

Trial Hearing
WITNESS: DRC-OTP-P-0887

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing
7 Tuesday, 3 May 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: (Interpretation) Good morning. Yes, your Honour.
15 Situation in the Democratic Republic of Congo, in the case the Prosecutor versus
16 Bosco Ntaganda, ICC-01/04-02/06.
17 And we are in open session.
18 PRESIDING JUDGE FREMR: Thank you, court officer.
19 Appearances now starting with Prosecution.
20 MS SOLANO: Good morning, your Honours. The Prosecution is represented this
21 morning by Mr James Pace, assistant trial lawyer; Mr Eric Iverson, trial lawyer;
22 Ms Laura Morris, assistant trial lawyer; Miss Selam Yirgou, case manager; and I am
23 Julieta Solano, trial lawyer.
24 PRESIDING JUDGE FREMR: Thank you, Ms Solano.
25 Defence now.

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1 MR BOURGON: (Interpretation) Good morning, your Honour. Good morning,
2 your Honours. Representing Bosco Ntaganda this morning, who is present,
3 Mr Eric Cookson-Montin; Mademoiselle Margaux Portier; Dignité Bwiza; and myself,
4 Stéphane Bourgon. Thank you, your Honour.

5 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

6 And now Legal Representatives of Victims, please.

7 MS PELLET: (Interpretation) Good morning. The former soldiers are represented
8 by Mohamed Abdou and myself, Sarah Pellet, counsel at OPCV. Thank you.

9 MR SUPRUN: (Interpretation) Good morning, your Honours. The victims of the
10 attacks are represented by OPCV, Anne Grabowski, myself, Mr Suprun, and
11 Cherine Luzaisu. Thank you.

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

13 Now we will have to move into private session because I would like to deliver
14 decision which requires regime of private session.

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

16 (Private session at 9.36 a.m.) *(Reclassified partially in public)

17 THE COURT OFFICER: (Interpretation) We are in private session, your Honour.

18 PRESIDING JUDGE FREMR: This ruling is ruling concerning Defence objection
19 regarding evidence on (Redacted) in Bunia in 2004.

20 The Defence objection is based on the fact that, in light of the witness's clarification
21 during her preparation session, that (Redacted) occurred in 2004, rather than
22 2003, such evidence is beyond the time period covered by the updated Document
23 Containing the Charges and is therefore irrelevant, has little probative value, and
24 should not be permitted to be led.

25 The Prosecution's position is that, although this incident does appear to fall outside

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1 the scope of the charges, this Chamber has allowed evidence of facts occurring
2 outside the temporal scope of the charges before, and that the incident is relevant as
3 pattern evidence, particularly as the UPC elements were still active in Bunia during
4 2004.

5 The Chamber recalls its previous ruling that the fact that purported evidence may fall
6 outside the temporal scope of the charges does not, as a matter of principle,
7 automatically result in it lacking relevance or probative value, and that a case-by-case
8 assessment is required. It's our decision number 1181.

9 In the present case, the Chamber concurs with the Defence that evidence concerning
10 an alleged (Redacted) falling outside the temporal scope of the charges, and
11 which does not directly relate to the charged conduct, may potentially be only
12 marginally relevant and have little probative value. (Redacted)

13 (Redacted)

14 (Redacted)

15 That concludes the Chamber's ruling.

16 And before we move into open session, I was informed that Mr Bourgon would like
17 to address the Chamber in the absence of the witness, or is it necessary to remain in
18 regime of private session or would you prefer to move into open?

19 MR BOURGON: Mr President, I believe we need to stay into private session because
20 I will refer to a confidential document.

21 PRESIDING JUDGE FREMR: All right. So you have the floor, Mr Bourgon.

22 MR BOURGON: Thank you, Mr President. What I would like to do at this time is
23 to make an oral application for the lifting of redactions which were applied to the
24 document called "Demande de participation pour les victimes."

25 The Chamber will recall, Mr President, that earlier this year, in early March, the

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1 Defence filed an application before the Chamber for the lifting of certain redactions to
2 the material applicable or the material which was disclosed in respect of Witness
3 P-0887.

4 The Chamber delivered its ruling and the parties acted according to this ruling.

5 What we are seeking this morning is the lifting of a different redaction. It is a
6 redaction that was not requested initially. I refer, Mr President, to document

7 DRC-OTP-2090-0089. And the page I will be referring to is page 0090.

8 Paragraph 5 of this page reads as follows, I will quote in French as the document is in
9 French:

10 "Nom et coordonnées de la personne (et de l'organisation, le cas échéant) qui a assisté
11 la victime à remplir le présent formulaire."

12 This, Mr President, has been covered in the decision on standard redactions. And
13 usually we are not asking for this information unless of course it becomes relevant to
14 Defence investigations into the credibility of the witness.

15 In this regard, Mr President, I draw the Chamber's attention to yesterday's transcript,
16 which is T-91 -- mistake on my part, which is T-93, and this is on page 59. And on
17 page 59, the witness was asked, by the Prosecution, at line 20:

18 "Madam, do you remember filling out a victim participation application form for this
19 case?"

20 The answer of the witness was: "Yes."

21 Moving on to the next page, which is page 60 of the same transcript, the witness
22 proceeded to explain why there were differences in her victim application form and
23 information she subsequently corrected or changed either during her testimony or
24 while giving her statement.

25 I quote from line 10, going down of page 60, where it says:

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1 "Do you remember what it says on the form?"

2 Answer: "Yes."

3 "And what does it say?"

4 Answer from the witness: "In the first form, we filled out the first form, the person
5 who was asking me questions filled out the form, and I answered his questions.

6 Now, when we met the second time I met with another group, and when I read over
7 the form I noticed that there was a mistake and I wanted to make corrections. I said
8 to them that I hadn't said this or I hadn't said that."

9 Without going in further, Mr President, the witness proceeded to make corrections to
10 this form, to the victim application form or the real name being Demande de
11 participation pour les victimes.

12 PRESIDING JUDGE FREMR: Mr Bourgon, sorry that I am interrupting you.

13 One question of principle because I generally mean that the -- this kind of submission
14 concerning redactions ideally should be made in writing. Is there any reason why
15 you are addressing Chamber orally because, you know, it's a lot of quotations,
16 reference to concrete part of the text in the past. It's also not easy for Prosecution to
17 react immediately on such an extensive, you know, request. So frankly think I don't
18 understand why you -- is there any urgency or?

19 MR BOURGON: There is indeed, Mr President, because this is an area I intend to
20 explore in cross-examination. And although my -- I'm trying to clarify so that
21 everything is on the record. All I want is the names of the person who assisted the
22 witness in filling out her form at the proper time.

23 So that's all I'm looking for. I approached my colleague this morning. I asked her
24 before, "I will make this oral application, of course unless you accept to lift the
25 redactions." And my colleague will be able to confirm her answer was, "We're not

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1 likely -- we're not prepared to lift such redactions without an order."

2 So because I'll be exploring this in cross-examination and to avoid any waste of time
3 when the witness is on the stand, I thought it would be best to raise it immediately
4 this morning.

5 I believe, Mr President, that despite the length of my submission, it is a very short and
6 simple issue whether the Defence is entitled to get the names of the person who
7 helped the witness fill out the form. That's all I'm asking for, Mr President. Thank
8 you.

9 PRESIDING JUDGE FREMR: Ms Solano.

10 MS SOLANO: Thank you, your Honour. Your Honour, the Prosecution opposes
11 the request to -- excuse me. The Prosecution opposes a request to lift these
12 redactions, which are category D4 redactions. And according to the redactions
13 protocol, which is filing 411, annex A, these redactions are ongoing, they're meant for
14 the -- with the aim of ensuring that intermediaries can continue to assist the disclosing
15 party in the investigation of safe and effective manner.

16 The Defence, in compliance with the redactions protocol, was provided with a
17 pseudonym of the relevant intermediary. And they have had this information
18 available to them since the disclosure of the victim participation application form.
19 Moreover, this application is late and it was foreseeable that the Defence's interest in
20 this information could have been brought before the Chamber previously. The
21 victim participation application form does not say anywhere that the form was read
22 back to the witness, and the Defence has known, since they had access to the witness
23 statement, that the form was not read back to the witness because she says so at
24 paragraph 82 of her statement. So it should have come as no surprise that the
25 witness had some corrections to make.

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1 Moreover, the Defence has not articulated the specific relevance of this information to
2 any live issue in the case. And for those reasons, we submit that the request for
3 lifting the redactions ought to be dismissed.

4 PRESIDING JUDGE FREMR: Thank you, Ms Solano.

5 As to the relevance, Mr Bourgon, I think we --

6 MR BOURGON: Thank you, Mr President. The issue -- the Chamber will recall
7 that yesterday the Prosecution proceeded by itself to explore this area, which is quite
8 unusual for the Prosecution to do so, to take the victim participation form and to get
9 the witness to clarify.

10 Had the Prosecution not done this, then I would have been foreclosed to ask for this
11 information until I begin my cross-examination. But the questions put by my
12 colleague confirmed the need for this type of questioning in my cross-examination,
13 and now it's very relevant to have the names of the two people, or if there are two,
14 because there's two lines and two redacted.

15 But who helped out the witness will be very relevant. And I intend to ask questions
16 to the witness about this. Without this information, she might have to reveal herself
17 information without the redactions even being lifted. So it is much proper -- much
18 more appropriate, Mr President, for -- have a proper ruling, I know the information,
19 and then it will be much easier with the witness. Thank you.

20 PRESIDING JUDGE FREMR: Thank you.

21 We will deliberate -- Ms Solano.

22 MS SOLANO: Thank you, your Honour. I'm grateful for your indulgence. I just
23 want to note that this is not the first time that the Prosecution puts the victim
24 participation form to a witness. We did it also with Witness 859, possibly with other
25 witnesses.

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1 And your Honours, the role of the Prosecution is to assist the Chamber in its truth
2 finding function, the role of the Prosecution is not merely to bring a witness in court
3 and elicit only the helpful -- the facts that are helpful to the Prosecution's case.
4 If there is something in the witness's evidence that is contradictory, if there is a lie, if
5 there is anything that undermines, or potentially undermines the credibility of the
6 witness, it is equally appropriate and, in fact -- well, it's right for the Prosecution to
7 also seek to get the person's evidence out on those points so that the Chamber may
8 have a full account of that person's evidence and credibility and can assess the
9 evidence of that witness fairly.
10 It is not right, as the Defence seems to believe, that the points that hurt a witness's
11 credibility ought only be raised in cross-examination.

12 PRESIDING JUDGE FREMR: Thank you.

13 Mr Suprun.

14 MR SUPRUN: (Interpretation) Thank you, your Honour. As legal representative of this
15 person who is testifying, I oppose the Defence application because I believe that
16 information is not relevant. And it has been the settled law of this Court that the names
17 of intermediaries were never disclosed to the Defence, except or unless there are
18 reasonable grounds to believe that the intermediary influenced the victims. Another
19 thing, many of the other *witnesses who are also victims and who have completed their
20 evidence, have mentioned that the information contained in the application for participation
21 is not correct because that information was not reread, was not reread to those victims for
22 correction. And the Defence never asked for *the name of the intermediary to be redacted for
23 the other victims. So it is difficult to understand why they are doing that now. Thank you.

24 PRESIDING JUDGE FREMR: Thank you. We will need to deliberate on that. We
25 will decide during our upcoming break because still, before that, we have to finish

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1 examination-in-chief, and might be some time used by LRV for questioning, so it will
2 still -- regardless whether our decision will be positive or negative, we'll still give a
3 chance to the Defence to proceed accordingly to our decision.

4 So now we will continue with testimony of the witness, so court officer, please bring
5 witness in, and we can move into open session in the meantime.

6 (Open session at 9.51 a.m.)

7 THE COURT OFFICER: (Interpretation) We are in open session, your Honour.

8 (The witness enters the courtroom)

9 PRESIDING JUDGE FREMR: Thank you, court officer.

10 Good morning, Madam Witness. Can you hear me?

11 WITNESS: DRC-OTP-P-0887 (On former oath)

12 (The witness speaks Swahili)

13 THE WITNESS: (Interpretation) Good morning. Yes, I can hear you.

14 PRESIDING JUDGE FREMR: Are you feeling better than yesterday morning?

15 THE WITNESS: (Interpretation) Yes.

16 PRESIDING JUDGE FREMR: So as I said yesterday, if you would again feel that you
17 need some break, just raise your hand, I will give you the floor and we can make sure
18 break to make you comfortable. Otherwise now we should continue till 11 o'clock,
19 which is one hour from now.

20 Another thing, it's my duty to remind you that, Madam Witness, you are still under
21 oath, so it's your obligation to speak truth and nothing but the truth. Is it clear to
22 you?

23 THE WITNESS: (Interpretation) Yes.

24 PRESIDING JUDGE FREMR: Very well.

25 So now, Ms Solano -- sorry, I didn't wait for translation.

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1 Now Ms Solano will be continuing in your examination-in-chief.

2 Ms Solano, you have the floor.

3 MS SOLANO: Thank you, your Honour. I have no more questions for the witness.

4 PRESIDING JUDGE FREMR: No more questions? Okay.

5 Now it's time for Mr Suprun to update us about his previous request to question this
6 witness.

7 And I think if you would just refer to -- because if you would refer to concrete topics,
8 then we would move into private session. So if you are able to remain in general,
9 then we can remain in open, but if you want to be concrete, then we will have to
10 move into private. So what is your preference, Mr Suprun?

11 MR SUPRUN: (Interpretation) Your Honour, I believe I can put my questions in
12 open session.

13 Regarding the application for leave of the Chamber to put questions to the witness, I
14 maintain my request in relation to point A because I need to clarify certain aspects
15 regarding the occupation of the witness before the war and her situation after the war.
16 I also maintain the application on point B because I would like to clarify with the
17 witness her feelings, her reactions following the murder of her biological father and
18 her nephew because that was not covered by the OTP.

19 Regarding the three last points, C, D and E, I fully understand the decision of your
20 Chamber not to grant leave to the OTP and to myself to ask questions on those. So I
21 will not dispute that, I will simply make some observations because there is a
22 difference between the questions of the OTP and the questions that the legal
23 representative can put to the witness as a victim.

24 I believe that it is important to clarify with the witness all the aspects that the witness
25 herself feels are relevant in order to demonstrate what happened to her before the war,

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1 during the war and after the war, even if this is not part of the charges against the
2 accused because these are part of the prejudices suffered by the witness. Even if
3 some of the incidents happened outside the scope of the charges, I believe it is
4 important for the witness to be allowed to speak about those incidents.
5 Obviously, I do not want to put pressure on the witness or to ask leading questions,
6 but I would simply want to ask the witness whether she suffered from any crimes
7 before, during and after the war and the impact of those crimes, her situation with her
8 family, the community and others.

9 Regarding *the other witnesses I requested to be allowed to put questions to, I did not
10 have any objections from the Defence or the OTP relating to questions on the current
11 situation of the witness, even though this is outside the scope of the charges of the
12 accused. *This is current practice in this court. And so I do not see why I cannot ask
13 the witness to tell us what crimes she suffered from, even if this is outside of the scope
14 of the charges against the accused. Without contesting or questioning your decisions,
15 *I maintain my request on the points C, D and E. I will not ask leading questions, but
16 if the witness wishes to talk about *these events, I think she should not be prevented.
17 Secondly, in my email to the Chamber, I do not want to maintain my questions about
18 the conditions of the witness's marriage with her current husband, but I would like to
19 ask questions regarding the consequences that the witness had following this
20 marriage because she stayed with *the person who was in the UPC, whereas
21 *UPC/FPLC people killed her biological father. So I wanted to find out whether
22 there was any sort of impact on the witness.

23 THE INTERPRETER: And from the interpreters, your Honour, if Mr Suprun can be
24 requested to speak more slowly in the future. Thank you.

25 PRESIDING JUDGE FREMR: All right. Now Prosecution position to Mr Suprun's

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1 submission.

2 MS SOLANO: Your Honour, we have no observations.

3 PRESIDING JUDGE FREMR: Defence.

4 MS BWIZA: Thank you, your Honour. I would like -- Defence would like to first
5 underline the fact that it's not appropriate for my colleague to do such submission in
6 the presence of the witness. So I would like to request that the witness remove her
7 headphone, please.

8 PRESIDING JUDGE FREMR: All right.

9 Court officer, please.

10 Now you may proceed, counsel.

11 MS BWIZA: Thank you, Mr President. I will try to -- I will endeavour to do the
12 remark of the Defence in a manner that allows us to stay in open session, and I will
13 address the items identified in my colleague's request on the two items, items A and B,
14 as the others are apparently not relevant anymore.

15 As regards to item A, the Defence takes issue with the way my colleague has
16 formulated the area of questioning because the Legal Representatives of Victims
17 focuses on the situation, which is much larger than the notion of prejudice. And
18 most questions on these topics are likely to go beyond the prejudice allegedly suffered
19 by the witness. And this exercise is also likely to be time consuming.

20 Furthermore, if the Chambers, if the Chamber is minded to grant my colleague's leave
21 to question the witness on item A, the Defence respectfully requests that the question
22 be specifically limited to the harm and prejudice allegedly suffered by the witness.

23 And with regards, with regards to point B, the Defence does not object to my
24 colleagues asking questions on the topic covered under item B, but notes for the
25 record that very little evidence has been elicited in this matter during

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1 examination-in-chief.

2 And with regards to point C, D and E, it's my understanding -- it's our understanding
3 that the legal representative of the victims does not intend to ask questions about that,
4 but I would like to confirm --

5 PRESIDING JUDGE FREMR: Yes, in fact, he said he is making his observations, but
6 he will not quarrel with our decision.

7 MS BWIZA: Thank you, your Honour, that will be all.

8 If you may allow me one second.

9 (Counsel confer)

10 MS BWIZA: Sorry, your Honour. With regards to additional question, the
11 common legal -- the legal representatives of the victims would -- sorry, your Honour.
12 My understanding is that my colleague does not intend to ask questions regards
13 the -- with regards to additional -- the additional question he intended to ask to
14 Witness 887, if I could confirm that, please?

15 MR SUPRUN: (Interpretation) Mr President, indeed, I said that in my submission;
16 namely, that I maintain my application on all points in the application that was
17 submitted on 22 April.

18 I also stand by my request for the additional point, only in part, in any event, because
19 I do not intend to raise any questions on the circumstances of the marriage of the
20 witness to her current husband. In any event, I want to clarify certain aspects of the
21 consequences of being married to a UPC soldier, and on the current situation as well
22 as on the victim -- on the witness.

23 PRESIDING JUDGE FREMR: Defence.

24 MS BWIZA: Thank you, Mr President. Then in this case the Defence will oppose
25 my colleague's request to question the witness on additional -- on this additional area

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1 because we note that there is no evidence that has been provided by the witness on
2 the issue during her examination-in-chief. And the Defence also notes that nothing
3 in the witness's statement corroborates the testimony on the issue of Witness P-907.
4 And finally, for the witness to testify about the circumstances and consequences of the
5 event, it would require my colleague to first establish the fact, a task which falls
6 within the exclusive realm of the Prosecution.
7 So my colleague should not be allowed to -- the Defence submits that my colleague
8 should not be allowed -- should not be allowed to question the witness about the
9 harm she allegedly suffered of an event when no evidence about this event has been
10 elicited during examination-in-chief. That will be all. Thank you.

11 PRESIDING JUDGE FREMR: Mr Suprun, please briefly and slowly.

12 MR SUPRUN: (Interpretation) Thank you, Mr President. On point A, I want to
13 underscore that I intend to raise a question on the witness's situation before the war in
14 order to establish how it changed after the war. So I think that this is part of the
15 harm suffered by the witness.

16 When it comes to point B, let me again say that I am not interested in the manner in
17 which the biological father and nephew were killed, but I'm interested in the reactions,
18 sentiments and psychological state of the witness following those events.
19 Finally, on the last point of the Defence, we would like to say again that I do not
20 intend --

21 PRESIDING JUDGE FREMR: (Microphone not activated)

22 MR SUPRUN: (Interpretation) I want to say that although the witness did not
23 broach certain aspects, I believe that we still have the right to explore what other
24 crimes the witness may have suffered before, during and after the war in order to
25 determine whether it can have an impact on a physical, emotional status even

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1 subsequently. Thank you, Mr President.

2 PRESIDING JUDGE FREMR: We don't need any further submissions and litigation
3 on that. We will deliberate silently on that.

4 (Trial Chamber confers)

5 PRESIDING JUDGE FREMR: Before I will deliver our decision, we would like to
6 give you one general message. For the future, we would like to avoid taking so
7 much time on those procedural issues, so please next time, first of all, try to be brief.
8 And if you, for example, as concerns Defence, if you need to make some more
9 extensive objections, please make it in writing because -- if possible, because really
10 you know that we are permanently trying to shorten duration of this trial by pushing
11 you on keeping time limits and so on. Also this kind of disputes in our view
12 sometimes could be wasting of our time.

13 Now, as to our decision. As you could see I deliberated with my colleagues, and
14 having heard submissions of Mr Suprun and of the Defence, we have made the
15 decision on the permissible scope of the legal representative's questions to be put to
16 this witness and consistent with our previous rulings; Mr Suprun, you will be
17 allowed to question the witness on the topics A and B.

18 As concerns C, D and E, I can just briefly refer to our decision on Defence objection.
19 And as to the F, taking into account witness testimony, in fact all those questions on
20 area F would be of argumentative nature because she denied any basis for this kind of
21 questioning.

22 So A and B, and we are granting you 10 minutes, Mr Suprun, to explore those two
23 topics. You have the floor.

24 MR SUPRUN: (Interpretation) Mr President, I would need one minute to set up
25 properly, please.

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1 PRESIDING JUDGE FREMR: All right.

2 QUESTIONED BY MR SUPRUN: (Interpretation)

3 Q. Good morning, Madam Witness.

4 A. Good morning.

5 Q. We know ourselves already, but for the record, I am Dmytro Suprun. I

6 represent 1,859 victims who were admitted to participate in this trial against Bosco

7 Ntaganda.

8 PRESIDING JUDGE FREMR: Mr Suprun, I would rather give you 12 minutes, but

9 please slow down a bit because, you know, you are under time pressure, I can

10 imagine, but I was repeatedly asked by interpreters to inform you that you are too

11 fast. So in the interest of precise transcript, please slow down a bit.

12 MR SUPRUN: (Interpretation) Thank you, Mr President.

13 Q. Madam Witness, I have a few questions for you to clarify some aspects of your

14 testimony and to elicit more details on your experience.

15 MR SUPRUN: Now, Mr President, I would like to move into private session, please.

16 PRESIDING JUDGE FREMR: Certainly.

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

18 (Private session at 10.12 a.m.) *(Reclassified partially in public)

19 MR SUPRUN: (Interpretation)

20 Q. Madam Witness --

21 THE COURT OFFICER: (Interpretation) Mr President, we are now in private

22 session.

23 PRESIDING JUDGE FREMR: Thank you, court officer.

24 Mr Suprun, please proceed.

25 MR SUPRUN: (Interpretation)

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1 Q. Madam Witness, can you provide the Court with details on your situation, your
2 situation before the war; namely, what were you doing? Who were you living with?
3 Were you married or did you have a fiancé?

4 A. (Redacted)

5 (Redacted)

6 Q. (Redacted)

7 A. (Redacted)

8 Q. During your testimony, Madam Witness, you stated that your natural or
9 biological father and two year old nephew were killed by the soldiers of UPC/FPLC.
10 Can you explain to the Court what your reactions and feelings were owing to the fact
11 that close members of your family were killed?

12 A. I felt very bad, like anyone else would. I could not be happy about those
13 things.

14 Q. Do you have any psychological difficulties arising from your memory of the
15 death or the murder of your father and your nephew?

16 A. That is not the only reason. Many events occurred during the war. And
17 sometimes, when I remember those events, I feel extremely sad. When I remember
18 all those things that happened and all those experiences that I went through during
19 the war, they sadden me deeply.

20 Q. You have talked about several events that you experienced during the war.
21 Can you provide the Court with some details on those events?

22 A. Yes. For example, the manner in which my nephew was killed, the manner in
23 which my father-in-law was killed, the fact that I saw dead bodies. And, you see,
24 when we were fleeing for example, from Mongbwalu to Mamedi, we were forced to
25 carry the loads of soldiers. And all of those things make us sad when we think about

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- 1 them.
- 2 Q. (Redacted)
- 3 (Redacted)
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- 6 A. (Redacted)
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- 10 Q. (Redacted)
- 11 (Redacted)
- 12 A. (Redacted)
- 13 (Redacted)
- 14 Q. (Redacted)
- 15 PRESIDING JUDGE FREMR: (Redacted)
- 16 (Redacted)
- 17 MR SUPRUN: (Interpretation)
- 18 Q. (Redacted)
- 19 A. (Redacted)
- 20 Q. (Redacted)
- 21 A. (Redacted)
- 22 (Redacted)
- 23 Q. (Redacted)
- 24 (Redacted)
- 25 A. (Redacted)

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1 (Redacted)

2 Q. Following the war, which you survived, do you still have some psychological,
3 emotional difficulties even today, or do you have any health issues whatsoever?

4 A. No. I don't think I have any health problems.

5 MR SUPRUN: (Interpretation) Mr President, for my last set of questions, could we
6 go into private session -- into open session, rather.

7 PRESIDING JUDGE FREMR: Certainly.

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

9 (Open session at 10.19 a.m.)

10 THE COURT OFFICER: (Interpretation) Mr President, we are in open session.

11 PRESIDING JUDGE FREMR: Thank you, court officer.

12 Mr Suprun, please proceed.

13 MR SUPRUN: (Interpretation)

14 Q. Madam Witness, after the events of 2002-2003, which you survived, did you and
15 members of your family, did you or were you able to rebuild your life or to restore
16 the life that you had before those events?

17 A. After the 2002-2003 events, I was separated from my family for a long time. I
18 went my own way, while they went their own way. And I used to live in my own
19 area, while they lived in -- while they lived elsewhere.

20 Q. Did you receive any help or assistance from the time of the events of 2002-2003,
21 be it material, psychological or otherwise from the Congolese government, NGOs or
22 from any other source?

23 A. No. After the sexual violence, which I was subjected to, I was treated free of
24 charge by MSF, Médecins Sans Frontières.

25 Q. As the victim of the war, what do you expect of the ICC at the conclusion of this

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1 trial against Bosco Ntaganda?

2 A. I just want the Court to do its job properly.

3 Q. Do you expect any reparations from the International Criminal Court?

4 A. Well that doesn't depend on me, it depends on the Court.

5 Q. But you, yourself, personally, what do you expect from the Court? What do
6 you want the Court to do for you specifically?

7 A. All I want is for justice to be done.

8 Q. Thank you, Madam Witness, for your answers.

9 Mr President, I have no questions for the witness, no further questions for the
10 witness.

11 PRESIDING JUDGE FREMR: Thank you, Mr Suprun, for being punctual.

12 So now we can move to Defence.

13 And before giving floor to Defence, I would like to note that Prosecution spent in
14 examination of the witness 3 hours and 6 minutes, which means I'm also taking into
15 account there could be some additional time to react on LRV's questions, that you,
16 Defence, are roughly allowed to take 3 hours and 15 minutes.

17 Mr Bourgon, you have the floor.

18 And one additional point, as I said, we will decide about your submission on
19 redaction during our break, but I guess it's no problem to start with areas for this next
20 30 minutes that has no linkage to that issue.

21 MR BOURGON: Thank you, Mr President.

22 QUESTIONED BY MR BOURGON:

23 Q. Good morning, Madam Witness.

24 A. Good morning.

25 Q. We have had the opportunity to meet during a familiarisation session last week,

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1 but allow me to introduce myself again for the record. My name is Stéphane
2 Bourgon. I'm a lawyer from Canada. And I'm here with my team this morning,
3 and together we represent the accused in this case, Bosco Ntaganda. Did you
4 understand that?

5 A. Yes.

6 Q. So, madam, for the next three hours or so, I will be asking you a series of
7 questions, most of them relating to the information you provided during your
8 testimony. If at any time you do not understand the questions I put to you, please
9 do not hesitate to indicate that to me and I will repeat the question. Do you
10 understand this?

11 A. *Yes.

12 THE INTERPRETER: From the Swahili booth: Mr President, could the witness be
13 asked to be more audible?

14 PRESIDING JUDGE FREMR: Madam Witness, there is one wish from the
15 interpreters, they sometimes have problem to hear you, so please maybe
16 either -- maybe you can just put microphone closer to you or.

17 THE WITNESS: (Interpretation) Very well.

18 PRESIDING JUDGE FREMR: Thank you.

19 Mr Bourgon.

20 MR BOURGON: Thank you, Mr President.

21 Q. The first issue I'd like to begin with, of course, is confirming with you a few
22 personal details. My first question is I'd like simply to clarify something you said a
23 few minutes ago, and I quote here from today's transcript at page 21, line 22, and you
24 said on this occasion, and I will quote so we have the exact word. This is your
25 answer, madam. The question put to you was:

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1 "You have talked about several events that you experienced during the war. Can
2 you provide the Court with some details on those events?"

3 And your answer was: "Yes. For example, the manner in which my nephew was
4 killed, the manner in which my father-in-law was killed ..." and then you go on.
5 My first question is: Is it your birth father or your father-in-law?

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

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

9 (Private session at 10.28 a.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: (Interpretation) We're in private session, Mr President.

11 PRESIDING JUDGE FREMR: Thank you.

12 Mr Bourgon, please proceed.

13 MR BOURGON: I apologise, Mr President, this section is on personal details so I
14 should have known better.

15 Q. Madam Witness, I'll say my question again. You said, this is again on page 21,
16 at line 22, that "... the manner in which my father-in-law was killed." I'd just like to
17 know who was killed, is it your birth father or your father-in-law?

18 PRESIDING JUDGE FREMR: Yes, Madam Witness, you have the floor.

19 THE WITNESS: (Interpretation) No. I was talking about my -- are you talking
20 about my father-in-law or my father? No, that's not what I said.

21 MR BOURGON:

22 Q. All I'm looking for, Madam Witness, is simply to confirm because on the record
23 here, I'm not sure if it's an interpretation problem, or if it's something that you
24 mentioned, but on the record it says "... the manner in which my father-in-law was
25 killed."

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1 So who was killed, the birth father or the father-in-law?

2 A. It's my biological father who was killed.

3 Q. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. (Redacted)

16 (Redacted)

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18 A. (Redacted)

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21 Q. (Redacted)

22 (Redacted)

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24 A. (Redacted)

25 Q. (Redacted)

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- 6 Q. (Redacted)
- 7 A. (Redacted)
- 8 Q. (Redacted)
- 9 (Redacted)
- 10 A. (Redacted)
- 11 Q. (Redacted)
- 12 A. (Redacted)
- 13 MR BOURGON: Mr President, I think we can stop here for the break --
- 14 PRESIDING JUDGE FREMR: Yes --
- 15 MR BOURGON: -- and I will resume after. Thank you.
- 16 PRESIDING JUDGE FREMR: -- we have to.
- 17 So we break now and we will resume half past -- please move into open session just to
- 18 make this announcement.
- 19 (Open session at 11.01 a.m.)
- 20 THE COURT OFFICER: (Interpretation) Your Honour, we are in open session.
- 21 PRESIDING JUDGE FREMR: Thank you. We will break now and we will
- 22 reconvene half past 11.
- 23 THE COURT USHER: All rise.
- 24 (Recess taken at 11.02 a.m.)
- 25 (Upon resuming in open session at 11.32 a.m.)

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- 1 THE COURT USHER: All rise.
- 2 Please be seated.
- 3 THE COURT OFFICER: (Interpretation) We are in open session, your Honour.
- 4 PRESIDING JUDGE FREMR: Court usher, please escort madam witness just for the
- 5 while because we will deliver a decision which I think it's proper to deliver in her
- 6 absence. So please escort her just for a short while outside of the courtroom.
- 7 And we are now in the open session, but we have, because of the character of the
- 8 ruling, we will deliver, we will have move into private session. Court officer, please.
- 9 (Private session at 11.33 a.m.) *(Reclassified entirely in public)
- 10 THE COURT OFFICER: (Interpretation) Mr President, we're in private session.
- 11 PRESIDING JUDGE FREMR: Thank you, court officer.
- 12 So this oral ruling is on Defence request for lifting of redactions to
- 13 DRC-OTP-2090-0089.
- 14 And this document is in fact a victim application form, and the Defence seeks the
- 15 lifting of the standard category D4 redactions at paragraph 5, on the second page of
- 16 that form, relating to the name or names of the persons who assisted the witness to fill
- 17 in the form.
- 18 In addition to the oral submissions received, the Chamber also notes the submissions
- 19 of the legal representative for former child soldiers as received by way of email
- 20 during the previous session.
- 21 The Defence submits that the redaction ought to be lifted on the basis that the
- 22 Prosecution, during examination-in-chief of this witness, questioned the witness on
- 23 her victim application form and associated corrections, and that the -- then the
- 24 witness then proceeded to explain why there were differences between this form and
- 25 information contained in her statement.

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1 On the basis that this was raised by the Prosecution, the Defence submits that it is
2 entitled to obtain the identity of the intermediary who assisted the witness to fill out
3 the form.

4 The Prosecution opposes the Defence request on the basis that the redaction protocol
5 specifies that under category D4, redactions to the names of intermediaries are
6 ongoing in order to ensure that intermediaries can continue to assist the disclosing
7 party in the investigation a safe and effective manner.

8 The Prosecution notes further that the Defence has been provided with a pseudonym
9 of the relevant intermediary, that its request is late and that it has not articulated the
10 specific relevance of this information to any live issue in this case.

11 The Chamber notes that under paragraphs 36 and 37 of the redaction protocol, which
12 is our decision number 411, annex A, redactions to names of intermediaries are
13 indeed of an ongoing nature. The Chamber recalls that in order to fall within the
14 Prosecution's disclosure obligations, information must either be potentially
15 exculpatory, within the meaning of Article 67(2), material to the preparation of the
16 Defence, within the meaning of Rule 77, or constitute a statement within the meaning
17 of Rule 76.

18 Taking into account the explanations provided by the witness, the Chamber does not
19 consider that potential inconsistencies between the victim participation form and her
20 witness statement and/or in-court testimony are sufficient in themselves to make the
21 identity of the intermediary material. Further, the Chamber observes that no new
22 information arose during the examination-in-chief which would have made the
23 information disclosable. The Chamber notes that the Defence is free to explore any
24 purported discrepancies with the witness directly during cross-examination. The
25 request for the lifting of the redaction is therefore rejected.

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1 That concludes the Chamber's ruling.

2 Now please bring witness back into the courtroom.

3 And, court officer, let's move into open session.

4 (Open session at 11.38 a.m.)

5 THE COURT OFFICER: (Interpretation) Mr President, we're in open session.

6 PRESIDING JUDGE FREMR: Thank you very much, court officer.

7 And, Mr Bourgon, usual question, depending on upcoming series of your questions,

8 could we remain in open session or is it necessary to move into private one?

9 MR BOURGON: It is necessary to go into private session for a few questions,

10 Mr President.

11 PRESIDING JUDGE FREMR: All right. For the information of public, this witness

12 is protected witness, so she was given guarantee that her identity will not be revealed.

13 That is why for some parts of the testimony we have to move into private session,

14 which is case right now.

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

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

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

18 PRESIDING JUDGE FREMR: Thank you, court officer.

19 Mr Bourgon, please proceed.

20 MR BOURGON: Thank you, Mr President.

21 Q. Welcome back, Madam Witness. I would like to continue with a few quick

22 questions on your background.

23 A. Ndiyo.

24 Q. And then we'll move on to a different topic.

25 A. Ndiyo.

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8 So for this purpose we can go into public session. And if at any time any answer

9 possibly could identify you, then please stop me and we will go back into private

10 session.

11 A. Ndiyo.

12 MR BOURGON: Mr President, we can move into public session.

13 PRESIDING JUDGE FREMR: Very well.

14 Court officer --

15 MR BOURGON: No, Mr President. One last question while we're --

16 Q. (Redacted)

17 (Redacted)

18 A. (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 A. (Redacted)

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25 A. (Redacted)

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1 (Redacted)

2 Q. (Redacted)

3 MR BOURGON: Mr President, we can now move into public session.

4 PRESIDING JUDGE FREMR: All right.

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

6 (Open session at 11.51 a.m.)

7 THE COURT OFFICER: (Interpretation) We are in open session now,

8 Mr President.

9 PRESIDING JUDGE FREMR: Thank you, court officer.

10 Mr Bourgon, please proceed.

11 MR BOURGON: Thank you, Mr President.

12 Q. Madam Witness, I'd like to refer to some information about Mongbwalu and for
13 this purpose I will refer to a statement you provided to the Prosecution. And I refer
14 specifically to document number DRC-OTP-2076-0299. I quote from page 0301, at
15 paragraph 13, where you say that at some point in 2002 -- well, I will quote so that we
16 are exactly. Paragraph 13:

17 "We were living in Mongbwalu just fine. Then, sometime in 2002, I do not know the
18 month, we noticed that Lendu combatants were starting to" chase out -- sorry, to
19 "chase Hema out of Mongbwalu. There was a lot of disorder and chaos, and then the
20 fighting started."

21 Do you recall giving this information to the Prosecution?

22 A. Yes.

23 Q. Madam Witness, you mentioned that this happened some time in 2002. Would
24 you allow for the possibility that it even began in late 2001?

25 A. Maybe I forgot something, but it could probably have been towards the end of

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1 2001 and early 2002.

2 Q. Thank you. I move on reading again from your statement and where you
3 describe what they were -- what they were doing with the Hemas. So first you say
4 here:

5 "Some of these Lendu came from outside Mongbwalu, some were already living
6 there."

7 So my question is: You are able to confirm that although some Lendus were in
8 Mongbwalu at the time, Lendus started arriving from the outside in Mongbwalu
9 during that time frame? You can confirm this?

10 A. Yes.

11 Q. And would I be right in saying that as time progressed, more and more Lendus
12 started to arrive and they established control over Mongbwalu; would you agree with
13 that?

14 A. Yes.

15 Q. And it is during that time period that they were chasing out the Hema from
16 Mongbwalu; is that correct?

17 A. Yes.

18 Q. Now, again I quote from your statement again, paragraph 13 on the same page,
19 where it says:

20 "They did not chase the Hemas out by attacking, but they were threatening, walking
21 around town saying, 'Get out, get out' to the Hema. At times there would be five or
22 six or more of them by the road, carrying a machete or another bladed weapon and
23 they would say this to Hema, I saw this."

24 Can you confirm that this is information that you gave to the Prosecution?

25 A. Yes.

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1 Q. You go on to say in the same paragraph:

2 "Hemas started to get afraid and leave. They killed some Hema who lived on the
3 outskirts of Mongbwalu, in the morning you would find bodies of people they had
4 killed."

5 Do you recall this information, giving that to the Prosecution?

6 A. Yes.

7 Q. And you go on to say that: "These Lendu combatants" - always from
8 paragraph 13 - "were just living amongst the population." Do you agree with that?

9 A. Yes.

10 Q. And again in the same paragraph you say:

11 "At that time were not in camps, they were not organised like soldiers."

12 Can you confirm this?

13 A. Yes.

14 Q. So if I try to portray a situation in Mongbwalu, you have these Lendu
15 combatants integrated or infiltrated everywhere amongst the population; is that
16 correct?

17 A. Yes.

18 Q. And these Lendu combatants, they did not wear uniforms; you can confirm
19 that?

20 A. Yes.

21 Q. And the Lendu combatants, you know you can confirm that they had of course
22 traditional weapons such as machete, spears, bow and arrows, but also firearms?
23 You can confirm that?

24 A. Yes.

25 Q. You also say at paragraph 13 of your statement, same page:

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1 "I knew that it was Lendu doing these things, I heard my Lendu neighbours talking,
2 they would say 'all the Hema have to go, we do not like Hema.'"

3 You can confirm this?

4 A. Yes.

5 Q. You also talk about, at paragraph 15, on the same *statement, for the record it's
6 page 0301, you say:

7 "At that time the Chief of Mongbwalu" he "was a Hema," he was "called Taga."

8 Do you recall this?

9 A. Yes.

10 Q. And you go on to say that:

11 "Along with many other Hema he fled, he caught a plane from Mongbwalu to Bunia."

12 Do you recall saying this?

13 A. Yes.

14 Q. And you go on, and I will read the rest of this paragraph, paragraph 15:

15 "The Hema continued to flee until the UPC came to Mongbwalu. The Hema that left
16 Mongbwalu came back as UPC soldiers. They were not UPC soldiers when they
17 left."

18 You can confirm this?

19 Now what is -- I'd like to continue covering with you is -- sorry.

20 PRESIDING JUDGE FREMR: Sorry, Mr Bourgon.

21 Madam Witness, you have the floor.

22 THE WITNESS: (Interpretation) Could you repeat the last paragraph because I
23 didn't really understand. It's written in English here.

24 PRESIDING JUDGE FREMR: Mr Bourgon, please.

25 MR BOURGON: Thank you. I'm not sure if -- was the statement posted for the

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1 witness on the screen because the last time I asked I didn't know whether there was a
2 transcript. So is it -- is she -- can she see the statement now or --

3 PRESIDING JUDGE FREMR: I think it was. Court usher could confirm, but -- yes.

4 MR BOURGON: Initially, Mr President, I did not ask for the statement to be put up
5 because it is in English.

6 Q. But, Madam Witness, please listen to the translation and I will read what is
7 there in English unless you can tell me that you do speak English. Do you speak
8 English?

9 A. No.

10 Q. So I will read this paragraph over again. We were talking about Taga, who
11 was the Mongbwalu chief, and it says here:

12 "The Hema continued to flee until the UPC came to Mongbwalu. The Hema that left
13 Mongbwalu came back as UPC soldiers. They were not UPC soldiers when they
14 left."

15 Do you recall saying this and do you stand by this statement?

16 A. Yes.

17 PRESIDING JUDGE FREMR: And for the record, I was just now informed that
18 document now is not visible to the witness, but public gallery, all of us, interpreters
19 can see document on their screens.

20 MR BOURGON: Thank you, Mr President.

21 PRESIDING JUDGE FREMR: Sorry, not public gallery, we are -- because it's
22 confidential. My error.

23 You may proceed.

24 MR BOURGON: Thank you, Mr President.

25 Q. Madam Witness, I will go on with another paragraph, but instead of quoting the

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1 paragraph, for trying to save some time, I would simply ask you to confirm some
2 issues that were covered.

3 At paragraph 16 of your statement, you thought that "... at some point all the Hema
4 teachers left so the studying ended, although some of the students from the senior
5 classes continued to go to school."

6 You were witness to this; is that correct?

7 A. Yes.

8 Q. At paragraph 17 you say the following, and we are now for the record on page
9 0302:

10 "The disorder continued until there were no Hema left in town. The Lendu really
11 wanted all the Hema gone. For example, although *a few Hema families left town,
12 there were Hema women who were married to men from different ethnic groups who
13 stayed, and there were also some women from other ethnic groups who had Hema
14 pregnancies who did not flee."

15 Do you stand by this information?

16 A. Yes.

17 Q. You go on to say in the same paragraph that:

18 "When they gave birth the Lendu would kill the babies, they would cut them in half.
19 This was talked about in town."

20 Do you confirm this information?

21 A. Yes.

22 Q. Now, there is an example provided there about a lady passing by with the
23 remains of *her child in her hands. And she would have -- she was -- this lady
24 would have been asked, and she said that the Lendus had killed him.

25 You brought a correction to this -- go ahead, please.

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1 A. I think it was a mistake made by the person who was writing down the
2 statement. I didn't say the remains of a child, I said the clothing that had been used
3 to -- that the child wore. The remains of the child were elsewhere.

4 Q. Thank you. We were in fact informed of this correction, although I had a
5 different understanding, but you can confirm this episode, this event, right?

6 A. Yes.

7 Q. Now, one issue about the -- I'd like to cover is that the -- when we look at the
8 Lendus, the issue I'd like to cover is that of cannibalism. This is a reality in
9 Mongbwalu; it was, right?

10 A. I saw just one case.

11 Q. Let me try to refresh your memory. I think this is the example you are
12 referring to, where it says that "In Mongbwalu, the commander of the FNI was called
13 Maître Kiza."

14 You can confirm this?

15 A. Yes.

16 Q. "He was not from Mongbwalu originally, he came when the Hema had already
17 left and the FNI was in Mongbwalu."

18 Is that correct?

19 A. Yes.

20 Q. "On one occasion Maître Kiza called everyone to a big meeting at the place
21 where the Mongbwalu parking used to be. They wanted everyone to be there, they
22 issued an order and if they found you somewhere else in town you would be fined.
23 At the meeting they had an APC soldier there, he was Alur, they interrogated him
24 and then Maître Kiza slaughtered him by cutting his throat."

25 Do you recall this incident?

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1 PRESIDING JUDGE FREMR: Ms Madam Witness, you have the floor.

2 THE WITNESS: (Interpretation) I remember that event. You used the verb in the
3 plural, but I was mentioning one person. So I think the verb should be in the
4 singular.

5 THE INTERPRETER: Corrects the witness.

6 MR BOURGON:

7 Q. Thank you for this correction.

8 Now, you go on to say that you had then heard from a neighbour of yours who saw
9 everything, who stayed until the end, and this is what you say in paragraph 19.

10 A. Yes.

11 Q. Let me quote the paragraph. I will quote the paragraph.

12 "I heard later from people that they started a fire and roasted him. They ate the body
13 with manioc bread, called chikwang, and salt. The meeting was around 10 or 11 in
14 the morning, and at 3 in the afternoon FNI soldiers started walking around with some
15 of the meat on a plate. If you were unlucky they asked you to eat, if you refused you
16 had to pay, so people hid or fled to avoid eating."

17 So this is the incident that was reported to you by your neighbour; is that correct?

18 A. Yes.

19 Q. Would it be right to say, Madam Witness, that while the Lendus were there they
20 established a very tough regime based on their own traditional values? Would you
21 agree with that?

22 A. Could you put your question again?

23 PRESIDING JUDGE FREMR: Mr Bourgon, I would recommend to be more specific,
24 because it's rather general. It even required for some evaluation, but maybe I think
25 you can be more specific, and then it will be easier for witness.

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1 MR BOURGON: I will, Mr President. Thank you.

2 Q. Madam Witness, can you confirm that the Lendu combatants as well as the
3 Lendu population, so all the Lendus together, they were organised and they operated
4 on the basis of tribal customs and practices? Are you able to confirm this?

5 A. Yes.

6 Q. And I think you referred to this in your statement, but you are able to confirm
7 that the Lendu combatants did not hesitate to use women and children to fight with
8 them? Are you familiar with that?

9 A. Could you please repeat your question.

10 Q. Yes. Are you familiar with the fact that the Lendu combatants did not hesitate
11 to use woman and children to fight with them?

12 A. Yes.

13 Q. Now, talking about the living conditions imposed by the Lendu, would you
14 agree as a general statement that the living conditions were simply terrible in
15 Mongbwalu?

16 A. Yes.

17 Q. And let me clarify my question making, making it more precise.

18 A. *Yes.

19 Q. Are you familiar with the fact that the Lendus impose on woman the obligation
20 to go around topless?

21 A. Yes.

22 Q. And are you aware that there was in Mongbwalu a prohibition on the pounding
23 of cassava?

24 A. Yes.

25 Q. And were you aware that the Lendu imposed on women the obligation not to

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1 cross their arms on their chest?

2 A. Yes.

3 Q. And I take it you are also aware that in Mongbwalu, no one was allowed to
4 make locally brewed alcohol, sorry for my pronunciation, but Kaikpo?

5 A. Yes.

6 Q. For the record, I will spell Kaikpo, K-A-I-K-P-O; is that correct?

7 A. Please repeat the spelling, if you could.

8 Q. Yes, I will. K-A-I-K-P-O.

9 A. That is correct.

10 Q. Were you familiar, madam, that in Mongbwalu, the Lendus imposed what is
11 called a work obligation or salongo?

12 A. Yes.

13 Q. And are you familiar with the fact that if anyone disobeyed these rules, they
14 would be beaten?

15 A. Yes.

16 Q. And are you familiar with the fact that Lendus would even cut off your ear if
17 people did not abide with these regulations?

18 A. Yes.

19 Q. Let me move on to the military situation in Mongbwalu. You are able to
20 confirm that at the time in Mongbwalu, you had Lendu combatants, we talked about
21 this, but you also had APC. You can confirm that?

22 A. At first, yes.

23 Q. So when we say APC at first, would that be late 2001, beginning 2002? Would
24 that be the approximate period?

25 A. When the Hema left Mongbwalu, even before that, it was the APC who

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1 controlled Mongbwalu when the conflict began. The Lendu --

2 THE INTERPRETER: Message from the Swahili booth: The witness has not
3 concluded her reply, your Honour.

4 PRESIDING JUDGE FREMR: Witness, could you kindly repeat your answer,
5 because it was not captured by the interpreters, please.

6 THE WITNESS: (Interpretation) I beg your pardon?

7 PRESIDING JUDGE FREMR: Madam Witness, the interpreters were not able to
8 capture the final part of your response, so they ask you, including myself, to repeat
9 either your response, at least the last, last part of it.

10 THE WITNESS: (Interpretation) Mr Bourgon could help me by repeating the
11 question.

12 MR BOURGON:

13 Q. Indeed I will, Madam Witness. When the Hema left Mongbwalu and even
14 before that -- no, sorry. This is your answer. This is what you were saying. And
15 you were saying when the Hema left Mongbwalu, even before that, it was the APC
16 who controlled Mongbwalu when the conflict began.

17 A. Ndiyo.

18 Q. And that's where it stopped. Can you go on and complete your answer?

19 A. Yes. It was the APC who had control of Mongbwalu before the war and at the
20 beginning of the war. That was when the Hema were leaving that place. So it was
21 the APC that had control over Mongbwalu.

22 Q. And do you recall where the APC was located exactly?

23 A. At that time the APC was at the Mongbwalu camp where the radio station is.
24 That is where they had set up their base.

25 Q. If I suggest to you the name camp Goli, are you familiar with that term?

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1 A. Yes.

2 Q. And is that where the radio station was?

3 A. No. Camp Goli is far away from the other camp.

4 Q. Can you give us an idea as to where the radio station was? So where were the
5 APC located when you compare with Camp Goli?

6 MS SOLANO: Your Honour.

7 PRESIDING JUDGE FREMR: Sorry.

8 Ms Solano.

9 MS SOLANO: I apologise for the interruption. I just want to make sure that there
10 is no confusion created for the witness.

11 What she said was that at the time the APC was at the Mongbwalu camp where the
12 radio station is, present tense. So she was not speaking of the location of the radio
13 station at the time of the events.

14 PRESIDING JUDGE FREMR: Thank you, Ms Solano.

15 MR BOURGON: Much appreciated for this observation.

16 Q. Madam Witness, I will make my question clear. At paragraph 14 of your
17 statement, I quote from page 0301, you say:

18 "At that time the only armed group in Mongbwalu was the APC. I do not know
19 what APC stands for. They were based at a camp, which is where the radio of
20 Mongbwalu is now. Before the chaos started they were the soldiers guarding the
21 town."

22 You can confirm this of course; is that right?

23 A. Yes.

24 Q. The place where the radio of Mongbwalu is now, is that -- is this Camp Goli, or
25 is that something else?

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1 A. Camp Goli was a place where the mine workers used to live. The camp I'm
2 talking about is a military camp. That's different from Camp Goli.

3 Q. Thank you. If time permitting, we'll go on a map and try to have you identify
4 these places.

5 Would I be right in saying, Madam Witness, that the APC, they were actually keeping
6 law and order in Mongbwalu towards the end of 2001?

7 A. No.

8 Q. Maybe I will make my question more clear. At paragraph 14 you say, "Before
9 the chaos started they were the soldiers guarding the town."

10 So was the APC guarding Mongbwalu before the troubles began?

11 A. Yes.

12 Q. And are you familiar that by some time in 2002, the APC, they basically started
13 to work with the Lendu combatants? Did you witness this?

14 A. Yes.

15 Q. And the APC, they were clearly, they could clearly be identified because they
16 were wearing uniforms? You can confirm this?

17 A. Yes.

18 Q. But the Hemas -- sorry, the Lendu combatants could not be identified in the
19 same manner because they were wearing civilian clothing? You can confirm this?

20 A. Yes.

21 Q. And the Lendu combatants were wearing some traditional accoutrement, such
22 as gris-gris and animal skin? Can you confirm this?

23 A. Yes.

24 Q. And that is the period when all the Hemas left Mongbwalu; is that correct?

25 A. Yes.

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1 Q. Now, what I would like to confirm with you is that all of the Lendus coming
2 from outside, that they would occupy the houses which were left empty by the
3 Hemas; is that what you saw?

4 A. Yes.

5 Q. So the houses occupied by these Lendus coming from outside did not belong to
6 them, they took the houses away from the Hemas; is that correct?

7 A. Yes.

8 Q. I'd like to move now to the first incident or the first moment when the conflict
9 began. You described this as being the first attack on Mongbwalu; is that correct?

10 A. Yes.

11 Q. Now, again, I don't want to repeat everything that was said already yesterday,
12 but I'd like to have some clarification. If I understand your testimony correctly, on
13 one particular day you started to hear shooting at around 6 or 7.30 in the morning;
14 would that be a fair representation of your testimony?

15 A. Yes.

16 Q. And I quote from transcript from yesterday, that is T-93, page 15, lines 5 and 6,
17 you said yesterday, maybe I will read also the question so that for the sake of
18 completeness. The question was at line 3:

19 "And who are the people who fled to Sayo?"

20 You said: "We fled."

21 "Who did you flee with?"

22 And your answer was: "All of us. The entire population of Mongbwalu and all the
23 combatants fled to Sayo."

24 Do you recall saying this?

25 A. Yes.

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1 Q. Would I be right in saying that some people, not everybody went to Sayo, some
2 went to other places? Do you recall this?

3 A. No, I don't have any details regarding that, but I know that many of us fled to
4 Sayo, almost the entire village.

5 Q. Do you remember you said that in Sayo, of course, you saw the Lendu
6 combatants retreating. Do you recall saying this?

7 A. Yes.

8 Q. And if I understand your testimony correctly, they got organised and then they
9 went back down fighting the incoming soldiers? Is that what you said?

10 A. Yes.

11 Q. Now, during this exact time frame, can you confirm that the APC were mixed
12 up with the Lendu combatants?

13 A. Please repeat your question.

14 Q. Yes. I am referring to the exact time frame when the Lendu combatants get
15 organised, then they go back down to Mongbwalu, they fight and they come back up.
16 I'm suggesting to you that the APC are there with the Lendu combatants at that time?

17 A. Yes.

18 Q. I'd like to quote from your statement. This is the same number, 2076-0299, and
19 I will quote from page 0303, at paragraph 21, where you say the following -- I'm
20 talking about the time when the fighters come back up the hill.

21 PRESIDING JUDGE FREMR: And Mr Bourgon, please be vigilant. We are in open
22 session.

23 MR BOURGON: Thank you, Mr President.

24 Q. This is from paragraph 21, where we have:

25 "... later that day we saw some of them coming back up. They were carrying tache

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1 tache uniforms that had blood on them, the FNI were going around saying "These are
2 their uniforms, the Hema, we killed them."

3 Do you recall saying this to the Prosecution?

4 A. Yes.

5 Q. And if I understand your testimony correctly, when you returned to
6 Mongbwalu later, you saw naked bodies cut into pieces; is that correct?

7 A. Yes.

8 Q. And when you returned to your -- I'm trying to go straight to what you did not
9 say already. You returned to Mongbwalu and at some point you decided to go to
10 Damblo; is that correct?

11 A. No. I did not decide single-handedly. It was myself and all the other
12 members of my family. It was not a personal decision. We all came to the decision
13 together as a family.

14 Q. And this happens after spending one night in Sayo; is that correct?

15 A. Yes.

16 Q. Now, when you stayed in the church in Sayo --

17 PRESIDING JUDGE FREMR: Mr Bourgon, we would rather move into private
18 session for this part of questioning.

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

20 (Private session at 12.36 p.m.) *(Reclassified partially in public)

21 THE COURT OFFICER: (Interpretation) Mr President, we're in private session.

22 PRESIDING JUDGE FREMR: Thank you, court officer.

23 Mr Bourgon, please proceed.

24 MR BOURGON: Thank you, Mr President. I think it is indeed safer.

25 Q. Madam Witness, we are now in private session. (Redacted)

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1 (Redacted)

2 A. (Redacted)

3 PRESIDING JUDGE FREMR: So, Ms Solano, no submission, or?

4 MS SOLANO: No, your Honour.

5 PRESIDING JUDGE FREMR: All right.

6 MR BOURGON:

7 Q. Now, can you confirm, Madam Witness, that you yourself returned to

8 Mongbwalu, but that a large portion of the population went on to Nzebi; do you

9 recall this?

10 A. Yes.

11 Q. (Redacted)

12 (Redacted)

13 A. (Redacted) Those who were stronger

14 went as far as Nzebi and others remained in Sayo. And those of us who were in

15 Sayo went back to Mongbwalu again.

16 Q. Thank you. That's exactly what I am referring to. Now, about going to

17 Damblo, I would like to first confirm with you the distance from Mongbwalu to

18 Damblo. You mentioned in your testimony, I refer here to page -- I'm looking for the

19 exact page, but you mentioned in your testimony if I'm correct that it was about 7

20 kilometres to Damblo; do you recall saying this?

21 A. Yes.

22 Q. Now, according to the information that I have and looking at a map, if I suggest

23 to you that the actual distance is at least 14 kilometres, would you agree with that?

24 A. Well, I don't know whether it's 14 or 7 kilometres. When I talked about 7

25 kilometres, that was my own personal assessment. But if you say it is 14 kilometres,

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1 that's possible. I did not calculate the distance myself using any instrument.

2 Q. Well, there will be information. I cannot say to you that it is 14. So I'm simply
3 suggesting to you, but there is other information before the Chamber. But if the
4 map -- if looking on the map it's 14, would that be a surprise to you or would that be
5 possible?

6 A. No, I would not be surprised.

7 Q. If I want to go to Damblo from Mongbwalu, first would you agree with me that
8 you have to go to the airport; is that correct?

9 A. Yes.

10 Q. And the airport of course, there is a runway, and you have to go to the end of
11 the runway. Do you recall this?

12 A. Yes.

13 Q. And at the end of the runway, there is kind of an open area, and then you get to
14 a forest. Do you recall this?

15 A. Yes.

16 Q. And from that when you enter into the forest, it is a very difficult trail to get
17 through the forest until immediately on the other side is Damblo. Do you recall this?
18 Can you confirm this?

19 A. Please repeat your question.

20 Q. Yes, I will. We are at the end of the runway in Mongbwalu, and we are about
21 to enter the forest. You can confirm, you can see what I'm talking about?

22 A. I don't know where you're headed.

23 Q. I'm interested in confirming the way you took to go to Damblo. Do you
24 remember the path that you followed to go to Damblo?

25 A. Ndiyo.

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1 Q. Can you describe it for us, please? Describe us the way you took and how it
2 went.

3 A. Just as you explained, you get to the airport, you go by the airport right to the
4 end, and then you go down, and once you hit the road, you can then go on to
5 Damblo.

6 Q. Now, when you say "you hit the road," there is a forest there. Do you recall a
7 forest at that area at the end of the runway, after the open area?

8 A. Yes.

9 Q. (Redacted), you walked through the forest and then on the other
10 side of the forest is Damblo; is that correct?

11 A. I don't understand you. I no longer follow you. But let me explain to you.
12 When you come to the end of the airstrip and you go down to the road, the road
13 is -- the road has bushes on both sides, and if you go on that road, if you remain on
14 that road, you get to Damblo.

15 Q. And that road that you are describing, that is the road that goes through the
16 forest; do you recall this?

17 A. That road goes to Damblo.

18 Q. I'm just asking you to confirm that this road you're talking about, it goes
19 through the forest.

20 A. Yes.

21 Q. And that this road you're talking about, you cannot use a vehicle on that road,
22 you have to walk because of the wood; is that correct?

23 A. No.

24 Q. So are you saying it's possible to drive from Mongbwalu airport to Damblo?

25 A. No. If you walk on foot, you can walk through the airport. But if you are

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1 going by car, there is a road on the other side of the airport which is motorable.

2 Q. And where does that road take you, if you recall?

3 A. Are you talking about the motorable road?

4 Q. Yes. Damblo, is Damblo on that motorable road?

5 A. Yes.

6 Q. We will look at a map this afternoon and we will get back to this point.

7 Now, when you took this path on your way to Damblo, what did you see? Do you
8 recall seeing anything?

9 A. What I saw when we went through the airport is that we saw a dead body at the
10 end of the airport when we went through that area. Then we went forward until we
11 got to a bridge, which is known as Abombi. And there was another dead body there.
12 And after we crossed over that bridge, we got to Damblo.

13 Q. Did you see any soldiers on that road?

14 A. No. I did not see any soldiers.

15 Q. Now, according to your testimony, the soldiers on their way to Damblo would
16 have basically killed some people in Damblo. That's what you heard; is that correct?

17 MS SOLANO: Your Honour.

18 THE WITNESS: Ndiyo.

19 PRESIDING JUDGE FREMR: Ms Solano, sorry.

20 MS SOLANO: Could we have the reference for that particular part of the witness's
21 testimony, please?

22 MR BOURGON: Mr President, I'm liking for her to describe in her own words
23 rather than put what she already said on the record. I could -- I can give -- I can give
24 a reference. I'm just asking the witness what she can describe in terms of what she
25 said about what happened in Damblo.

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1 PRESIDING JUDGE FREMR: But my understanding is there is some doubts about
2 she was saying that.

3 MR BOURGON:

4 Q. Rather than to waste some time, Madam Witness, I'll come back to this topic this
5 afternoon with exact references because the issue is do you confirm that someone told
6 you about what happened in Damblo? That was your testimony; is that correct?

7 A. Please kindly repeat your question.

8 Q. Yes, I will. You did not see for yourself any killing taking place in Damblo; is
9 that correct?

10 A. Yes.

11 Q. Okay. We'll get back to this topic this afternoon. For the time that we have
12 left this morning, I'd like to move to confirming your meetings with the Prosecution
13 which leading to you becoming a witness in this case.

14 First I'd like to confirm that the first time you met with Prosecution representatives,
15 other than -- we're specifically referring to Prosecution representatives, this happened,
16 the exact date was on (Redacted). Can you confirm this?

17 A. I don't remember the exact date.

18 Q. According to --

19 MS SOLANO: Your Honour, your Honour.

20 PRESIDING JUDGE FREMR: Ms Solano.

21 MS SOLANO: Your Honour, I apologise once again, but I believe that my colleague
22 is mistaken about the year, and I can provide the different year, but perhaps my
23 colleague can correct that himself.

24 PRESIDING JUDGE FREMR: Mr Bourgon.

25 MR BOURGON: Well, what I have here, Mr President, then I'll try to make it easier

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1 for the witness.

2 Q. Madam Witness, you recall that you arrived here in The Hague for the purpose
3 of testifying sometimes (Redacted). Do you recall this?

4 A. Yes.

5 Q. And do you recall that you met with representatives of the Prosecution on (Redacted)
6 (Redacted); do you recall this?

7 A. Yes.

8 Q. And on that occasion it was explained to you that the purpose of that meeting
9 was to prepare for your testimony; do you recall this?

10 A. Yes.

11 Q. And on this occasion, you were basically shown all of the material that exists on
12 paper about you in this case; do you recall this?

13 A. Yes.

14 Q. Now based on this information session, we were provided with a document that
15 says what happened during this session. Were you informed of this?

16 A. What -- what meeting are you talking about?

17 Q. Madam Witness, I'm talking about last week when you met with the
18 Prosecution. They showed you various documents concerning the information you
19 gave to the Prosecution; do you recall this?

20 A. Yes.

21 Q. According to the document I have here, the first time you met with Prosecution
22 representatives was on (Redacted) and you met with two Prosecution
23 representatives; do you recall this meeting?

24 A. No, I -- I don't remember, but -- but I met them.

25 Q. I was given information concerning the information you reviewed last week.

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1 One document is called a screening note. Do you recall seeing this document?

2 A. *Yes.

3 Q. Now, the screening note is the notes that were taken when you first met with
4 representatives of the Prosecution. Do you agree with that?

5 A. Yes.

6 Q. Now, the exact dates I'm given here, I apologise, I made a mistake, is that you
7 met with them (Redacted) on the (Redacted). Do you remember
8 this?

9 A. I no longer remember the date, but maybe you could help me with a little more
10 information which might jog my memory.

11 Q. Yes.

12 MR BOURGON: If we can have on the screen please, Mr Registrar, the document
13 number DRC-OTP-2074-0883. And I'd like to have the first page of the document on
14 the screen, please.

15 Q. Madam Witness, this will appear on the screen before you. Do you recall
16 seeing this document last week when you met with the Prosecution?

17 A. I am not able to read the document. Maybe we can zoom in, make it larger on
18 my screen.

19 MR BOURGON: We can zoom in a little lower, please.

20 Q. But, Madam Witness, I -- this document says here that you had a meeting at
21 (Redacted) with two representatives of the
22 Prosecution. Do you recall this meeting?

23 A. Yes.

24 Q. Now, do you recall that you had a chance to read this document and to make
25 any corrections you wished to make to the document?

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1 A. Yes.

2 MS SOLANO: Your Honour.

3 PRESIDING JUDGE FREMR: Ms Solano.

4 MS SOLANO: Your Honour, the witness was -- had this document read to her.

5 The witness did not read this document herself because it's in English.

6 PRESIDING JUDGE FREMR: Yes, that's a perfectly valid point.

7 Mr Bourgon.

8 MR BOURGON: I'm not sure if my question was only -- yes, I said "read." Sorry,

9 that was my mistake because I know that this document --

10 Q. You saw this document and it was, the contents thereof was translated for you
11 in French? Do you recall this?

12 A. Yes.

13 MS SOLANO: Your Honour.

14 MR BOURGON:

15 Q. Was it --

16 PRESIDING JUDGE FREMR: Sorry, Mr Bourgon.

17 Ms Solano.

18 MS SOLANO: Your Honour, once again, we need to tread carefully because the

19 interpretation was not into French, the interpretation was into Swahili. And I have

20 the sense that -- well, the witness has at time been confused by the suggestions made

21 by my colleague, which I'm sure inadvertently, but they have on occasion been

22 imprecise, incorrect, such as in this case. We have to be careful, please, not to

23 assume facts that are not actually correct.

24 PRESIDING JUDGE FREMR: I think we are that, for example, reading in the English

25 is clear that it was not feasible for this witness.

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1 Mr Bourgon, please.

2 MR BOURGON: Mr President, in the event I make a mistake of the kind, this could
3 be picked up in re-examination. But I was going to ask to the witness, I said
4 "French", but I was going to ask whether it was French or another language.

5 I think, Mr President, it's 1 o'clock, so we could stop here and resume after lunch. Is
6 that a proper time?

7 PRESIDING JUDGE FREMR: All right.

8 MS SOLANO: Your Honour.

9 PRESIDING JUDGE FREMR: Yes, Ms Solano.

10 MS SOLANO: Thank you, your Honour. I just want to say it's incumbent on the
11 Defence not to induce a witness into error even if the Prosecution can use
12 re-examination to correct incorrect answers that have been elicited from the witness.

13 PRESIDING JUDGE FREMR: I don't expect that it was such an intent on the part of
14 Mr Bourgon.

15 Now, we will break, but before we break just as regards timing, but first let's move
16 into open session.

17 (Open session at 1.01 p.m.)

18 THE COURT OFFICER: (Interpretation) We are in public session, Mr President.

19 PRESIDING JUDGE FREMR: So according my information, Defence used so far 1
20 hour 57 minutes, which means that from the allotted time, which is 3 hours 15
21 minutes, they still have at their disposal 1 hour 18 minutes. So please, Mr Bourgon,
22 take it into account when organising the rest of your cross-examination.

23 Even if, at the moment it is rather premature, Ms Solano, at this moment, do you
24 envisage any need for re-examination?

25 MS SOLANO: Your Honour, if so, it will be extremely limited so far.

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- 1 PRESIDING JUDGE FREMR: Okay then.
- 2 So now we break and we will reconvene half past 2.
- 3 THE COURT USHER: All rise.
- 4 (Recess taken at 1.02 p.m.)
- 5 (Upon resuming in open session at 2.32 p.m.)
- 6 THE COURT USHER: All rise.
- 7 Please be seated.
- 8 THE COURT OFFICER: (Interpretation) Your Honour, we are in open session.
- 9 PRESIDING JUDGE FREMR: Good afternoon, everybody.
- 10 Good afternoon, Madam Witness. Madam Witness, can you hear me well?
- 11 THE WITNESS: (Interpretation) Yes.
- 12 PRESIDING JUDGE FREMR: Is everything okay with your headphones?
- 13 THE WITNESS: (Interpretation) Yes.
- 14 PRESIDING JUDGE FREMR: I can promise that it's almost sure that we will finish
- 15 your testimony in this session, so please remain patient and hopefully in two hours
- 16 we will be completing your testimony.
- 17 So now we are in open session. Mr Bourgon, what do you prefer, to remain in open
- 18 session or character of your upcoming questions would require to move into private?
- 19 MR BOURGON: To go into private session, Mr President.
- 20 PRESIDING JUDGE FREMR: All right.
- 21 Court officer, let's move into private session.
- 22 (Private session at 2.33 p.m.) *(Reclassified partially in public)
- 23 THE COURT OFFICER: (Interpretation) We are in private session, your Honour.
- 24 PRESIDING JUDGE FREMR: Thank you.
- 25 Mr Bourgon, please proceed.

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1 MR BOURGON: Thank you, Mr President.

2 Q. Welcome back, Madam Witness. Madam Witness, before the break we were
3 talking about you meeting with the Prosecution (Redacted) to prepare for your
4 testimony. Do you recall this?

5 A. Yes.

6 Q. It is my understanding that during this preparation session you were shown a
7 number of documents by the Prosecution.

8 A. Yes.

9 Q. It is also my understanding that these documents were translated to you in a
10 language you understand.

11 A. Yes.

12 Q. It's also my understanding that you were given an opportunity to make
13 corrections where you thought corrections were required.

14 A. Yes.

15 Q. And, in fact, you recall making some corrections to some of these documents, do
16 you?

17 A. Yes.

18 Q. And do you recall also responding or giving answers to clarifying questions put
19 to you by the Prosecution?

20 A. Yes.

21 Q. I'd like to return now very briefly to the issue of Damblo. My question at this
22 time is I would like to suggest to you that at the time, after the second attack on
23 Mongbwalu, when you say you went to Damblo, that there was no road that could be
24 used by a vehicle to go to Damblo; do you agree with me?

25 A. No.

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1 PRESIDING JUDGE FREMR: Madam Witness, please.

2 THE WITNESS: (Interpretation) Yes. He just said that after the second attack I
3 went to Damblo, but that is not true.

4 MR BOURGON:

5 Q. You are correct. It's my mistake. After the first attack.

6 Madam Witness, I also suggest to you that on the road or on the way between
7 Mongbwalu and Damblo, there were numerous soldiers on the way; do you agree
8 with me?

9 A. No.

10 Q. And I also suggest to you, Madam Witness, that the bridge you referred to this
11 morning to cross the river after the airport, there was no such bridge at the time; do
12 you agree with me?

13 A. No.

14 Q. On the basis of these three questions, I suggest to you that you did not go to
15 Damblo after the first attack. Does that refresh your memory?

16 A. No.

17 Q. Now, my last question on this issue is you will agree with me that you, yourself,
18 did not see any killing taking place in Damblo; is that correct?

19 A. I was not a witness of the killings. We got to Damblo several days after the
20 attack.

21 Q. I move to a different topic, Madam Witness, which is that of your father. You
22 did say already that your father was of the Hema ethnic group; that's correct?

23 A. Yes.

24 Q. Now, you say that during the attacks on Mongbwalu, both attacks, your father
25 remained in Mongbwalu; is that correct?

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1 A. Yes.

2 Q. (Redacted)

3 (Redacted)

4 A. (Redacted)

5 Q. And I further suggest to you, Madam Witness, that despite your testimony that
6 all the Hemas left, I suggest to you that your father, if he ever existed, also left
7 Mongbwalu; would you agree with that?

8 A. No, he did not leave. Let me explain in greater detail. My father did not
9 leave Mongbwalu, and he wasn't the only Hema who stayed. A great many Hema
10 people hid and did not leave. I can also give the example of Major Banga. Another
11 Hema person by the name of Lokango (phon), he too stayed behind, but he left later.
12 There was also other -- other children of Hema ethnicity who were hidden by a pastor.
13 All this to say that it was just -- it was not just my father who remained in
14 Mongbwalu, other Hema people also hid there and stayed there.

15 Q. Thank you for this clarification. You just mentioned the name Major Banga. I
16 suggest to you that Major Banga, the person you are referring to, is in fact Banga
17 Safari; is that correct?

18 A. Yes.

19 Q. Can you confirm that Banga Safari was actually a civilian during both attacks on
20 Mongbwalu?

21 A. I don't know whether he was a civilian or a soldier, but I do know that he stayed
22 in Mongbwalu when other civilians had left.

23 Q. (Redacted)

24 (Redacted)

25 A. (Redacted)

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1 Q. And at that time Banga Safari was responsible for intelligence; is that correct?

2 A. He was referred to as "Commander". I learned that he was in charge of

3 intelligence in Mamedi and also in Bunia, (Redacted)

4 (Redacted). I just know that he was referred to as

5 "Commander," he was called "Commander".

6 Q. (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 Q. (Redacted)

11 (Redacted)

12 (Redacted)

13 A. (Redacted)

14 Q. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 A. (Redacted)

20 Q. (Redacted)

21 (Redacted)

22 A. (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 A. (Redacted)
- 9 Q. (Redacted)
- 10 (Redacted)
- 11 A. (Redacted)
- 12 Q. (Redacted)
- 13 A. (Redacted)
- 14 (Redacted)
- 15 Q. Now, I'd like to quote some information which we have from (Redacted),
- 16 and this is from a transcript, so it's not from -- it's what was said in a transcript --
- 17 PRESIDING JUDGE FREMR: Ms Solano.
- 18 MR BOURGON:
- 19 Q. -- by your husband.
- 20 PRESIDING JUDGE FREMR: Please, please.
- 21 Ms Solano.
- 22 MS SOLANO: Your Honour, according to the conduct of proceedings decision at
- 23 paragraph 34, my colleague is required to seek authorisation from the Chamber prior
- 24 to putting to the witness the testimony of another witness. As he has not done so, I
- 25 oppose his doing so unless he explains to the Chamber, perhaps without the witness

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1 hearing, what it is that he intends to do with (Redacted) testimony.

2 PRESIDING JUDGE FREMR: Court officer, please take out the headphones of

3 madam witness's ears.

4 Mr Bourgon, please proceed, I mean proceed with the argumentation to use this

5 (Overlapping speakers)

6 MR BOURGON: Thank you, Mr President. I just want to make sure that this will

7 not be counting on my time.

8 PRESIDING JUDGE FREMR: Yes, I can confirm.

9 MR BOURGON: Paragraph 34 of the decision on the conduct of proceedings, reads

10 as follows:

11 "When referring to another witness's testimony or previous statements, the parties

12 and participants shall quote directly the relevant passages and give the precise

13 references, including the relevant lines. These references should only be used when

14 appropriate after seeking the permission of the Chamber to do so."

15 Mr President, I already quoted once from the testimony of (Redacted) before.

16 (Redacted) whether they

17 know each other, it is necessary to compare their evidence. And now I'm about to

18 quote specifically from (Redacted), and I ask for the

19 Chamber's permission, if that is, as my colleague argues, necessary at this time.

20 PRESIDING JUDGE FREMR: You know, references are really necessary because it's

21 also for Prosecution to check that the reference is precise, and sometimes even for

22 Chamber.

23 Ms Solano, any further observation or comment?

24 MS SOLANO: Your Honour, I have no difficulty with the particular lines (Redacted)

25 that Mr Bourgon has indicated. Thank you.

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1 PRESIDING JUDGE FREMR: All right.

2 Mr Bourgon, please proceed.

3 And please, court usher, put back headphones.

4 Please proceed, Mr Bourgon.

5 MR BOURGON: Thank you, Mr President.

6 Q. Madam Witness, I'd like to quote you some information that was given before

7 this Chamber by (Redacted). And he said the following: (Redacted)

8 (Redacted)

9 Can you confirm, Madam Witness, that this is correct?

10 A. (Redacted)

11 (Redacted)

12 Q. (Redacted)

13 (Redacted)

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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13 Page redacted – Private session

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 A. (Redacted)

7 Q. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 PRESIDING JUDGE FREMR: (Redacted)

12 MS SOLANO: (Redacted)

13 PRESIDING JUDGE FREMR: (Redacted)

14 MR BOURGON:

15 Q. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 A. (Redacted)

23 Q. Thank you, madam. I will move to a different topic. I would like to refer you

24 to your victim participation form, Demande de participation -- let me read the exact

25 name, "Demande de participation pour les victimes."

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1 Yesterday the Prosecution invited you to make some corrections that you wanted to
2 make. Do you recall this?

3 A. Yes.

4 Q. For the record, I refer to document DRC-OTP-2090-0089, and I would like the
5 first page to be put up on the screen, please.

6 Madam Witness, let me quote from yesterday's transcript. This is T-93, 93, on page
7 60, at lines 12 to 18. You were asked questions by the Prosecution on this form.

8 At line 10 you were asked the following: "Do you remember what it says on the
9 form?"

10 Your answer: "Yes."

11 The question: "And what does it say?"

12 Your answer starts at line 13: "In the first form we filled out the first form, the
13 person who was asking me questions filled out the form, and I answered his
14 questions."

15 So you do recall meeting with a person who took down the information for your -- to
16 fill out this form; is that correct?

17 A. Yes.

18 Q. You go on at line 15 to say the following, always on page 60: "Now, when we
19 met the second time, I met with another group, and when I read over the form I
20 noticed that there was a mistake. And I wanted to make corrections. I said to them
21 that I hadn't said this or I hadn't said that."

22 Do you recall saying this yesterday?

23 A. Yes.

24 Q. You are referring in this answer to another group. Who is this group, Madam
25 Witness?

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1 A. We met the first group in (Redacted). It was a single person, a man. And
2 the other group we met in (Redacted).

3 Q. I understand from this, and I'd like you to confirm, that the first form or the first
4 man you met was a man who helped you to fill in the victim application form; that's
5 correct?

6 A. Yes.

7 Q. Where it says "another group," are these the representatives from the
8 Prosecution or is it something else?

9 A. I do not know whether they were representatives of the Prosecutor, but I know
10 that it was a (Redacted). So it was a
11 group of (Redacted).

12 Q. And does that refer to the first time you met the representative of the
13 Prosecution or you are unable to tell?

14 A. I do not know whether they were representatives of the OTP or representatives
15 of victims. I do not know.

16 Q. To the best of your recollection, how many meetings did you have with
17 representatives of the Court, whether victim or Prosecution?

18 A. I really no longer remember very well. I know that we had a meeting in
19 (Redacted). I don't remember precisely.

20 Q. I would like to go over with you some of the corrections that you wanted to
21 make, and I will draw your attention to the document which is on the screen before
22 you, but first I will quote from page 63 of yesterday's transcript, from lines 9 to 16.
23 The question was asked to you by the Prosecution at line 9, again, I say this is page 63:
24 "Can you see, madam, just above the number 2, where there is some handwriting,
25 where it says" --

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1 A. Ndiyo.

2 Q. (Redacted)

3 Your answer: Okay.

4 Question: "Is that information correct?"

5 Your answer: "No. I did not say that (Redacted)

6 (Redacted)

7 Do you recall saying this yesterday?

8 A. Yes.

9 Q. I draw your attention to the form that is before you and I would like to focus
10 just above where it says number 2. Number 2, the title of the paragraph is "Ces
11 événements ont causé le préjudice personnel suivant," but now I quote just above:

12 (Interpretation) (Redacted)

13 (Redacted)

14 Do you see this writing on the document?

15 A. Yes.

16 Q. So what you're saying today is that this is not true?

17 A. I have said that the form was wrongly filled out. I even said that when we
18 were still in Bunia.

19 Q. I understand, Madam Witness, but I'm simply asking you is this true or is this
20 false?

21 A. (Redacted)

22 (Redacted)

23 Q. And where it says, I draw your attention to that line, (Interpretation) (Redacted)

24 (Redacted)

25 So this is incorrect; is that right?

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1 A. Which page?

2 Q. Just above number 2.

3 A. Can you please read it out again?

4 Q. Yes, I will.

5 (Interpretation) (Redacted)

6 (Redacted)

7 (Speaks English) Is there any truth to this statement, Madam Witness?

8 A. (Redacted)

9 Q. (Redacted)

10 (Redacted)

11 A. (Redacted)

12 Q. So my question, madam, is were you misunderstood or did the man who wrote
13 the form invent this story?

14 PRESIDING JUDGE FREMR: Ms Solano.

15 Hold on, Madam Witness.

16 Ms Solano.

17 MS SOLANO: Your Honour, I object to the second proposition put by my colleague
18 to the witness in the alternative. The witness cannot be asked to speculate whether
19 the person who helped her fill out the form invented this story.

20 PRESIDING JUDGE FREMR: Yes.

21 Madam Witness, do you have any explanation for this, for those discrepancies
22 between your testimony and between the text of the application, victim application?

23 THE WITNESS: (Interpretation) Yes, I can explain. I do remember that this form
24 was filled out in (Redacted). When I came, I greeted him, I sat down, he asked my
25 name, I gave it to him. He asked me for my identity and my enrolment card. So he

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1 was comparing the documents.

2 And then he asked me what had taken place with me during the war. And I started

3 giving him an account. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 PRESIDING JUDGE FREMR: All right, Madam Witness. Now you provided us

11 with explanation concerning discrepancies concerning this previous issue, but now at

12 stake is issue concerning (Redacted). So there are also some discrepancies. Are you

13 able to explain those discrepancies between your oral testimony here and written

14 application concerning issue of (Redacted)?

15 THE WITNESS: (Interpretation) Regarding (Redacted)

16 (Redacted) I

17 explained everything to him. Maybe he made some errors. But I did not say that (Redacted)

18 (Redacted). Maybe when he wrote it down he made mistakes.

19 PRESIDING JUDGE FREMR: Mr Bourgon, please proceed.

20 MR BOURGON: Thank you, Mr President.

21 Q. Madam Witness, I move on to page 61, lines 8 to 10 of the transcript of

22 yesterday. And this is what you say in these two lines, page 61, lines 8 to 10:

23 "What's more, the trade -- or, rather, the livelihood of my *husband, they had written

24 down that (Redacted)."

25 Do you recall saying this yesterday, Madam Witness?

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1 A. Yes.

2 MR BOURGON: If I can have the form back on the screen for the witness please.

3 This is the same 2090-0089, first page.

4 Q. I draw your attention, Madam Witness, to the part where it's paragraph 1, and I will
5 quote from the third line: (Interpretation) (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 My first question: Is this information correct or incorrect?

11 A. I believe that I'm explaining to you how I can. I, myself, in Bunia discovered
12 that the document was written down incorrectly. When I was given the document,

13 *so that I could check my identity I realised that many mistakes had been made. I

14 asked to know why, what was written down was different from what I had said.

15 There were certain things that I had not said but which had been written down. And

16 here it is being said that (Redacted), but that is not what I

17 said. All I said was that (Redacted).

18 (Redacted)

19 (Redacted) But I believe

20 that I really pointed out to these white people that the person who filled out this form

21 (Redacted) added in certain things that I had not said. That is what I told them.

22 Q. So you never said this information as it is written down in this form; that's
23 correct?

24 A. There are certain things that were added which I did not mention.

25 Q. So (Interpretation) (Redacted)

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1 (Speaks English) that's not you?

2 A. That is not correct.

3 Q. I'd like to continue with page 61, lines 11 to 12 of yesterday's transcript. This is
4 what you said, (Redacted)

5 (Redacted)

6 Do you recall saying this yesterday?

7 A. Yes.

8 Q. I draw your attention now to the form that is on your screen, the very first line
9 in paragraph 1, (Interpretation) (Redacted)

10 (Redacted)

11 (Speaks English) And then further down in the same paragraph, (Interpretation) (Redacted)

12 (Redacted) (Speaks English) Is that information you

13 provided, or did -- you provided to the person who filled out this form?

14 A. I have explained to you that I met that person, but sometimes that person wrote
15 down things that I did not say. I remember that in Bunia, I do not remember the
16 year. When I saw that form I read it and I told those people that certain things had
17 been written down that I had not said. I believe that he added information that I did
18 not provide. So I said that this form was not correctly filled out.

19 Q. Thank you. I move now to page 61 of yesterday's transcript at lines 6 to 8.

20 Again, this is transcript number 93, on page 61, and here is what you say, "Well, the
21 first correction to make was the names. (Redacted)

22 (Redacted)"

23 Do you recall saying this yesterday?

24 A. Yes.

25 Q. Let's go back to the form on the screen and look at paragraph 1. Again, it says

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1 here right at the beginning, (Interpretation) (Redacted) (Speaks
2 English) Now, at the end of this paragraph a name is provided where it says
3 (Redacted)

4 Did you provide this information to the gentleman who filled out the form?

5 A. I'm telling you that I recognize this form, but there is some information that has
6 been added. You can see at the end of the form, I myself said that the first page of
7 the form was not correct. I said that there were many errors. You can read that on
8 the last page.

9 Q. Thank you. At this point in time I'd like to know who provided -- did you
10 (Redacted)?

11 A. Yes.

12 Q. And did you (Redacted)?

13 A. Yes, I'm the one who (Redacted)
14 (Redacted).

15 Q. And (Redacted)?

16 A. It was (Redacted).

17 Q. So if the gentleman wrote (Redacted), you provided this (Redacted) or you
18 provided other information?

19 A. Your Honour, I have already said that when I saw this form, not even here in
20 Bunia, I told them that the form was incorrectly written down. I gave them the case
21 of (Redacted). And
22 if you look at this statement, on the last page I said that the first page included wrong
23 information, what had been written down was not what I had told that person.

24 Q. Madam Witness, you did confirm that you speak and read French; is that
25 correct?

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1 A. Yes.

2 Q. I would like to quote at this point from your statement. This is 2076-03 -- 0299,
3 but the page number is 0314. And I'm quoting from paragraph 82, and in paragraph
4 82 you say the following, "I do not know why these errors were in the form. I spoke
5 with them and they wrote on the form. They did not read it back to me and I signed
6 it without reading it."

7 Is that correct?

8 A. Yes.

9 Q. So it is your testimony that you made an application or Demande de
10 participation pour les victimes without reading it? This is your testimony today?

11 A. The first statement that was taken down in (Redacted), which includes many
12 errors, in actual fact, you see, I met with them, the statement was taken, he asked me
13 to sign, I signed without anything else, and after the signature, we left.
14 The second time I met with other people in (Redacted), and after discussion, each time
15 before signing I was asked to read the document. And you see, it was then that I
16 discovered that I had signed without reading and that there were errors.

17 Q. Thank you. I would like to have now from the document that is on the screen
18 a different page. I would like to turn to the page which is 0091.

19 Madam, a document will appear before you on the screen and this is referred to as the
20 Carte d'électeur.

21 The number is 2090-0091. If we could have a blow up so that the witness can see.

22 First I'd like to draw your attention to the date of this document and confirm that it
23 was created on (Redacted). Do you see this in the middle where there is a
24 signature?

25 A. You're talking about the enrolment card?

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1 Q. The card that is on the screen before you.

2 A. No, no.

3 PRESIDING JUDGE FREMR: Hold on, Madam Witness.

4 THE WITNESS: (Interpretation) This says (Redacted).

5 PRESIDING JUDGE FREMR: Ms Solano.

6 MS SOLANO: Your Honour, I am on my feet to point out that the date of issue
7 visible on the card is (Redacted).

8 MR BOURGON: Thank you very much for pointing that out. I could not tell
9 whether it was (Redacted), then it's very difficult to see, and
10 then it says (Redacted).

11 Q. You can -- do you see the date, Madam Witness; can you confirm?

12 A. Yes.

13 Q. Now, if we can have to focus on the left side of the card where it says, "nom du
14 père" et "nom de la mère." So you see where it says "nom du père" it says
15 (Redacted) is that correct?

16 A. Yes.

17 Q. And you see the name of nom de la mère (Redacted) is that correct?

18 A. Yes.

19 Q. (Redacted)

20 (Redacted)

21 A. (Redacted)

22 Q. If we can focus, please, on the bottom of the page, where this document is found
23 where there is a date in the bottom left corner of the page. Do you see this number
24 at the bottom left part of the page?

25 A. Yes.

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1 Q. It says here, there is a number -- a series of numbers, but then I draw your
2 attention to the letter (Redacted).

3 A. Yes.

4 Q. Now first I'd like you to confirm that this is about two months after you made
5 your victim application in (Redacted) of the same year; is that correct?

6 PRESIDING JUDGE FREMR: Sorry, Madam Witness, hold on.

7 Ms Solano.

8 MS SOLANO: Your Honour, the date on which the victim participation application
9 form was signed, according to the first page of the document, was (Redacted) rather than
10 (Redacted).

11 PRESIDING JUDGE FREMR: Mr Bourgon, you should be precise when referring to
12 other documents.

13 MR BOURGON: Well, Mr President, my question was some two months. And we
14 go from (Redacted) to (Redacted). We're closer to two months than to three months, so
15 I had -- I didn't want to mislead the witness in any way.

16 Q. It is -- you know that the victim application form was on (Redacted) and that this
17 date is (Redacted) of the same year. Do you see this?

18 A. You are talking about this date? Yes, I see it.

19 Q. Now, I suggest to you that this is the date that this document -- you gave your
20 carte d'électeur to the victims people in (Redacted); would you agree with that?

21 A. I no longer recall what month it was or the exact date, but I do know that we
22 met one another and they took the data that was recorded on my enrolment card.

23 Q. And who is "they"?

24 A. The person whom I met. There was only one person whom I met.

25 Q. If we can have please the next page on this, the same document, so this would

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1 be page 2090-0093. Do you see this document, Madam Witness?

2 A. Yes.

3 Q. Do you recognize this document as being an attestation de naissance; is that
4 correct?

5 A. Yes, that's right.

6 PRESIDING JUDGE FREMR: Ms Solano.

7 MS SOLANO: Your Honour, I question what the Defence's basis is for saying, for
8 describing this document as an attestation de naissance. I note, for example, that the
9 document contains the civil status of the person. There is a line referring to
10 nationality, to children. So before the Defence asks the witness to agree to a
11 proposition, I would beg for further precision.

12 PRESIDING JUDGE FREMR: Mr Bourgon.

13 MR BOURGON: Of course I will, Mr President. The document says, I'm sure the
14 witness saw that because it says "Je soussigné", and then there's a name. So I
15 undersign, officier de l'état civil et (Interpretation) (Redacted) hereby
16 attest that (Speaks English) this is the name of the witness, born in (Redacted), born
17 on (Redacted). And it says here (Redacted). And it's état civil
18 and it's the (Redacted). So the witness can recognize that this is an official
19 document, but I will go down and show her the stamp.

20 PRESIDING JUDGE FREMR: Please.

21 MR BOURGON:

22 Q. If we can focus down at the bottom of this document, it says here:

23 (Interpretation) "This document is issued for any and all appropriate purposes."

24 Do you see this, Madam Witness?

25 A. Yes.

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1 Q. And you see that this document was created or signed, it says "Fait à (Redacted)
2 (Interpretation) (Redacted)"?

3 A. Yes, I see that.

4 Q. (Redacted)

5 A. (Redacted)

6 Q. And if we go a little further up on the document we see (Redacted)

7 (Redacted) Do you see this, Madam Witness?

8 A. Yes.

9 Q. And then it says a little lower down, where it says (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 A. Yes.

14 Q. Madam Witness, I suggest to you that this document was provided to the
15 victims people by yourself, and that it is you that provided the name (Redacted)

16 (Redacted) as you did on your victim application form. Do you confirm this?

17 MS SOLANO: Your Honour.

18 PRESIDING JUDGE FREMR: Ms Solano.

19 MS SOLANO: Your Honour, the Defence do not have a basis for suggesting to the
20 witness that this document was provided to the victims people by the witness. The
21 document is not signed by the witness. There is no basis that the Defence has
22 established so far that she provided this document to the victims people.

23 PRESIDING JUDGE FREMR: Mr Bourgon.

24 MR BOURGON: Yes, Mr President. If we can go back to the first page of the

25 document, and now I refer to page -- page 2090-0089 and I'd like to focus immediately

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1 at the bottom of the document. Actually I'd like to have the next page, 0090. At the
2 bottom of the document it says "Rappel." Madam Witness, you see the word that
3 says "Rappel. " (Interpretation) The following documents must be appended to
4 this form."

5 For the victim?

6 A. Yes.

7 Q. (Interpretation) "Photocopy of proof of identity"?

8 A. Yes.

9 Q. And if we can go back to the previous page, which is 0089, at the bottom, where
10 we have the form signed by the witness, and if we look at the complete bottom of the
11 document - further down - and we find the same number at the bottom, which is
12 (Redacted)

13 Madam Witness, on the basis of these documents, I suggest to you that the
14 information concerning (Redacted) does not exist. (Redacted)
15 (Redacted) That is my case I'm
16 putting to you, Madam Witness.

17 A. I disagree.

18 Q. I move to a different topic.

19 MR BOURGON: Mr President, I'd like to know how many minutes I have left so I
20 can pace the rest of my questions.

21 PRESIDING JUDGE FREMR: If I can just ask our court ushers. According my
22 measure it is a little more than 10 minutes, but what is the exact amount of time?
23 Please tell it to the microphone.

24 THE COURT OFFICER: (Interpretation) Approximately 15 minutes according to
25 my calculations.

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1 PRESIDING JUDGE FREMR: All right. So please let's agree you will finish by
2 4 o'clock.

3 MR BOURGON: Thank you, Mr President.

4 Q. Madam Witness, I'd like to refer here to transcript, and that is T-93, so that is
5 yesterday, on 2 May. And on page 44, where you were asked a question concerning
6 those you referred to as Fiston and Héritier. And the question at line 8, page 44 is:
7 Were they boys -- "Were they both boys?"

8 Answer: "Yes."

9 Question: "How do you know how old they were?"

10 Your answer is: "You could see. They were very young. You could see by the
11 appearance of their bodies."

12 On the basis of this answer I would like to show you some pictures and ask you
13 whether you can tell whether the persons displayed in these pictures are below or
14 over 15 years old. The first picture I would like --

15 PRESIDING JUDGE FREMR: Just a moment.

16 Ms Solano, Prosecution position? Even without, without looking at those pictures,
17 but generally as concerns this exercise, do you oppose to make this?

18 MS SOLANO: Your Honour, may I have a moment, please?

19 PRESIDING JUDGE FREMR: For sure.

20 Maybe general question, general question to Defence, what kind of pictures you will
21 show us or you would like to show to witness?

22 MR BOURGON: The picture I would like to show to the witness, our pictures are
23 still or screen captures taken from videos that are in evidence. Where some people
24 appear in these videos, I would like to get her opinion because she was asked for her
25 opinion and she provided her opinion, as to how you can tell whether a person is a

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1 child or not. So she must be able to say whether the picture she will say is a child or
2 not or below or on top of 15 years old.

3 PRESIDING JUDGE FREMR: Point taken.

4 So, Ms Solano, what is Prosecution position?

5 MS SOLANO: Your Honour, if the Defence intends to show photographs to the
6 witness, he is going to have to establish whether the witness is able to recognize the
7 people in the photographs. And if the witness does not recognize the people in the
8 photographs, I submit that there should not be any room for any further questions
9 regarding the people visible in the photographs.

10 PRESIDING JUDGE FREMR: But I understood that this question was intended not
11 for the identification of concrete persons, but rather of estimation, identification of
12 their age. So it's not about the identity.

13 MS SOLANO: Your Honour, in my submission, the witness should not be asked to
14 identify people that she does not know who are visible in the photograph. She
15 should not be asked to say what age she thinks these people are on the basis of the
16 photographs.

17 PRESIDING JUDGE FREMR: Mr Bourgon, any reaction?

18 MR BOURGON: Well, Mr President, as the Chamber just mentioned, it's not an
19 issue of identification. It's a matter of opinion. She was asked for her opinion by
20 the Prosecution, and the witness was allowed to provide her opinion. And she
21 should be able to provide her opinion. I have a few of these pictures and we'll have
22 an idea as to the value of her opinion.

23 PRESIDING JUDGE FREMR: The Chamber agrees by noting. Please, this objection
24 is overruled, please proceed, Mr Bourgon.

25 MR BOURGON: Thank you, Mr President.

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1 Q. Madam Witness, I will show you a few pictures very quickly. I would simply
2 ask that you -- I will draw your attention to a person on a picture and simply ask you
3 to provide your opinion whether you think the person on the image is below or over
4 15 years old. The first image is drawn from DRC-OTP-2058-0251. And this is at 48
5 minutes and 22 seconds. Sorry, it's 48.22.15. Madam Witness, do you see the
6 picture?

7 A. Yes.

8 Q. I would like you to say if according to your opinion the --

9 MS SOLANO: I'm sorry, your Honour, we appear --

10 PRESIDING JUDGE FREMR: Ms Solano.

11 MS SOLANO: We appear not to have a transcript, at least my transcript is frozen.

12 And I can't even see, I can't even see the Defence's original question.

13 PRESIDING JUDGE FREMR: It should be channel evidence 2. Are you on
14 evidence 2?

15 MS SOLANO: Your Honour, I referred to the transcript, not to the photographs.

16 PRESIDING JUDGE FREMR: I see. So the problem is that your
17 transcript -- English or French one?

18 MS SOLANO: The English transcript is frozen.

19 PRESIDING JUDGE FREMR: It's frozen.

20 MS SOLANO: And I must say, your Honour, that I can't even see the question or the
21 submission that Mr Bourgon made about what he intended to show the witness,
22 which is why I have been having some difficulty making my objection, because I have
23 not been assisted by having the transcript in front of me.

24 PRESIDING JUDGE FREMR: So you're asking now for what, Mr Bourgon to repeat
25 his submission or what?

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1 MS SOLANO: No, your Honour. I just would request that we have the transcript
2 available please for what continues now.

3 PRESIDING JUDGE FREMR: Yes, all right. It's legitimate. So please, court ushers,
4 be so kind and check Ms Solano's computer -- or rather than computer, transcript.
5 Now, I was informed that French -- the English version is frozen. Everybody has at
6 the moment no French real transcript, and court officer has already called for the
7 technical aide. There is a possibility to continue just looking at French one? Would
8 it be fine with you, Ms Solano?

9 MS SOLANO: Yes, your Honour. I mostly just wanted to explain why I was not
10 entirely able to make my submissions in the most coherent manner before.

11 PRESIDING JUDGE FREMR: Thank you. So let's continue with for the moment
12 just French version.

13 Mr Bourgon, please proceed. Again, it's on channel evidence 2, the picture.

14 MR BOURGON: Thank you, Mr President. Mr President, we can move in public
15 session for this exercise.

16 PRESIDING JUDGE FREMR: Prosecution, any objection to that?

17 MS SOLANO: No, your Honour.

18 PRESIDING JUDGE FREMR: Legal representatives, any objection to that? No?

19 Okay. Let's move into open session, court officer, please.

20 (Open session at 3.55 p.m.)

21 THE COURT OFFICER: (Interpretation) We are in open session, your Honour.

22 PRESIDING JUDGE FREMR: Thank you.

23 Defence, please proceed.

24 MR BOURGON: Thank you, Mr President.

25 Q. Madam Witness, you have a picture before you on your screen, and there are

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1 three characters in this picture. I will say again I believe just the number for the
2 record, which is DRC-OTP-2058-0251 at 48.22.15.

3 Madam Witness, the character on the left of the screen, holding a bottle with the
4 sleeves rolled up, in your opinion, how old is this person in uniform?

5 A. In my opinion, well, it's hard to say, to say what his name is looking at this
6 photograph. If the person were actually in front of me, then I could assess his age
7 and tell you what age he might be. But just to look at a picture, a photograph, and
8 estimate his age, that's difficult.

9 PRESIDING JUDGE FREMR: Madam Witness, could you at least, I know, we
10 respect that it is difficult and we also will take this exercise with taking that into
11 account, could you at least give us some range that this character on the left side
12 could be, your estimate could be between and two numbers?

13 THE WITNESS: (Interpretation) Well, I can see it's a child. Since this is a
14 photograph, I can't give you the child's age, the possible age. But I can see that this
15 person is a child.

16 PRESIDING JUDGE FREMR: And one additional question, and this provisional
17 conclusion you made on what ground, on what basis?

18 THE WITNESS: (Interpretation) If I look at his face, I can see that this person is a
19 child.

20 PRESIDING JUDGE FREMR: Thank you, Madam Witness.
21 Mr Bourgon.

22 MR BOURGON: Thank you, Mr President.

23 Q. Madam Witness, do you recognize the background of this picture?

24 A. No, I don't recognize this place.

25 Q. I suggest to you, Madam, that this picture was taken at the Appartements.

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1 Does that refresh your memory?

2 A. Appartements was a big place. I don't know whether this photograph was
3 taken there or right beside that place.

4 Q. Thank you.

5 For the record, Mr President, the Defence will establish that the character on the left is
6 a lady, and that she was 20 years old.

7 I'd like to move to the second picture, and this is DRC-OTP-1008-0008 at 1148.

8 Madam Witness, do you see this picture?

9 A. Yes.

10 Q. In your opinion, how old is the person in the middle of the picture with the red
11 armband?

12 A. Well, as I look at the photograph, well, I can't give you an exact age. To
13 determine this person's age, I have to actually see the person in real life.

14 Q. Thank you, Madam Witness. Maybe I can help you out by providing you a
15 picture in paper. Maybe you can -- it will be easier for you to make up your mind, at
16 least to provide an opinion.

17 PRESIDING JUDGE FREMR: Is the same like this picture on the screen?

18 MR BOURGON: Exactly the same.

19 PRESIDING JUDGE FREMR: I think it doesn't make any sense. It's the same effect.

20 MR BOURGON: Thank you, Mr President.

21 I move on to the third picture. This picture, Mr President, is at the
22 DRC-OTP-0127-0061, and it's at 1.49.01.

23 Q. Madam Witness, can you help us in providing your opinion as to the age of the
24 person which appears on this picture?

25 A. Counsel, I've said several times that it's difficult for me to assess somebody's age

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1 just by looking at a photograph. This is a very difficult task. The person has to be
2 actually in front of me in real life for me to do that.

3 PRESIDING JUDGE FREMR: Madam Witness, don't worry. We will take it into
4 account when adjudicating your testimony, all those factors.
5 Mr Bourgon.

6 MR BOURGON: Well, Mr President, I'd just like to recall to the witness what she
7 said, "You could see they were very young. Could you see by the appearance of
8 their bodies?"

9 Based on the appearance, your opinion by looking at this picture, do you confirm that
10 you cannot tell the age? You cannot tell if it's below 15 or 15 or above?

11 A. I cannot say I can estimate the age from the photo. If I see the person
12 physically, I can estimate the age.

13 Q. Thank you, Madam Witness. I move to the next picture.

14 PRESIDING JUDGE FREMR: Mr Bourgon, last 2 minutes.

15 MR BOURGON:

16 Q. Next picture is taken -- thank you, Mr President -- is DRC-OTP-0120-0294, and
17 it's at 02.47.15. And I draw your attention to the gentleman who is in the forefront to
18 the left of the picture. So you see an orange, a civilian with some kind of an orange
19 heading or a header and right in the front of *that person, there is another civilian.
20 Can you assist in providing your opinion as to the age of this person?

21 PRESIDING JUDGE FREMR: Madam Witness, did you respond?

22 THE WITNESS: (Interpretation) I didn't answer yet. I have already told him that
23 I cannot estimate the age of someone from a photograph. I've said that on several
24 occasions. I cannot estimate someone's age from a photograph.

25 PRESIDING JUDGE FREMR: All right.

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- 1 MR BOURGON: Thank you.
- 2 PRESIDING JUDGE FREMR: Mr Bourgon, last question and you have to wrap up.
- 3 MR BOURGON: Yes, I'm closing up, Mr President. Now with this technical I'd like
- 4 to have maybe three questions just to wrap up and that's my --
- 5 PRESIDING JUDGE FREMR: One last question, Mr Bourgon.
- 6 MR BOURGON:
- 7 Q. Madam Witness --
- 8 PRESIDING JUDGE FREMR: Make a choice.
- 9 MR BOURGON:
- 10 Q. (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 MS SOLANO: Your Honour.
- 15 PRESIDING JUDGE FREMR: Ms Solano.
- 16 MS SOLANO: We're in open session, your Honour.
- 17 PRESIDING JUDGE FREMR: Sorry.
- 18 Court officer, let's move into private session.
- 19 (Private session at 4.05 p.m.) *(Reclassified partially in public)
- 20 THE COURT OFFICER: (Interpretation) Your Honour, we're in private session.
- 21 PRESIDING JUDGE FREMR: We will have to redact the beginning of this question
- 22 from the transcript.
- 23 Mr Bourgon.
- 24 MR BOURGON: My mistake again, Mr President. I apologise.
- 25 Q. (Interpretation) Madam Witness, I will ask my question in French because it is

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1 my last question. During your testimony, we have established that you gave a
2 statement to the Prosecution in (Redacted). My question to you is as follows: At
3 the time that you gave that statement, I'm putting it to you that you were aware that
4 (Redacted)

5 (Redacted)

6 A. Is it written somewhere that that is what I said?

7 Q. (Interpretation) Yeah, this is a proposal that I'm putting to you. You met
8 with the OTP, that is true, but I'm putting it to you that (Redacted)

9 (Redacted)?

10 A. I never had any discussion with the Defence lawyer.

11 PRESIDING JUDGE FREMR: Mr Bourgon, your time is over.

12 MR BOURGON: Can I clarify the question, because she didn't understand the
13 question, Mr President?

14 PRESIDING JUDGE FREMR: All right then. I'm very generous today.

15 MR BOURGON: Thank you, Mr President.

16 Q. (Redacted)

17 (Redacted)

18 A. (Redacted)

19 MR BOURGON: Thank you, Madam Witness. I have no further questions.

20 PRESIDING JUDGE FREMR: Now, Ms Solano, any demand for re-examination?

21 MS SOLANO: Your Honour, just one extremely brief line of questioning, please.

22 PRESIDING JUDGE FREMR: You will need how much time, you would say?

23 MS SOLANO: Under five minutes, your Honour.

24 PRESIDING JUDGE FREMR: Five minutes is fine. Do you want to continue in
25 private or could we move in open?

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1 MS SOLANO: Private session, please.

2 PRESIDING JUDGE FREMR: All right then. So please proceed and you have five
3 minutes.

4 MS SOLANO: Thank you, your Honour.

5 Can the court officer please display the witness's victim participation application
6 form, DRC-OTP-2090-0089.

7 PRESIDING JUDGE FREMR: Mr Bourgon.

8 MR BOURGON: Mr President, I think this is improper re-examination. The topic
9 of the victim's participation form was raised by the Prosecution to which I
10 cross-examined. So there is no second kick, second kick at the can. There is
11 no -- this is not an issue for re-examination. Thank you.

12 PRESIDING JUDGE FREMR: I could respond myself, but still, Ms Solano, you also
13 can react.

14 MS SOLANO: Your Honour, my question pertains exclusively to the question of the
15 dates on which the various documents that integrate this form were signed.

16 Mr Bourgon put questions to the witness about two documents or three documents
17 bearing dates, but he did not put any document -- any questions on the document
18 that appears on the last page of the form, which actually has a date that precedes
19 some of the documents that Mr Bourgon showed the witness. So that's what I intend
20 to explore.

21 PRESIDING JUDGE FREMR: Objection overruled. Please proceed.

22 MS SOLANO: Thank you.

23 Can the court officer please show the bottom of the first page of the form.

24 QUESTIONED BY MS SOLANO:

25 Q. Madam, do you see a signature in the middle of the page -- in the bottom of the

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1 page in front of you? Do you see a signature?

2 A. Yes.

3 Q. Do you recognize the signature?

4 A. Yes.

5 Q. Whose signature is it?

6 A. It is my signature.

7 Q. Can you read out the date which appears below the signature slightly on the
8 left?

9 A. (Redacted)

10 MS SOLANO: Can the court officer please display the last page of this document.
11 It's page (Redacted), bottom half of the document please.

12 Q. Madam, do you see a signature on that page, and if so, do you know, do you
13 recognize the signature?

14 A. Yes.

15 Q. Whose signature is that?

16 A. It is my signature.

17 Q. Do you see a date just above the signature, and can you read it out, please?

18 A. Done at Mongbwalu (Redacted).

19 Q. Can we move to page (Redacted), please, bottom of the page, please.

20 Madam, do you recognize the signature at the bottom of this page?

21 A. No.

22 Q. Do you see a date, and can you read the date, please, the date just above the
23 signature?

24 A. Done at (Redacted) on (Redacted).

25 MS SOLANO: Thank you, your Honour. No more questions.

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1 PRESIDING JUDGE FREMR: Thank you, Ms Solano.

2 Mr Bourgon, any recross?

3 MR BOURGON: No questions, Mr President.

4 PRESIDING JUDGE FREMR: I also don't have any further questions for this
5 witness.

6 Do my colleagues have any questions? No.

7 So it means, Madam Witness, that we can conclude your testimony. I would like to
8 thank you very much, because you even had to overcome some health problems, so
9 the Chamber really appreciates that. We firmly believe that your testimony will
10 assist us in our effort to find the truth. So thank you very much, Madam Witness,
11 and we wish you a safe journey home.

12 Now, court usher, you may escort Madam Witness out of the courtroom.

13 THE WITNESS: (Interpretation) Thank you.

14 (The witness is excused)

15 PRESIDING JUDGE FREMR: Before we approach the very end of this evidentiary
16 block, so before we adjourn, I would like to address one additional issue. The
17 Chamber would like to highlight its concerns -- sorry, yes, good point, we have to
18 move into, we should move into open session for that topic.

19 (Open session at 4.16 p.m.)

20 THE COURT OFFICER: (Interpretation) Your Honour, we're in open session.

21 PRESIDING JUDGE FREMR: Thank you, court officer.

22 Since I erroneously started in private session, I will start again with the Chamber's
23 guidance. Our Chamber would like to highlight its concerns regarding the manner
24 in which the examination of witnesses is being conducted. The Chamber's
25 dissatisfaction does not relate, it's necessary to emphasise that, doesn't relate only to

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1 the witnesses in the current evidentiary block, but arises from our consideration and
2 analysis of the overall proceedings so far.

3 We feel that there is still room for redaction of the estimated time required to question
4 witnesses and redaction of duration of whole trial this way and through, for example,
5 limiting examination on very general matters and on topics which have already been
6 addressed by a number of previous witnesses, and we suppose that number of
7 witnesses testifying on the same topic on the same count on the same event will be
8 increasing gradually.

9 In our view, examination should focus on those topics in a witness account which are
10 of most relevance of our proceedings, so it's not necessary to cover any information
11 known to witness, but only those who are really new and relevant for our case. We
12 recommend that the time estimates for examination of all future witnesses be
13 reviewed, and we'll be communicating this to you by way of separate direction.
14 Further, we strongly recommend increased use of Rule 68 to facilitate the efficient
15 presentation of evidence. The Chamber is aware that it previously rejected certain
16 Rule 68(3) applications. Nonetheless, as emphasised at the time of those decisions,
17 the fact that the Chamber found those particular witnesses unsuitable for use of this
18 rule shouldn't discourage future applications for its use where appropriate.

19 While most of those recommendations obviously apply to Prosecution, we also
20 consider that cross-examination could be conducted in a more time efficient manner.
21 For example, the Chamber does not consider the summarisation of repetition of large
22 parts of the evidence in-chief to be the most efficient use of time allocated for
23 cross-examination. If there are particular areas which are unclear or if the Defence
24 wants to give a witness an opportunity to amend or clarify a statement, then this may
25 be an appropriate approach. But simply summarising back the witness evidence to

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1 set the scene, especially part of the testimony conducted before the Court a few hours
2 ago, should be avoided in Chamber's view.

3 With regard to the fifth evidentiary block, which is planned from 6 June to 15 July, we
4 have received the list of witnesses the Prosecution intends to call, and I wish to
5 inform you that the Chamber will shortly be communicating by email certain
6 recommendations regarding the mode of testimony and the allotted time.

7 It concludes our guidance.

8 Now, are there any further requests for the floor, Prosecution? Defence? Okay.

9 So it means that we concluded the fourth evidentiary block. Before leaving the
10 courtroom I will thank our interpreters, court reporters, and even our guards who
11 supported us. And otherwise we will see you again on 6 June, yes.

12 Now court is adjourned.

13 THE COURT USHER: All rise.

14 (The hearing ends in open session at 4.21 p.m.)

15 RECLASSIFICATION REPORT

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