due to the lateness of the Defence request, the Chamber
5 nonetheless ordered the Registry to proceed with the transmission via email and on a
6 rolling basis to accelerate the provision to the Defence of appears to be prima
7 facie relevant information. I note that (Redacted) were already provided yesterday
8 and that at least some (Redacted) had already been provided at the pre-trial stage.

9 The Chamber will ensure that these redacted (Redacted) are also provided to
10 the Legal Representatives of victims.

11 So that is all as concerns this issue and now we can move into open session for the
12 second one.

13 (Open session at 11.53 a.m.)

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

15 PRESIDING JUDGE FREMR: Thank you, court officer.

16 The Chamber also puts on the record that on 12 May 2016 the Prosecution sent an
17 email to the Chamber seeking to be provided with access to the victim application
18 form of Witness P-877. On the same day and in accordance with its order number
19 1060, the Chamber responded via email recalling its direction to the VPRS to transmit
20 the full length application form of all dual status witnesses to the Prosecution and
21 further noting that the victim application form of Witness P-877 should be provided
22 forthwith.

23 The Chamber was informed that the document in question was transmitted to the
24 Prosecution on 13 May and subsequently informed the disclosure to the Defence in
25 redacted form took place on 2 June 2016. For the record, this is document

1 DRC-OTP-2092-0288.

2 Now we should move to the rest of the testimony of our witness.

3 Prosecution, do you want to -- because I was told that Prosecution would like to
4 address the Chamber before that. Am I right?

5 MR VAN DER WERF: That is correct, your Honour.

6 PRESIDING JUDGE FREMR: Okay. So you have the floor, Mr van der Werf.

7 MR VAN DER WERF: Thank you. Your Honour yesterday I didn't have an
8 opportunity to respond to the Defence's argument that they did not have an
9 obligation to reveal the basis of their objection. I wish to make brief supplementary
10 submissions on the admission of the three pages of the witness's notebook and I will
11 just have three points.

12 First, the Defence has not offered any legal or factual basis for its objection to the
13 admission at this stage of the three pages. Rule 64(1) of the Rules requires that the
14 party opposing the admission of a document to raise an issue. The Defence did not
15 do so and in the absence of such an issue there is no objection.

16 Allowing the Defence to object to the admission of a document without offering any
17 legal or factual basis gives the Defence a degree of control over the record of the case
18 that is unwarranted and we submit unreasonable.

19 Second, the Defence is free in cross-examination to attack the document and to
20 challenge the truthfulness of the information it contains, and the Chamber may
21 properly take that into consideration in assessing the document's weight, but that
22 should not detract from the document's admissibility.

23 And third, your Honours have deferred the admission of these three pages on the sole
24 basis that it was also done in relation to one document during the testimony of
25 Witness P-315. However, your Honours, the situation of that document was very

1 different from the situation of this document which relates to P-877. Whereas the
2 document concerning P-315 was not explained in detail in her statement, this witness
3 has extensively commented on the three pages of his notebook in his second
4 statement. This statement contains three pages containing comments of the witness
5 on the three pages of the notebook.

6 The statement and these comments have been admitted into evidence and the
7 Defence did not object to these comments and this information being admitted into
8 evidence.

9 Accordingly, the Prosecution submits that these three pages should be admitted at
10 this stage because it's relevant and probative and it has been authenticated by the
11 witness as its author. There is no issue of prejudice arising from the admissibility of
12 the document at the present stage because the Defence simply has not articulated the
13 prejudice.

14 We therefore request the Chamber to admit the three pages of the notebook already at
15 this stage including -- as well as the corresponding pages of the transcript of this
16 document.

17 PRESIDING JUDGE FREMR: Thank you.

18 Defence?

19 MS GRANDON: (Interpretation) Thank you very much, your Honour. Where it
20 concerns the reasons why I objected yesterday to the admission of the three excerpts
21 of the notebook, I was basing it on the jurisprudence of your Chamber, which in the
22 past had pushed the admittance of a document after the cross-examination had been
23 finished. To tell you a bit more about my doubts with regards to the notebook, it is
24 quite simply that I think we can't evaluate the reliability and credibility of the
25 notebook and witness with just the three excerpts that were chosen by the OTP. And

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1 during my cross-examination I intend to draw the attention of the witness to other
2 passages and to draw the conclusions that you can rule on and consider whether
3 relevant or not. That's the only answer that I can give the Office of the Prosecutor
4 today.

5 PRESIDING JUDGE FREMR: Mr van der Werf, I think I don't need any submissions
6 because I think our position, we will maintain our position. I have to admit that it's
7 not ideal for the Chamber, even for the proceedings, if the other party is not totally
8 clear about the kind of objections, but in this -- in this occasion or this case the
9 Prosecution -- the Defence indicated that they will during the cross-examination at
10 least try to put some doubts on the criteria that would allow us to admit this
11 document. And at the moment we don't see any prejudice to Prosecution if we
12 would wait until the end of the cross-examination.

13 So it's our position, we will maintain this for the moment and we will decide after
14 cross-examination.

15 Now, court officer, please bring Mr Witness into the courtroom.

16 (The witness enters the courtroom)

17 PRESIDING JUDGE FREMR: Mr Witness, good morning. Are you feeling okay
18 today?

19 WITNESS: DRC-OTP-P-0877 (On former oath)

20 (The witness speaks French)

21 THE WITNESS: (Interpretation) Thank you, Mr President. I must confess that
22 I'm feeling fine and I spent a good night. Thank you.

23 PRESIDING JUDGE FREMR: That's good to hear that. So, Mr Witness, we are
24 going to continue today with the rest of your testimony. So it's my duty just to
25 remind you that you are still under oath, which means that you have to speak truth

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1 and nothing but the truth, which I guess is clear to you. And as concerns my
2 previous instructions, you yesterday observed them very well, so please just continue
3 in the same way.

4 Now I will hand over floor to Mr van der Werf. And, Mr van der Werf, you still
5 have at your disposal 27 minutes.

6 MR VAN DER WERF: Thank you, Mr President.

7 We can remain in open sessions for my first questions.

8 QUESTIONED BY MR VAN DER WERF: (Continuing)

9 Q. (Interpretation) Witness, as I already pointed out to you, I will not be putting
10 questions to you on your entire statement. I will focus only on a few aspects of your
11 testimony -- or your statement, rather, so that you can provide additional information
12 and explanations as need be.

13 We don't have much time and I therefore want to urge you to be as clear and as
14 concise as possible in your answers. Please listen carefully to my questions and
15 answer only the questions that have been put to you. Is that fine?

16 A. Yes. Thank you.

17 Q. Let me remind you as well that we are in open session and please do not
18 provide any information that may lead to your identification. If you have any need
19 to mention any such information, we will have the option to go into private session.
20 First question. In your statement you indicated that when you arrived in Kilo after
21 the UPC attack shops had been looted. My question in that regard is the following:
22 How did you become aware of that?

23 A. Thank you for your question.

24 PRESIDING JUDGE FREMR: Sorry, Mr Witness. Please hold on for a second.

25 Defence.

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1 MS GRANDON: (Interpretation) My colleague is referring to a statement. Could
2 he please provide the statement and the paragraph?

3 PRESIDING JUDGE FREMR: Mr van der Werf, please.

4 MR VAN DER WERF: (Interpretation) Number DRC-OTP-2069-2086, paragraph
5 25. And to gain time, I intend to refer to this statement as the first statement.

6 Q. Witness, let me repeat my first question to you. How did you become aware of
7 this?

8 A. Thank you very much for your question. The question about looting of stores
9 and shops is not something that I learned, but it is something that I saw myself the
10 next day after the UPC troops had come into Kilo. When we came out of the bush
11 the next day, we saw that shops had -- which previously had goods in them had been
12 broken into and there was nothing in them. The owners of the shops themselves
13 were there complaining about what had happened.

14 Q. What type of goods are you talking about?

15 A. Quite ordinarily in our area you have grocery shops where you can have
16 foodstuffs such as beans and rice and other items such as cigarettes, so you have
17 shops providing food such as fish and oil, and then you have other shops which sell a
18 number of items, including clothes and shoes and various appliances. So all those
19 type of shops were looted.

20 PRESIDING JUDGE FREMR: Sorry, sorry to interrupt you. I would like to ask
21 both of you please observe pauses, three seconds between question and answer,
22 because otherwise we have problems with transcript and translation. So please
23 observe 3-second pauses. Thank you.

24 MR VAN DER WERF: Yes, I apologise, Mr President.

25 Q. (Interpretation) My next question is the following. In your first statement,

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1 paragraph 30 you stated that while the UPC was in Kilo, the soldiers would go into
2 the forest every day and come back with two or three Lendu prisoners. You also
3 stated that they would be tied up and that you would not see them again.

4 My question in that regard is the following: How did you know that those prisoners
5 were Lendus?

6 A. Thank you very much for the question. Mr President, you must know that in
7 my statement when the UPC arrived it was on 6 December 2002 in Kilo. They settled
8 in Kilo and thereafter, the Lendu combatants and the Lendu inhabitants fled to their
9 territory or their territory in the Walendu-Djatsi area, which is neighbouring the
10 Banyali-Kilo sector.

11 It is from Kilo that the UPC troops would launch patrols into the forest, and
12 whenever they returned from such patrols they would return with some Lendu
13 combatants and inhabitants who had been captured in the bush.

14 Now, the question as to how I became aware that those were Lendu people, there is a
15 very simple answer to it. You see, in our area the Lendus can be identified by their
16 looks, just like the Nyali and the Hema. So in addition to that, they have a way of
17 speaking which leads one to understand that they are Lendus. Furthermore, the
18 direction from which those captured persons were brought in is directly in the Lendu
19 area. It is for those reasons that I was able to confirm that we were dealing with
20 Lendu combatants and inhabitants.

21 PRESIDING JUDGE FREMR: And, Mr Witness, please a bit slow down because it's
22 also not easy for, not only for interpreters but also for court reporters to write your
23 speech down. So a bit, please, slow down. Thank you.

24 Mr van der Werf, please proceed.

25 THE WITNESS: (Interpretation) Thank you.

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1 MR VAN DER WERF: (Interpretation)

2 Q. You have just talked about the inhabitants or population. What was the
3 gender of the prisoners you saw?

4 A. Generally it was men.

5 Q. And their age?

6 A. Normally they were adults. I did not see any children who had been captured.
7 I did not see any women either. In any event, what I saw or the people I saw were
8 male adults of a certain age.

9 Q. In paragraph 33 of your first statement you mentioned that after the UPC left
10 Kilo you found a hole about 2 by 3 metres which was filled with at least 10 bodies
11 piled up one on the other?

12 A. Yes. Thank you. Yes, that is what I stated. And it is because, you see, when
13 the UPC extended its attacks towards Kobu, they left Kilo and then set up or settled in
14 Kobu. Now, behind them the chief of the village, Mr Bazonga, noticed that there
15 was some smell coming out of a valley and so he asked the inhabitants of the village
16 to go and cover up those bodies for fear of an epidemic breaking out. That is what
17 happened. I think that I also mentioned on my sketch the location of the camp and
18 the location of that lower area where that grave was.

19 Q. Can you describe what you saw in that hole?

20 A. Yes. What we saw in the hole is the following: There were dead bodies of
21 people who had been killed using bayonets because we could see on their heads that
22 their heads had been struck with bayonets and we also saw on some of the bodies
23 marks of some kind of blows that may have been given using a hammer or something
24 else. And the bodies were piled up one on top of the other.

25 Q. Do you know the gender of the bodies that you saw?

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1 A. What I saw with my own eyes was men. I did not see any women and I did
2 not see any children.

3 Q. Were the dead bodies wearing any clothes?

4 A. No. Generally no. Most of them had no tops, others had their trousers on.
5 And that's how they were piled up.

6 Q. In your first statement in paragraph 34 you said that in 2011 some skulls were
7 found near the hole and that the back parts of those skulls were dented and that gave
8 you the impression that these people had been killed because they had been struck by
9 something?

10 A. Yes. In 2011 the dead bodies were dumped somewhere, but let me say that
11 before then the Belgians had occupied a building in that area and when people looked
12 around, they found that around that area there was a little dump site for rejects of the
13 gold mining process.

14 So it is in that area that people started digging and then subsequently came upon a
15 number of skulls and other body parts. There were skulls as well as some other
16 bones that were found in that area. The chief of the locality did everything to stop
17 people from continuing to work in that area. In any event, whenever any bones
18 were found, they would be buried.

19 What I said, however, was that we found skulls with holes at the central level here.
20 That's what we saw.

21 Q. One more question in that regard: Did you see the skulls yourself?

22 A. Yes.

23 MR VAN DER WERF: Mr President, I would like to move into private session for
24 my next questions.

25 PRESIDING JUDGE FREMR: Certainly.

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1 Court officer, let's move into private session now.

2 (Private session at 12.16 p.m.)*(Reclassified partially in public)

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

4 PRESIDING JUDGE FREMR: Thank you.

5 Mr van der Werf, please proceed.

6 MR VAN DER WERF: Thank you.

7 Q. (Interpretation) Mr Witness, in your first statement at paragraph 32 you also
8 mentioned that the UPC recruited many children in Kilo.

9 Please just hold on before you answer. Let me finish asking the question.

10 My question in that regard is the following: How did you become aware of that?

11 A. Thank you very much for your question. You know, at the time of the
12 hostilities that we are talking about (Redacted) the Nyali people, mostly who were not
13 involved in the Hema versus Lendu conflict were affected by the conflict which
14 gradually spilled over to our area. And when they got there, whether they were
15 dealing with Hema or -- dealing with the Hema or the Lendu, they tended to mistreat
16 (Redacted) the Nyali.

17 So when the UPC arrived, there were a number of persons between -- within the UPC,
18 including late General Kisembo, who referred to the Nyalis as his -- as his uncle or
19 their uncles because it is the Nyalis who provided him the mother, so (Redacted) his
20 maternal uncles.

21 Now, when he came with his team, his position was that if people did not join the
22 army, they will not be able to defend themselves. And that is how the UPC began to
23 recruit young Nyalis into the army with the view to having them believe that by
24 joining the army they will be obtaining protection for their territory. Thank you.

25 Q. How did you become aware of that?

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1 A. (Redacted)

2 (Redacted) I can even give you a list

3 of about 50 children whom I know who were in the UPC army in Kilo (Redacted)

4 (Redacted)

5 (Redacted) Then the FNI also came in and we -- before -- there was the FNI, then they

6 were driven out by the UPC, and then the FNI and the Ugandans drove out the UPC.

7 (Redacted)

8 (Redacted)

9 Q. Do you know the ages of those children?

10 A. I cannot lie because I do not know the ages of those children. All I know is the

11 age (Redacted) who joined them because at that time he was

12 13 years old. But as for the others, I don't want to tell a lie about their age because

13 I don't know it. However, if you look at them and take into consideration their

14 stature, you would think that they are children, but I am not able to give you their

15 specific ages. If I attempted to do so, I would be lying and I don't want to do that.

16 Q. You just referred to (Redacted). What do you know about

17 the circumstances in which that child was recruited into the UPC?

18 A. That child was recruited normally along with the other children. They had

19 gone to Mandro and from there they did what they could do, (Redacted)

20 (Redacted)

21 Q. How do you know that?

22 A. First of all, one, I know that the child was recruited along with other children.

23 Two, I also know that the child (Redacted)

24 Q. Do you know whether this child participated in any operations?

25 A. Yes. The child participated in UPC operations on 6 March in Bunia when the

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1 UPC attacked the UPDF in Bunia. The child participated in that attack. He also
2 participated in several other operations such as in Bau and elsewhere.

3 Q. Can you give the name of that child to the Court?

4 A. Yes. (Redacted)

5 Q. Last question on that child. You have mentioned in your statement that (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted), he said that such things were authorised in the army such as

13 drinking, smoking and taking drugs in order to become courageous. (Redacted)

14 (Redacted)-- those are the habits that he picked up from the army.

15 Q. When you talk about the army, which army are you referring to?

16 A. The army I'm referring is the -- well, by the way, an army normally should be a
17 normal army under the control of a government, but when I say army here, I'm
18 referring to the UPC militia.

19 Q. I have last question on another issue. In your written statement,

20 DRC-OTP-2077-0118 at paragraphs 39 to 41, in that statement you mentioned that you
21 were able to recognize Bosco Ntaganda when he came to Kilo because you had
22 already seen him in 1998 in Bunia. My question in that regard is the following:

23 Can you tell the Court in what circumstances you saw Mr Ntaganda in Bunia?

24 A. Thank you very much for that question. Well, you know that even today, even
25 now, let me refer to this -- because even now I know Mr Robben, who is an athlete, a

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1 Dutch athlete who is a sportsman, but if you call me in front of Robben ici, he will not
2 be able to recognize me, but I recognize him because he is a worldwide figure who is
3 well-known.

4 Now, when it comes to Bosco Ntaganda, I know Bosco Ntaganda in relation to his
5 activities in relation to what he was doing at the time. (Redacted)

6 (Redacted) I saw him when he was with

7 Wamba dia Wamba's group and with Thomas Lubanga and Kakolele and

8 Commander Claude and all of these people, they were in their movement together.

9 After Wamba dia Wamba left, Mbusa Nyamwisi took over and so on and so forth.

10 So I was able to see them in all those circumstances. That is how I got to see him in
11 Bunia as well.

12 Q. Do you know anybody called Ngwene?

13 A. Ah, thank you very much for the question.

14 PRESIDING JUDGE FREMR: Hold on, Mr Witness. Hold on, Mr Witness.

15 Defence.

16 MS GRANDON: (Interpretation) I would like to raise an objection in the absence
17 of the witness, Mr President.

18 PRESIDING JUDGE FREMR: All right then.

19 Court officer, please take Mr Witness out of the courtroom.

20 Mr Witness, sorry for the inconvenience. You have to -- yes.

21 (The witness stands down)

22 PRESIDING JUDGE FREMR: Ms Grandon, please proceed.

23 MS GRANDON: (Interpretation) Thank you, Mr President. My colleague from
24 the OTP is trying to elicit evidence that is not contained in this statement of the

25 witness but which is information that I obtained during my meeting with the witness

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1 last Monday within the Article 63 -- Rule 63(3) provision. So the Prosecutor is not
2 supposed to elicit new evidence from the witness.

3 Let me underscore that my meeting on Monday with the witness was followed by a
4 meeting with the OTP during which this topic was discussed but which does not
5 appear in the witness's statement. It therefore appears to me that these types of
6 difficulties have already been experienced in the past where the Prosecutor alleges
7 that new information had been obtained during the preparatory sessions.

8 I therefore would like to call on the Prosecutor to abstain from raising any questions
9 with the witness on this matter. Thank you, Mr President.

10 PRESIDING JUDGE FREMR: Prosecution.

11 MR VAN DER WERF: Your Honour, this evidence that I'm -- that I will attempt to
12 elicit from the witness is relevant to the witness's statement. It's not itself contained
13 in the statement, but the circumstances in which it came to the Prosecution's attention
14 have no bearing on whether I can elicit or not from the witness. This evidence is
15 relevant to the witness's ability to recognize Bosco Ntaganda in 2002 and that's why
16 we are now trying to elicit it.

17 PRESIDING JUDGE FREMR: Could you be more specific in why it's relevant.

18 MR VAN DER WERF: Yes, Mr President. During the meeting that the Defence had
19 with the witness, (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE FREMR: All right. Objection overruled. You may proceed

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1 this way.

2 Court officer, please bring Mr Witness back to the courtroom.

3 But anyway I guess it will be the last issue because you have only three minutes

4 remaining, Mr van der Werf.

5 MR VAN DER WERF: Yes, Mr President.

6 (The witness enters the courtroom)

7 MR VAN DER WERF: Thank you, Mr President.

8 Q. (Interpretation) Witness, I'm just going to repeat my question. Do you know
9 somebody by the name of Ngwene?

10 A. Yes. Thank you very much for the question. Ngwene is a military officer in
11 the Mobutu army -- former Mobutu army. And we called him "Inspector" because
12 he worked in the military prosecution in Bunia there.

13 And after the events of Kabila, father, this Mr Ngwene is still there, and at the time of
14 Wamba dia Wamba he organised another prosecution in Bunia and he was still the
15 inspector there. The objective was against the illegal detention of firearms or illegal
16 holding of firearms. (Redacted), Chef Kahwa was arrested by

17 Ngwene, the reason being illegal holding of a firearm. He was put in prison. And
18 if you go to Bunia currently, the place is called Hotel touristique. You go to Bunia,
19 ask anyone before the auditorat and Ngwene was working there. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 THE INTERPRETER: Corrects the interpreter.

24 THE WITNESS: (Interpretation) (Redacted)

25 (Redacted)

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9 (Redacted) the body of Inspector Ngwene on the ground. And the

10 Ugandans who were around there, the Ugandans there, they said that it was

11 Mr Bosco Ntaganda who had shot him point-blank. Thank you.

12 MR VAN DER WERF: Your Honour, with your leave, I have just one last question

13 to ask the witness to spell a name just for the accuracy of the record.

14 PRESIDING JUDGE FREMR: It's fully fine.

15 MR VAN DER WERF:

16 Q. Witness, a last question to ask you if you would be so kind as to spell the name
17 of the child you mentioned.

18 A. (Redacted).

19 Q. Could you please spell it.

20 A. (Redacted)

21 MR VAN DER WERF: Thank you.

22 Your Honour, I have no further questions.

23 PRESIDING JUDGE FREMR: Thank you, Mr van der Werf.

24 Now it's Ms Pellet turn. Ms Pellet, you filed filing number 1409, your request to

25 examine this witness. Do you maintain this request?

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1 MS PELLET: (Interpretation) Yes, your Honour.

2 PRESIDING JUDGE FREMR: And how much time do you think you would need?

3 MS PELLET: (Interpretation) Depending on the answers and the length of the
4 answers given by the witness I'm not really able to give you an estimate. I've just got
5 three questions.

6 PRESIDING JUDGE FREMR: Prosecution, your position on that? Any objection to
7 allow Ms Pellet to examine the witness?

8 MR VAN DER WERF: No objection, your Honour.

9 PRESIDING JUDGE FREMR: Ms Grandon?

10 MS GRANDON: (Interpretation) I noted that in the application of my colleague
11 there were two items for questions, one on the consequences of recruitment (Redacted)
12 (Redacted)and the second on the harm. I'm not sure I understand the difference
13 between the consequences and harm on the other. I think your Chamber has
14 restricted the field of questions of the Legal Representatives of Victims to harm
15 suffered by the victims.

16 PRESIDING JUDGE FREMR: Ms Pellet?

17 MS PELLET: (Interpretation) I'm not sure that I understand, but the two questions
18 deal with the psychological state of (Redacted) just after demobilisation
19 and that's the subdivision.

20 PRESIDING JUDGE FREMR: It's all right with the Chamber. So you said you are
21 ready to put three questions?

22 MS PELLET: (Interpretation) Yes. Perhaps follow-up questions.

23 PRESIDING JUDGE FREMR: Anyway, so you are granted to examine the witness,
24 but you should be ready in 15 minutes in maximum.

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

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1 QUESTIONED BY MS PELLET:

2 Q. Witness, we know each other well because I represent you in the proceedings.

3 I just have a question to put to you concerning the application that you filed acting in
4 the name of (Redacted). First of all, you provided -- we are in private session so
5 you can speak without fear.

6 Now, you provided a spelling of the name (Redacted)

7 (Redacted)

8 (Redacted)

9 A. (Redacted)

10 Q. Thank you, Witness. (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 Q. Thank you very much, Witness. (Redacted)

2 (Redacted)

3 (Redacted)

4 A. I'm sorry, I don't understand the context. Please could you ask your question
5 again.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

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14 (Redacted)

15 (Redacted)

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23 (Redacted)

24 Q. Thank you very much, Witness.

25 PRESIDING JUDGE FREMR: Thank you, Ms Pellet, for being punctual.

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1 Mr van der Werf.

2 MR VAN DER WERF: Thank you, Mr President. I just want to make a correction
3 regarding -- I think there's a need to correct the English transcript of the hearing
4 today.

5 PRESIDING JUDGE FREMR: Please go ahead.

6 MR VAN DER WERF: At page 67, line 2 it says distracted and the French transcript
7 says détraqué, so the English transcript will need to be corrected. And the French
8 transcript is at page 63, line 6. Thank you.

9 PRESIDING JUDGE FREMR: Defence, any objection to that correction? I see that
10 no, no objection. Okay, then it's approved.

11 Now, Defence, I guess it will be you, Ms Grandon, who will examine this witness?

12 MS GRANDON: (Interpretation) Would you like me to start now or would you
13 like us to have a break now and to start earlier this afternoon?

14 PRESIDING JUDGE FREMR: I would rather prefer to start now, please.

15 MS GRANDON: (Interpretation) If you could give me just a few minutes to set up.

16 PRESIDING JUDGE FREMR: All right.

17 (Pause in proceedings)

18 PRESIDING JUDGE FREMR: And I will utilise this break just to instruct witness.

19 Mr Witness, now you will be cross-examined by representative of Defence, and I
20 would like to remind you that this Court is governed by fair process, which means
21 that both parties should be treated equally, which for you means that you should
22 respond questions put to you by Defence in the same way how you did it as concerns
23 questions put to you by Prosecution.

24 Do you understand?

25 THE WITNESS: (Interpretation) Yes, your Honour.

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1 PRESIDING JUDGE FREMR: Very well then.

2 Ms Grandon, are you ready?

3 Then please proceed.

4 QUESTIONED BY MS GRANDON: (Interpretation)

5 Q. Good morning, Witness.

6 A. Good morning.

7 Q. We already met twice, but I would like to introduce myself, Chloé Grandon,
8 and I'm *representing Bosco Ntaganda.

9 A. Thank you.

10 Q. You remember we met on two occasions?

11 A. Yes.

12 Q. You confirmed to my colleague from the Office of the Prosecutor yesterday that
13 you gave two statements; do you remember that?

14 A. Yes.

15 Q. A first statement from (Redacted)

16 A. Yes.

17 Q. Which was the result of three days of meetings with the investigators?

18 A. Yes.

19 Q. And a second statement a few months later in the month of (Redacted)

20 A. Yes.

21 Q. Which was -- which lasted for a day?

22 A. Yes.

23 Q. If I have understood the subject of the second statement and that meeting of the
24 month of (Redacted) it was that the Office of the Prosecutor wished you to reread the
25 statement of the month (Redacted) with an interpreter who spoke French and English and

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1 that would make it possible for you to make corrections thereto but also to be able to
2 make comments on the notebook that you brought on that day?

3 A. Yes.

4 PRESIDING JUDGE FREMR: Sorry to interrupt both of you. Again, I would like to
5 remind you that you should speak -- slow down a bit because it's not easy for
6 interpreters to capture all you are saying.

7 And also, Mr Witness, to keep pauses between questions put to you and your
8 response. Thank you.

9 MS GRANDON: (Interpretation) Please excuse me, your Honour.

10 Q. Do you remember that before meeting the Office of the Prosecutor to give these
11 statements which last three days, you had a first shorter meeting with the
12 investigators?

13 A. Yes.

14 Q. And this meeting was not put down in a document that you signed?

15 A. Yes.

16 Q. So you had three meetings in total with the OTP?

17 A. Yes.

18 Q. And you confirm that at each of these meetings you were informed that the
19 purpose of the meeting, at least for the OTP investigators, was to investigate events or
20 charges against the UPC and Mr Ntaganda?

21 A. Yes.

22 PRESIDING JUDGE FREMR: Just my addition to the transcript because I didn't
23 activate the mic, page 72, line 9 I just asked Ms Grandon and the witness to keep
24 pauses and to speak on slow pace.

25 Ms Grandon, please proceed.

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1 MS GRANDON: (Interpretation)

2 Q. Before asking you questions with regards to the fact 2003, 2004, I'd like to go

3 back to a subject which we dealt with together on Monday, namely, (Redacted)

4 (Redacted). Please excuse me, I'm going to make you repeat

5 questions that I've already put to you, but it's necessary for the Judges to hear your

6 answers.

7 Do you follow?

8 A. Yes.

9 Q. In your statement of (Redacted) paragraph 38 you explained to the investigators

10 that at the time you were (Redacted)

11 (Redacted); is that correct?

12 A. Firstly, thanks for the question. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

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10 MS GRANDON: (Interpretation) Would you like me to continue or should we
11 have the break now?

12 PRESIDING JUDGE FREMR: I think we should have the break.

13 So, Mr Witness, I thank you for the moment, now we will break for the lunch break.

14 So, first please, court officer, you may take Mr Witness out of the courtroom. And
15 then let's move into open session.

16 (The witness stands down)

17 (Open session at 1.01 p.m.)

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

19 PRESIDING JUDGE FREMR: Thank you, court officer.

20 So we will continue after the lunch break. You all know that Defence had been

21 allotted three hours for cross-examination of the witness. It's clear that if you will

22 take all the time, you will not be able to finish this witness before the end of this

23 because we still have only two hours at our disposal. So that is why I am just asking

24 you, Ms Grandon, obviously in consultation with Mr Bourgon, to consider whether if

25 you wouldn't be able to streamline a bit more the rest of the cross-examination. But I

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1 don't want to push you. You are still entitled to full three hours. Because I don't
2 want to hide that it's probably not ideal to keep witness over the weekend just
3 because of some 40, 45 minutes of the rest of the testimony. It's up to you. So far
4 witness was very cooperative. He responded very clearly, even very fast. There is
5 no time-consuming issue of double translation. Do you want to comment at the
6 moment, Ms Grandon?

7 MS GRANDON: (Interpretation) Just to mention that the witness speaks quite a
8 lot, so I don't know if that's going to slow me down in the process. But if I could
9 finish at the end of the day, I will do that if I can.

10 PRESIDING JUDGE FREMR: Yes, you are right that sometimes he is providing a bit
11 too much, too much extensive narrative. In such a case feel free to break him and
12 say, with my full support, that "It's beyond the question and please, Mr Witness, we
13 will turn to another question." So feel free to do that.

14 Now we break and we will resume half past 2.

15 THE COURT USHER: All rise.

16 (Recess taken at 1.03 p.m.)

17 (Upon resuming in open session at 2.32 p.m.)

18 THE COURT USHER: All rise.

19 Please be seated.

20 PRESIDING JUDGE FREMR: Good afternoon, everybody. We will continue with
21 cross-examination of our current witness by the Defence.

22 So, Ms Grandon, you have the floor. Ms Grandon, do you want to proceed in open
23 or in private session, depending on the character of your upcoming questions?

24 MS GRANDON: Private please.

25 PRESIDING JUDGE FREMR: Private session. So just for the information of public,

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1 it's because this witness is protected one, so he got granted that his identity will not be
2 revealed to the public.

3 Now, court officer let's move into private session.

4 (Private session at 2.34 p.m.)*(Reclassified partially in public)

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

6 PRESIDING JUDGE FREMR: Thank you, court officer.

7 Ms Grandon, please proceed.

8 MS GRANDON: (Interpretation)

9 Q. Good afternoon, Witness.

10 A. Good afternoon to you too, Counsel.

11 Q. Before the break we had quickly started looking at (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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22 PRESIDING JUDGE FREMR: Mr Witness, I think it's sufficient. And I would like
23 to ask you for one thing, because Ms Grandon, I am sure, is intending to put you
24 many questions, but she is limited by our time, which is not so long, so please try to
25 concentrate your questions as much as possible and directly to that what was asked

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1 from you. Because I know that your information sometimes are very interesting, but
2 simply Ms Grandon is limited by the time so really she needs as much focused
3 responses as possible. Am I clear enough?

4 THE WITNESS: (Interpretation) Thank you very much, Mr President.

5 PRESIDING JUDGE FREMR: Ms Grandon, please proceed.

6 MS GRANDON: (Interpretation)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

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15 (Redacted)

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- 3 THE INTERPRETER: Says the witness.
- 4 MS GRANDON: (Interpretation)
- 5 (Redacted)
- 6 (Redacted)
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9 Q. I'd like to move on to another topic and ask you a few questions about the
10 notebook that was mentioned yesterday which you had an opportunity to comment
11 upon in (Redacted)

12 PRESIDING JUDGE FREMR: Ms Grandon, just a question, is there still a need to
13 remain in private session? (Redacted)

14 (Redacted), then we could -- but if he would not reveal his identity anyway, then
15 we could move into open, but it's subject to your upcoming questions.

16 MS GRANDON: (Interpretation) I would like to do that in open session, but we
17 will be mentioning a notebook that he wrote in I'm afraid that there may be a risk.
18 We can make the attempt and see how things unfold.

19 PRESIDING JUDGE FREMR: I would prefer to remain safer and to remain in
20 private. Thank you.

21 MS GRANDON: (Interpretation) I have made a number of copies because I will
22 have to ask him questions in order to elicit comments on several pages. You will
23 find both the original and the translation in this document. The witness has only the
24 original.

25 Q. Is it correct, Witness, that you provided your notebook during your last meeting

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1 with the OTP in (Redacted)?

2 A. Yes.

3 Q. That means that the first two times that you met with the investigators you did
4 not have the notebook with you?

5 A. Yes.

6 Q. I've gone through the notebook and I counted 80 pages. Is that about right?

7 A. Well, myself, I didn't count myself. That's your job.

8 Q. I noted that some notes were in Swahili and some were in French; is that right?

9 A. Yes.

10 Q. Could you explain why some notes were in Swahili and others in French?

11 A. Well, some notes were in Swahili, and the reason is that it is a language that I
12 speak. And French is as well, I also speak French. The choice I made to note
13 something down in Swahili or French, well, if you read the notebook carefully, you'll
14 see that there are many circumstances mentioned. For example, at time -- sometimes
15 we might have gatherings at a church and not everyone at the church would
16 necessarily speak French. So if it was an activity conducted in Swahili, the notes
17 would have been in Swahili. But if the people were speaking French, you'll find that
18 in the notebook -- for example, training that was given, you'll find that if the training
19 was in French --

20 THE INTERPRETER: Overlapping speakers.

21 MS GRANDON: (Interpretation)

22 Q. You said that you were also jotting down important events?

23 A. Yes.

24 Q. But the notebook also included personal observations?

25 A. But important ones for me.

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10 (Redacted)

11 Q. And did you keep the notebook at home or did --

12 A. Yes.

13 Q. Yes what?

14 A. I keep the notebook at home because that is where I write down things that
15 concern me.

16 Q. Well, at home?

17 A. At home.

18 Q. You also explained when you had an opportunity to comment about the
19 notebook, and I make reference to your (Redacted) statement once again, that most of
20 the notes were taken chronologically; is that so?

21 A. Not necessarily, because -- not necessarily in chronological order, but I generally
22 respected the various stages. Some activities were not mentioned, some activities
23 were mentioned.

24 Q. Now, regarding the chronological order of dates, indeed you did say that the
25 first note in the notebook was not recorded chronologically; do you remember?

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1 A. Yes.

2 Q. Could you perhaps open up the notebook?

3 A. Now?

4 Q. Yes. You can see some page numbers that have been added at the bottom and
5 so -- this is page 0141. Could -- if you wish, you can remove the paper clip if that's
6 bothering you.

7 A. Yes.

8 Q. In your (Redacted) statement you said that the notebook started in (Redacted) can
9 you confirm?

10 A. Yes.

11 Q. And this is paragraph 15 from the (Redacted) statement and you said:
12 (Speaks English) "This notebook begins on (Redacted). Also, the first page is
13 written in 2002. I don't know why this is. I just wrote about some events
14 afterwards that occurred in 2002 on the3
15 first page."

16 (Interpretation) Does this confirm that, generally speaking, other than the first page
17 you would fill out the notebook as you went along in a chronological fashion?

18 A. Thank you very much for the question. Now, first of all, what you must
19 acknowledge is that the use of this notebook does not depend on a particular law or
20 some sort of oversight or anything like that. And I never was told that this
21 document would be shown before this august Chamber. But what you can see here,
22 (Redacted), you can see that it's written in Swahili. I wrote it down and it is the
23 biography of someone who passed away and there was no room where -- so you see, I
24 wrote it in this particular fashion without taking into account that later it would be
25 necessary to follow the chronology. But since this is a biography of the person who

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1 had died and I wrote it where there were empty spots and I wasn't necessarily able to
2 put everything in in one spot, because there were also notes that had to do with
3 myself.

4 Q. If we could move on to another page. If we could go on to (Redacted). If I
5 could continue leafing through the pages, page 0114 of the translation.

6 THE INTERPRETER: Reference number read out too quickly.

7 PRESIDING JUDGE FREMR: Ms Grandon, hold on.

8 MR VAN DER WERF: I believe the witness will also need to know the page of the
9 original document. I don't believe --

10 MS GRANDON: (Interpretation) He has the original.

11 MR VAN DER WERF: I understand that the reference that you just provided was
12 the -- that was just provided was a reference to the translation. Perhaps I'm
13 mistaken.

14 PRESIDING JUDGE FREMR: It's also my recollection.

15 MS GRANDON: (Interpretation)

16 Q. We were at the first page ending in 41, then we moved -- we were moving on to
17 42. If I look at the original, at the top of the page, 041 of the original, (Redacted) and
18 then we have another date. Let me move on, 0143, (Redacted) Are you following me?

19 A. Yes.

20 Q. If I continue to leaf through the document in this manner --

21 PRESIDING JUDGE FREMR: Ms Grandon, I guess you are too fast. Am I right,
22 court officer? You have no mercy on the interpreters.

23 MS GRANDON: I apologise.

24 Q. (Interpretation) Now, do you agree with me that if we continue to leaf through
25 the document that the dates continue in chronological order?

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1 A. Yes.

2 Q. You also said in your statement that sometimes you would write down your
3 notes a little bit later, not necessarily the same day.

4 A. Yes, because you can't always be going around with a notebook. For example,
5 you may find out something, one day you're in Bunia, and then once you're back, you
6 might record the item of information later, once you're back.

7 Q. And when you made an entry into the notebook, the same kind of entry as what
8 I have just shown you, and when you wrote down (Redacted) does that mean that it
9 was written in that place?

10 A. It means that the note was recorded in that place, yes.

11 Q. Now, just to hark back to what you were saying a bit earlier, can you confirm
12 that, amongst the important events that you recorded in 2002 and 2003, there were
13 some important events that had to do with the conflict?

14 A. Yes.

15 Q. Now, I did the math and I see that amongst the 80 pages of your notebook only
16 a few entries have to do with the 2002-2003 conflict. Can you confirm that that's so?

17 A. Well, I didn't have the time or opportunity to count all the pages and so on, but
18 when it comes to checking page counts and the like, that's really your job, so I can't
19 really say.

20 Q. When you met with the OTP the third time and you had an opportunity to
21 make comments on the notebook, you yourself drew the investigators' attention to the
22 notes that had to do with the 2002-2003 conflict, didn't you?

23 A. Yes.

24 Q. And these notes are three in number, there are three pages? Do you remember
25 being shown three pages from the document yesterday?

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1 A. Yes.

2 Q. And those three pages are the three pages that you had an opportunity to
3 comment upon in (Redacted)

4 A. Yes.

5 Q. If we could go back to the page that the OTP showed you yesterday. Now, in
6 the notebook, this is 0187, and the translation DRC-OTP-2021 -- 0589-0639 -- 38. Can
7 you see the page?

8 A. Yes.

9 PRESIDING JUDGE FREMR: Prosecution.

10 MR VAN DER WERF: I just want to note that this is not one of the pages that was
11 shown to the witness yesterday.

12 MS GRANDON: (Interpretation) This is an error on my part. I apologise.

13 Indeed, it was not shown yesterday but it's a note that has to do with the events of
14 2002-2003.

15 Q. Do you recognize this entry?

16 A. It's not --

17 Q. In your notebook?

18 A. I don't -- it would be better to put it up on the screen.

19 Q. Now, you make reference to an event that occurred on (Redacted). Can
20 you confirm that?

21 A. Yes.

22 Q. And if we scroll up -- rather, if we go back a bit in the note --

23 A. No, no. It's not 2003. I think it's 2002.

24 Q. The translation shows 2003 as the date.

25 A. No. It's 2002.

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1 Q. 2002 or 2003, can you confirm?

2 THE INTERPRETER: Overlapping speakers. No respect of the 5-second rule.

3 PRESIDING JUDGE FREMR: Sorry, we -- Mr Witness, I can understand that you are
4 keen of giving response, but you are sometimes too fast like in the last case, so that
5 was why the interpreters were not able to capture your response. Could you kindly
6 repeat that and respect this, at least, three seconds, three seconds at least pause
7 between the question and your answer. So please repeat your last response.

8 THE WITNESS: (Interpretation) Thank you very much, your Honour. Now, here
9 it's not 2003, it's 2002 because this is something that happened -- well, (Redacted)
10 (Redacted). That was the event.

11 MS GRANDON: (Interpretation)

12 Q. Now, if we go back in time in the notebook -- or rather, if we go back in the
13 notebook, could I draw your attention to page 0186. Are you there? Can you see
14 the entry (Redacted)

15 A. Yes.

16 Q. So --

17 A. No, no, I don't see it.

18 Q. Can we zoom in, please.

19 Can you see (Redacted)

20 A. Yes.

21 Q. So that page is found before the previous page we looked at which referred to
22 (Redacted). Now I want to draw your attention to another page which is
23 situated after that page, that is page 206 of the original. Are you there?

24 A. Yes.

25 Q. On that page the date mentioned is (Redacted) and (Redacted) 2002; is that

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1 correct?

2 A. Yes.

3 Q. So you have the entry on (Redacted), which is the first page I showed
4 you, which is entered after an entry of (Redacted). Can you confirm that?

5 A. Yes.

6 Q. So you can confirm that with regard to that first entry relating to the events in
7 2002-2003 there is no chronological order?

8 A. I told you that chronology was not the necessary order in which entries were
9 made in this document. And it's not only about this document in which I have
10 mentioned a number of things. If you come to my home, for example, I have several
11 other documents on which I have written many other things and it's not only
12 necessarily here. The problem, however, for me is that when there is an entry, it is
13 somewhere and I am able to find it if I look for it. So for me the problem is not one
14 of chronology.

15 Q. We will look at the other excerpts and then I will put some questions to you
16 about matters relating to chronology.

17 The second entry relating to the events of 2002-2003 was part of the excerpts
18 presented to you by the OTP yesterday. Now, on the original document that will be
19 page 206, 0206, which is already on the screen, do you agree that this entry relates to
20 an activity that occurred in (Redacted) and (Redacted) 2002?

21 A. Yes.

22 Q. A short while ago we agreed that it is situated after an event which was dated
23 previously by you?

24 A. How?

25 Q. That entry for (Redacted) 2002 is not in the chronological order in

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1 relation to the previous entry.

2 A. Yes. I already agreed with you and I said that I was not guided by chronology
3 as you have attempted to mention. What mattered to me was for the entry to be
4 there somewhere.

5 THE INTERPRETER: Microphone, please. Microphone.

6 PRESIDING JUDGE FREMR: Ms Grandon, your mic was not --

7 MS GRANDON: (Interpretation)

8 Q. The third entry which the OTP showed you yesterday is at page 0210 of the
9 original notebook.

10 PRESIDING JUDGE FREMR: Prosecution.

11 MR VAN DER WERF: Mr President, I just note that the French transcript seems to
12 be frozen and has been like this for a while now.

13 PRESIDING JUDGE FREMR: Court officer?

14 Now it should be okay.

15 And again, I got the message that it would really facilitate the role of court reporters
16 and the interpreters if you both would a bit slow down because you are -- you know,
17 it's natural, you both are very fast, but it rather complicates the role of those who have
18 to record it and translate it. So please have it in mind.

19 MS GRANDON: (Interpretation)

20 Q. Do you see that entry?

21 A. Yes.

22 Q. Can you confirm that the date on the entry is (Redacted)

23 THE INTERPRETER: Dates are read out too fast, Mr President.

24 PRESIDING JUDGE FREMR: Again, Mr Witness, you were too fast. You know if
25 you are too fast there is no chance to capture it. So please repeat your response

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1 again.

2 THE WITNESS: (Interpretation) Thank you very much, Mr President. I agree
3 with what she asked about the dates.

4 MS GRANDON: (Interpretation)

5 Q. Let us now go to page 2011 -- no, rather, 211 of the original.

6 PRESIDING JUDGE FREMR: Mr van der Werf.

7 MR VAN DER WERF: Your Honour, I just note that the transcript refers to two
8 dates, (Redacted). When I look at the notes, I
9 see that it refers to 6 December, so I think that there is a mistake there and there's a
10 third date that seems to be missing.

11 PRESIDING JUDGE FREMR: I'm sorry, but I don't see any way that -- Ms Grandon,
12 you should repeat that and to clarify. In English it's 105, line 9.

13 MS GRANDON: (Interpretation) I think, Mr President, that we have to return to
14 the page that we are looking at, which is the previous page, in order for me to put my
15 question, that is page 0210 of the original.

16 PRESIDING JUDGE FREMR: All right.

17 MS GRANDON: (Interpretation)

18 Q. Can you confirm that the first date here is (Redacted)?

19 A. Yes.

20 Q. Second date (Redacted) and there's no year?

21 A. Yes.

22 Q. And the third refers to the (Redacted)?

23 A. Yes.

24 Q. Now let us go to page 0211 of the original, which is one of the following pages.

25 You have a date at the top of that page, (Redacted). Can you confirm that?

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1 A. Yes.

2 Q. Therefore you agree with me that, once again, the third entry relating to the
3 2002-2003 events is not chronologically entered in relation to the rest of the notebook?

4 A. Yes.

5 Q. Let me draw your attention to the last entry that the Prosecutor showed you
6 yesterday, which is at page 0213 of the original.

7 Would you agree with me that the two dates in that entry are (Redacted)?

8 A. Yes.

9 Q. And (Redacted)?

10 A. (Redacted)

11 THE INTERPRETER: Says the witness.

12 MS GRANDON: (Interpretation)

13 Q. Are you saying that it's not (Redacted)

14 A. It's (Redacted)

15 Q. So it's a (Redacted)?

16 A. Yes, it's a (Redacted). I'm sorry, even the page which you showed previously, if
17 you can return to that page, there is an error in the dates as well on that previous page,
18 the page which you just displayed a short while ago.

19 Q. That would be page --

20 A. That page.

21 Q. The page before this one?

22 THE INTERPRETER: Overlapping speakers.

23 PRESIDING JUDGE FREMR: Sorry, again, you are overlapping. So, please, I know
24 that I'm repeating myself, but -- and even we appreciate, Ms Grandon, you are trying
25 to reach our common goal to finish this testimony today, but if we are too fast then

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1 we will not make it so, again, please slow down. Especially if you are mentioning
2 some dates or names.

3 And the same with you, Mr Witness, please wait for a while before you are
4 responding.

5 Please proceed.

6 MS GRANDON: (Interpretation)

7 Q. What did you want to correct, sir?

8 A. I'm sorry, Mr President, please bear with us because we are not used to
9 appearing in a court like this. This is the very first time and I crave your indulgence
10 regarding my conduct.

11 Now, for those of us who are teachers we tend to speak a lot, so please bear with us.

12 I would like to draw your attention to the page that you have just referred to and
13 I think the date is (Redacted). So the correction there is (Redacted) not (Redacted)

14 Q. Can we return to the next entry then?

15 A. No problem.

16 Q. So we are now at page 0213. You made a correction to the date of (Redacted) and
17 said it was (Redacted) instead?

18 A. Yes, it is exact. It is correct what is entered.

19 Q. You would agree that this entry appears after the entry of (Redacted)
20 which we saw a short time ago?

21 A. No, it's not (Redacted). It's (Redacted)

22 Q. Now, if I take the four entries we have just looked at together, the first relating
23 to (Redacted), do you remember that? And then the three others, are
24 you -- please say yes so that it can be captured on the transcript.

25 A. Yes.

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1 Q. And the other three which were presented to you by the OTP yesterday, can
2 you confirm to the Court that for those three entries relating to the events they are
3 entered differently into the notebook?

4 A. I do not understand the language you have used. You used the word
5 "dispatché" in French, which was translated as enter differently, so you are more
6 familiar with the issue of chronology when it comes to using notebooks and I -- I am
7 not functioning according to that context. I have consistently said that I use my
8 notebooks to enter data regardless of what you are referring to as chronology. So
9 please bear that in mind. I do not necessarily follow the required places in which to
10 make particular entries. What I do is if there is something to enter, I enter it as a
11 reference which might help me, jog my memory subsequently. So maybe if you
12 want to raise questions about a specific event entered in relation to a date, I can
13 answer those questions. Now, but when it comes to chronology and the respect of
14 the use of maybe diaries and what companies and banks and other institutions might
15 call folios, I really am not -- I didn't function in that way.

16 Q. Let me now draw your attention to page 0188 of the original, please.
17 Are you there?

18 A. Yes.

19 Q. Can you confirm that you are the one who entered that note?

20 A. Yes.

21 Q. Let us go to page 0205 of the original, please.

22 Can you confirm that you are the one who wrote that entry?

23 A. Yes.

24 Q. Now, let us go to page 0209.

25 Can you confirm that you made that entry yourself?

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1 A. Yes.

2 MS GRANDON: (Interpretation) Court officer, is it possible to display the two
3 pages side by side?

4 THE COURT OFFICER: We will try.

5 MS GRANDON: (Interpretation) In that case, please let's try to have pages 0188
6 and 0187 side by side.

7 Q. To the right you have the entry on (Redacted) and to the left, the other
8 note, that you have just confirmed that you wrote yourself. Do you confirm that the
9 two writings are different between the two messages, the two handwritings are
10 different?

11 A. Well, thank you for your remarks and observations. You have noted that the
12 handwriting is different, but what I can tell you is that I am the author of both entries.

13 Q. When you say "both" --

14 A. I mean the two. The first entry is about (Redacted)
15 (Redacted) which I wrote down carefully. And the other entry is a piece of
16 information.

17 THE INTERPRETER: Microphone.

18 MS GRANDON: (Interpretation) Court officer, please could we --

19 PRESIDING JUDGE FREMR: Ms Grandon, sorry, you didn't switch on your
20 microphone, if I'm not wrong. You did? Anyway, please put your question again
21 because I got message that you are not heard.

22 MS GRANDON: (Interpretation) Could I have page 02 and 06 -- 0205 and 0206.

23 Q. To the left you have the other message which, a short while ago, you confirmed
24 having authored yourself and then to the right you have an entry that was shown to
25 you by the OTP yesterday. You would agree with me once again that the

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1 handwritings on both entries is different?

2 A. Well, here, as I've already told you, on the one hand there is a written teaching
3 in Swahili, and on the other side there is a piece of information that has been written
4 down in French. So personally I do not see any differences and, therefore, in order
5 not to hand you -- take you from Pilate and hand you to Herod, let me say that I am
6 the one who authored both documents. It is up to you to decide whether because of
7 the differences someone else might have written one part and someone else the other.
8 Thank you very much.

9 Q. The last two pages I would like to display are 0209 and 0210.

10 PRESIDING JUDGE FREMR: Mr van der Werf.

11 MR VAN DER WERF: I believe the witness mentioned -- well, used an expression
12 in his previous answer that wasn't captured by the transcript. It's at page 111, line 18
13 for the English transcription. If the counsel for Defence could please ask the witness
14 to repeat the expression.

15 PRESIDING JUDGE FREMR: Ms Grandon, please. We really don't have it in
16 English transcript.

17 Mr van der Werf, could you just refer to concrete part of the French transcript and if
18 Ms Grandon confirms that it's okay we can just -- I think we will be satisfied with
19 that.

20 MR VAN DER WERF: Unfortunately the French transcript did not capture it either.
21 And the French transcript at page 104, line 10.

22 PRESIDING JUDGE FREMR: Maybe to facilitate, please, Mr van der Werf, put this
23 question to Mr Witness to clarify that. It would be easiest.

24 QUESTIONED BY MR VAN DER WERF: (Interpretation)

25 Q. Mr Witness, you used an idiomatic expression. If you could be so kind as to

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1 repeat it. I heard the word "Pilate" in French. Could you elaborate.

2 A. Thank you very much, Mr President. I used the expression (Speaks French),
3 that is to say -- she was asking me a question and now if I put a question to her, it is as
4 if -- well --

5 THE INTERPRETER: Message from the interpreter: Essentially, the witness means
6 I don't want to mislead you.

7 THE WITNESS: (Interpretation) Regarding the order of the entries and the author
8 of the writing that is in doubt and the writing that is not in doubt.

9 PRESIDING JUDGE FREMR: Thank you for this clarification.

10 Ms Grandon, please proceed.

11 MS GRANDON: (Continuing) (Interpretation)

12 Q. And the last pages that I would like to show you are the pages ending in 10
13 with 0209, 0210. You said you were the one who wrote these particular entries.
14 And page 0210 there is a note submitted --

15 A. Yes.

16 Q. Can you confirm once again that these entries are in different handwriting?

17 A. Grounds, that's on the other side. That's in Swahili. And here, here I see
18 some private information, private to me, that I wrote in French. So I don't see, I
19 myself do not see any difference because all the information there has to do with me.

20 Q. Isn't it strange that when it comes to the three entries that have to do with the
21 2002-2003 entries that handwriting is different to the handwriting in the rest of the
22 notebook?

23 A. I don't find the handwriting that is different would change the nature of the
24 information itself. In my case, what I see here -- well, even it is written in very small
25 characters. All the same, that brings a great deal of information to my mind. So I

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1 don't think that the information is really falsified or altered in this particular case.

2 Q. Now, on the first page of the (Redacted) statement, if we could please call that up,

3 DRC-OTP-2069-2086. DRC-OTP-2069-2086. If we could please scroll down to the

4 bottom of the page.

5 Can you see your signature here?

6 A. Yes.

7 Q. If we could now put up the first page of the other document ending in the

8 numbers 88. (Redacted).

9 DRC-OTP-2092-0288, if we could scroll down to the bottom of this document, please.

10 Can you see the document?

11 A. Yes.

12 Q. Is this your signature?

13 A. Yes.

14 Q. If we could go back to the original of the notebook, page 0141. Reference

15 number 2077-0140.

16 Could we zoom in to the middle of the page? Can you see the signature?

17 A. Yes, I can. I see it.

18 Q. Is that your signature?

19 A. No, no, that's not my signature. And yet, on the other hand, if you look at the

20 page, you will see that the children were scribbling on the page, so it must have been

21 the children who were scribbling on the page. This is not my signature.

22 Q. Are you telling us that the signature in the middle is the signature of a child?

23 A. I'm not saying that a child signed the document, but you can see the scribbling,

24 that the children were playing and were scribbling. But, you see, at home we also

25 have some older students. But I'm not saying that it was a child, but it was not me

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1 who signed there at the bottom.

2 Q. So you're not the only person who wrote in the notebook?

3 A. Well, it's not a matter of writing, but your question was about the signature.

4 And writing something is one thing, signing something is another thing.

5 PRESIDING JUDGE FREMR: And for the record, it's also fair to say that the
6 signature mentioned by you, Ms Grandon, is written different colour than the entry
7 above.

8 MS GRANDON: (Interpretation)

9 Q. Well, if it's not your signature, whose signature is it?

10 A. Your Honour, I am a father and I have my various possessions at home. In this
11 case, what you see here is that -- well, I have children and they may get up to all kinds
12 of nonsense and I don't know who, I don't know which child might have signed this
13 document. But my problem is not the signature, it's not my signature. You see my
14 signature everywhere and you'll see that it's the same thing.

15 Q. So you don't know who placed the signature in your notebook?

16 A. Absolutely not.

17 Q. And you're saying that several people at home had access to your notebook?

18 A. Several people had access to my notebook. And, well, the people who are in
19 my home -- well, I have children of school age and, for example, if they find
20 something on the table, they might play with documents, scribble on it, so this is the
21 case. But to say that several people or people from the neighbourhood had access to
22 the notebook, no, I wouldn't say that. What is more, twice when I met the
23 investigators, I was telling them the dates of the events and the question I was asked
24 was how did you remember those dates. And I said, well, I had written those dates
25 somewhere in my notebook and if I go back home I can get the notebook and find it

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1 and bring it back. And when you see the notebook itself, namely, its physical
2 appearance, you'll see that it's not a -- something that was kept on a library shelf or in
3 a bookcase. It's very much in keeping with my way of life, my small house, my table
4 on which my possessions sit. I am not a -- I'm not a bourgeois --

5 Q. I'm sorry to interrupt you, but I think my question was relatively clear: You
6 don't know who placed this signature in your notebook?

7 A. I don't know who placed the signature in my notebook, but that doesn't mean
8 that a lot of people had access to the notebook and wrote something else in it.

9 PRESIDING JUDGE FREMR: Ms Grandon, sorry to break, to interrupt you. For
10 the sake of planning, it's up to you, do you think you will be able to conclude this
11 cross-examination by half past 4 or not.

12 MS GRANDON: (Interpretation) That I was -- I was thinking about that. If I
13 could just consult my colleagues for a moment.

14 PRESIDING JUDGE FREMR: Please do.

15 (Counsel confers)

16 PRESIDING JUDGE FREMR: So what is the position of your young ladies Defence
17 team.

18 MS GRANDON: (Interpretation) Unfortunately I don't think I'll be able to finish
19 by 4.30.

20 PRESIDING JUDGE FREMR: No problem.

21 Mr van der Werf, I saw you on your feet.

22 MR VAN DER WERF: Yes. Thank you, Mr President. I just wanted to request a
23 correction of the transcript. I believe the English transcript needs to be corrected as
24 it refers to the signatures in the witness's notebook, whereas the French transcript and
25 the witness's answer was this -- this signature.

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1 And I can provide the references. The English transcript is at page --

2 PRESIDING JUDGE FREMR: Please do.

3 MR VAN DER WERF: -- 116, line 20. And the French transcript is at page 116, line
4 18.

5 PRESIDING JUDGE FREMR: Ms Grandon, any objection to correct the English
6 transcript accordingly with the French version?

7 MR VAN DER WERF: I apologise, the French transcript was at page 109.

8 MS GRANDON: (Interpretation) No position.

9 PRESIDING JUDGE FREMR: All right. Then I agree to correct the English version
10 as proposed.

11 Now, you may proceed, but since we will not be able, which is fully understandable,
12 able to finish this testimony today, so we will finish 4.25 because I will use remaining
13 five minutes for some procedural issue. So please be ready to finish for today at
14 4.25.

15 MS GRANDON: (Interpretation)

16 Q. We will now move on to another topic.

17 A. No problem.

18 Q. If we could move on to the incident that you spoke of in your two statements
19 and also during the first meeting you had with the OTP, namely, the incident with the
20 aircraft in Mongbwalu?

21 A. Yes.

22 PRESIDING JUDGE FREMR: I'm, Ms Grandon, is there a need to remain in private
23 for this topic?

24 MS GRANDON: I don't think so.

25 PRESIDING JUDGE FREMR: Okay then. Let's move into open session.

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1 (Open session at 4.19 p.m.)

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

3 PRESIDING JUDGE FREMR: Thank you.

4 Ms Grandon, please proceed.

5 MS GRANDON: (Interpretation) Could we now have the following document:

6 2069 at page 88. Reference number 2069-0096 at page 98.

7 Q. Witness, during your first meeting with the OTP you made mention of this
8 incident and you explained that when you arrived at the airport in Mongbwalu you
9 were amongst some people, you were a group and two Lendus were part of the
10 group and they were taken apart from the main group. Do you remember?

11 A. Yes.

12 Q. Do you remember the names of these two people?

13 A. I beg your pardon.

14 Q. Do you remember the names of these two people?

15 A. Yes.

16 PRESIDING JUDGE FREMR: Probably at least for this response we will move into
17 private.

18 (Private session at 4.21 p.m.) *(Reclassified partially in public)

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

20 PRESIDING JUDGE FREMR: Thank you.

21 Please proceed.

22 MS GRANDON: (Interpretation)

23 Q. Can you give me those two names, please?

24 A. That's easy. Their names were (Redacted)

25 Q. Those are common names in that area. Do you have any other names, or

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1 nicknames or anything?

2 A. No, I don't have any other names for them, but those were the names that they
3 used. That's the names they were known by.

4 Q. Yet in your statement (Redacted) you mentioned (Redacted) and you said
5 that they were your friends, but you don't know their other names?

6 A. Your Honour, I realise that when you refer to someone as a friend that is within
7 a particular setting, for example, and that was the case with (Redacted).
8 I don't know any other names or nicknames that they went by.

9 Q. Could we zoom in and have a closer look at paragraph 3.
10 You also explained during your first meeting with the investigators from the OTP that
11 the two Lendus who were taken away from the main group --

12 PRESIDING JUDGE FREMR: Sorry. Sorry, Mr van der Werf.

13 MR VAN DER WERF: Yes, I believe the wrong document may be on the screen.
14 I'm seeing a statement and I believe my colleague intends to show a different
15 document.

16 MS GRANDON: (Interpretation) It is document 2069-0096. 2069-2096.

17 THE COURT OFFICER: Ms Grandon, could you please specify the page you would
18 like to see.

19 PRESIDING JUDGE FREMR: Okay. No, no let's stop here because we are in fact at
20 the, very, very, very close to the end of our session so I think it doesn't make sense to
21 open this issue. We can make it anyway on Monday.

22 So now let's move into open session.

23 (Open session at 4.24 p.m.)

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

25 PRESIDING JUDGE FREMR: Thank you, court officer.

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1 So, Mr Witness, we have to break your testimony now and we will continue on
2 Monday. So I hope that you are not sorry that we are -- we have to keep you in The
3 Hague for upcoming weekend, but on Monday it should be relatively short.
4 Otherwise, I would like to thank you that you patiently responded to all questions
5 put to you. And I also, it's my legal duty to remind you one important thing, that in
6 the meantime you must not discuss your testimony with anybody else, including
7 your family members, simply with anybody else.

8 Have you understood that?

9 THE WITNESS: (Interpretation) Yes, I have understood. And I do thank you for
10 your wise counsel.

11 PRESIDING JUDGE FREMR: Thank you.

12 And now, court officer, please escort Mr Witness out of the courtroom.

13 (The witness stands down)

14 PRESIDING JUDGE FREMR: As to the time remaining to the Defence,
15 cross-examination, I think I got two different data. But at least, or least roughly it
16 should be something around 1 hour, Ms Grandon. But we will clarify that on
17 Monday morning.

18 So we will continue on Monday with the rest of this testimony and then we should
19 continue -- or, yes, we should then follow this testimony with testimony of Witness
20 P-19.

21 Any requests for the floor at this moment? I see it's not the case so --

22 MR VAN DER WERF: Your Honour.

23 PRESIDING JUDGE FREMR: Yes, please, Prosecution.

24 MR VAN DER WERF: I'm told that it would be P-18 and not P-19 on Monday
25 morning.

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- 1 PRESIDING JUDGE FREMR: So sorry, yes, you are right. It was my mistake. It's
- 2 P-18. Exactly. So I would like to thank all of you. I wish you a relaxed weekend
- 3 and see you on Monday.
- 4 THE COURT USHER: All rise.
- 5 (The hearing ends open session in 4.27 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.