

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing - Courtroom 2
7 Monday, 6 June 2016
8 (The hearing starts in open session at 9.36 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. Welcome back.
13 Court officer, please call the case.
14 THE COURT OFFICER: Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 For the record, we are in open session.
18 PRESIDING JUDGE FREMR: Thank you.
19 Now appearances in habitual order, so starting with Prosecution, please.
20 MR IVERSON: Good morning, Mr President. Good morning, your Honours.
21 Appearing today on behalf of the Office of the Prosecutor are James Pace, assistant
22 trial lawyer; Rens van der Werf, assistant trial lawyer; Dianne Luping, trial lawyer;
23 Selam Yirgou, case manager; Judith Boekstal, intern; and myself, Eric Iverson, trial
24 lawyer.
25 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.

1 Defence.

2 MR BOURGON: (No interpretation)

3 PRESIDING JUDGE FREMR: Merci beaucoup, Mr Bourgon.

4 I would like to say that we didn't receive, at least myself, we didn't receive an English
5 translation. The same? Yes.

6 Court officer, could we --

7 THE INTERPRETER: Testing one, two. Testing one, two.

8 PRESIDING JUDGE FREMR: Now it's fine. Now it's fine. Thank you.

9 So it means we can proceed with Legal Representatives of Victims, please.

10 MS PELLET: (Interpretation) Thank you very much, your Honour. The former

11 child soldiers are represented by Mohamed Abdou and by myself, Sarah Pellet,

12 counsel with the Office of Public Counsel for victims. Thank you very much.

13 MR SUPRUN: (Interpretation) Good morning, your Honour, your Honours. The

14 victims of the attacks are represented by the Office of Public Counsel for Victims,

15 Anne Grabowski and myself, Dmytro Suprun.

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

17 I also note the presence of legal adviser appointed pursuant to Rule 74 to assistant the
18 witness who will testify today. So please, welcome, and please state your name for
19 the record.

20 MR LAUCCI: (Interpretation) Thank you very much, your Honour, your Honours.

21 Before you as the legal counsel appointed under Rule 74 of the Rules of Procedure

22 and Evidence to assist the witness my name is Cyril Laucci. Thank you.

23 PRESIDING JUDGE FREMR: Thank you.

24 Now, today we are starting the fifth evidentiary block in this case and the testimony

25 of the next Prosecution witness and before that I will briefly address a few procedural

1 matters.

2 First, as you were informed by way of email, the Registry remains unable to provide
3 both French and English edited transcripts by the following day for two cases at the
4 same time. The Chamber would like to make it clear that it considers this
5 arrangement to be very unsatisfactory, particularly in the context of the Chamber's
6 recent direction for the need to ensure comparison of and accuracy between French
7 and English edited transcripts.

8 Nonetheless, in consultation with other affected Chambers, it has been agreed that for
9 the time being this case will receive English edited transcripts the following day, with
10 French edited transcripts to follow. The Chamber directs the Registry to expedite its
11 efforts to resolve the resourcing difficulties necessitating such arrangements.

12 Second, we have a short oral ruling during the testimony of Witness P-933 on
13 21 April 2016 the Prosecution sought admission of document DRC-OTP-2092-0170
14 which is an Article which the witness coauthored. On 22 April 2016 the Defence
15 indicated it had no objection to the admission of the document and, having
16 considered the content and related testimony, the Chamber hereby admits the
17 document into evidence.

18 Next, turning to the witness who will be testifying today the Chamber recalls its
19 decision granting in-court protective measures in the form of face and voice distortion
20 and the use of a pseudonym. Then the Chamber notes that the Prosecution's revised
21 time estimate for the examination-in-chief of this witness is eight hours, which is in
22 line with the Chamber's encouragement in this regard. As usual I will be keeping an
23 eye on timing and asking you for updates on your progress as we proceed. The
24 Chamber has also taken note of the Defence indication that it may seek two additional
25 hours for cross-examination.

1 The Chamber will defer its ruling on this matter but notes that the Defence will be
2 expected to use its current examination time efficiently.

3 With regard to the sitting schedule, I recall that as was set out in the supplemental
4 decision on matters related to the conduct of proceedings of 27 May we will from now
5 on be sitting for five hours per day with a two-hour afternoon session ending at 4.30
6 p.m.

7 Next, I note that the Legal Representatives of the former child soldiers has requested
8 to examine the witness. Following our usual practice, we will come back to this
9 request after the Prosecution has completed its examination-in-chief.

10 We will also address any objections to the use or admission of documents as they
11 arise.

12 Finally, Mr Laucci is present to assist the witness in respect of any self-incrimination
13 issues which may arise. The Chamber notes that he was able to meet with the
14 witness and explain matters of self-incrimination to him. On Thursday, 2 June,
15 Mr Laucci seized the Chamber on behalf of the witness of a request for assurances
16 pursuant to Rule 74, including a request for the entirety of the witness testimony to be
17 heard in closed session. On Friday, 3 June via email the Prosecution provided
18 ex parte observations on the request for assurances pursuant to Rule 74(4). It accepts
19 that such assurances would be appropriate subject to the usual caveat of the witness
20 telling the truth throughout his testimony.

21 As a preliminary matter in line with previous practice the Chambers notes that it
22 would not consider that having the entirety of the testimony in private session would
23 be necessary to ensure the effectiveness of any assurances given. Should the
24 assurances be granted, it would in the Chamber's view be sufficient for any
25 identifying or potentially incriminating information to be kept confidential. I first

1 turn to the Defence the Chamber has received and considered your submissions on
2 the request for entirely closed session which was filed on Friday. Do you otherwise
3 have any observations on the request for Rule 74 assurances? Please bear in mind
4 we are in open session and if you wish to raise any details then we shall move to
5 private session. Defence?

6 MR BOURGON: No observation, Mr President, thank you.

7 PRESIDING JUDGE FREMR: All right. Mr Laucci, the Chamber has received your
8 report and recommendation. Is there anything you wish to add and, if so, we may
9 need again to go into private session.

10 MR LAUCCI: (Interpretation) Nothing to add, your Honour.

11 PRESIDING JUDGE FREMR: Very well.

12 (Trial Chamber confers)

13 PRESIDING JUDGE FREMR: So after a brief silent deliberation the Chamber
14 decides that we will provide the witness with the requested assurances and, as
15 previously indicated in the Chamber's established practice, such a measure only
16 applies to those parts of testimony dealing with matters covered by Rule 74. If any
17 questions are asked that could lead to self-incrimination we will hear the witness's
18 answers in private session. The Chamber does not consider it necessary that the
19 entirety of the witness testimony be heard in closed session to give effect to the
20 Chamber's assurances.

21 So now unless the parties or participants wish to raise anything at this point we can
22 turn to the scheduled testimony.

23 Mr Bourgon?

24 MR BOURGON: Thank you, Mr President. Just a brief observation before the
25 witness is brought into the courtroom. In accordance with the Chamber's guidance

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 in the supplementary conduct of proceedings decision and also prior to this decision
2 parties are encouraged to use leading questions for the background of the accused.
3 In this case, Mr President, we do not consent to the use of leading questions with this
4 particular witness because we believe that there are many issues that are likely to
5 arise simply as part of his background that we would like to have elicited in the
6 normal way. Thank you, Mr President.

7 PRESIDING JUDGE FREMR: All right, Mr Bourgon. It's well noted and I think it's
8 accepted.

9 So now, court officer, please bring witness in the courtroom.

10 (The witness enters the courtroom)

11 PRESIDING JUDGE FREMR: Mr Witness, good morning. On behalf of this
12 Chamber I would like to welcome you to the courtroom.

13 WITNESS: DRC-OTP-P-0190

14 (The witness speaks French)

15 THE WITNESS: (Interpretation) Good morning, your Honour.

16 PRESIDING JUDGE FREMR: Mr Witness, you are called to testify in the case
17 against Mr Bosco Ntaganda to assist this Chamber in its search for the truth. You
18 will be asked soon questions posed by the Judges and lawyers in the courtroom and
19 in this connection I would like to guide you as follows:

20 Please listen carefully to those questions. It's very important that you make sure that
21 you understand the question. If you do not understand, feel free to ask for the
22 question to be repeated. We want you to tell the truth and tell us what you saw,
23 heard or sensed yourself. If you did not see or hear it yourself, but you found out
24 some other way, then you should explain how. You may not remember all details
25 and it does not matter. Please testify just on that which you remember.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 Don't guess. Don't make things up. There is nothing wrong in saying "I don't
2 know" or "I don't remember."

3 Do you understand all this, Mr Witness?

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

5 PRESIDING JUDGE FREMR: Very good. Mr Witness, protective measures are put
6 in place to ensure that your identity is not revealed to the public. I'm aware that this
7 has already been explained to you, but let me briefly remind you that the public
8 cannot see your face and that your voice is being disguised so that the public cannot
9 recognize you.

10 We will refer to you as "Mr Witness" and ensure that your name and any other
11 information that risks revealing who you are is not broadcasted to the public.

12 Therefore whenever you need to describe anything that might reveal your identity,
13 we will do so in private session so that no one outside the courtroom can hear your
14 answer.

15 Do you understand, Mr Witness?

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

17 PRESIDING JUDGE FREMR: All right. Mr Witness, you have been assigned a
18 lawyer to provide you with legal advice, Mr Laucci, about possible self-incrimination.
19 You have met before and he is present here in the courtroom. If any concerns arise
20 during the course of your testimony, he will be able to advise you and to raise the
21 concerns with the Chamber.

22 Mr Laucci has requested that you be given certain assurances by the Chamber. The
23 Chamber has decided to give you these assurances. There may be questions asked
24 to you for which you fear that answering them truthfully may incriminate you
25 because these questions relate to your own conduct. In such cases we will require

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 you to answer the question, but we can assure you that your answer will be kept
2 confidential and will not be disclosed to the public or to the government of any
3 country.

4 The Prosecution has further assured that it will not use this information to prosecute
5 you before the ICC provided that you tell the truth.

6 Do you understand all this, Mr Witness?

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

8 PRESIDING JUDGE FREMR: Very well then.

9 Mr Witness, now you will find a piece of paper in front of you with the solemn
10 undertaking. Please now make your solemn undertaking to tell the truth by reading
11 out the declaration on the piece of paper in front of you please.

12 THE WITNESS: (Interpretation) I solemnly declare that I will tell the truth, the
13 whole truth and nothing but the truth.

14 PRESIDING JUDGE FREMR: Thank you. It means you are now under oath, so you
15 need to be aware that it is an offence within the jurisdiction of this Court to give false
16 testimony. Do you understand that?

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

18 PRESIDING JUDGE FREMR: Good.

19 And now a few practical matters I should have in mind.

20 It's important to speak into the microphone, to speak clearly and to speak at a slow
21 pace, approximately like me now.

22 You should only start speaking when the person asking you the question has finished.
23 When a question is asked please, and it's very important, count in your head to three
24 and only then give your answer. This pause is essential for us to properly hear and
25 record what you are saying.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 If you have any questions during your testimony, or if you feel that you need a break,
2 please do not hesitate to let us know by raising your hand, we will then give you the
3 opportunity to speak.

4 Have you understood all that, Mr Witness?

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

6 PRESIDING JUDGE FREMR: Very well. So it means we can start with your
7 testimony.

8 Now Prosecution, you have the floor.

9 MR IVERSON: Thank you, Mr President.

10 QUESTIONED BY MR IVERSON:

11 Q. Good morning, sir. My name is Eric Iverson and I'm a trial lawyer with the
12 Office of the Prosecutor. We've met before, but I just wanted to introduce myself.
13 How are you this morning?

14 A. I'm fine. Thank you, Prosecutor.

15 Q. So I would just first like to highlight something that the Presiding Judge just
16 said because often times both witness and counsel tend to forget it, and that is to
17 make sure that you pause before answering the question, and then I need to pause
18 before asking the next question. And that's because of the interpretation. So
19 we'll -- can we both endeavour to do that, sir?

20 A. I agree, Prosecutor.

21 Q. Now, first I'd like to ask you a number of background questions and that's so
22 that the Chamber, the Judges can get to know a little bit about you so that they can
23 best evaluate the evidence that you'll provide, but because those questions relate to
24 your identity, I'll ask the Presiding Judge that we go into private session.

25 PRESIDING JUDGE FREMR: All right.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

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

2 (Private session at 9.58 a.m.) *Reclassified partially in public)

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

4 PRESIDING JUDGE FREMR: Thank you, court officer.

5 Mr Iverson, please proceed.

6 MR IVERSON: Thank you, your Honour.

7 Q. So, sir, now we're in private session, which means the public can't hear what

8 you're saying, so it's safe to reveal information that identifies you. So could I ask

9 you to state your full name for the record, please?

10 A. (Redacted).

11 Q. And the place and date of birth, please?

12 A. I was born on (Redacted), in (Redacted), in (Redacted).

13 Q. (Redacted)?

14 A. (Redacted).

15 Q. And could you please tell the Court what is your ethnicity?

16 A. I belong to the (Redacted). That's my ethnicity. So I am of the

17 (Redacted). That is what I can say about my ethnicity in regard to my origins

18 (Redacted).

19 Q. And I don't intend to go through your full educational background, but could

20 you please tell the Judges what was the highest level of education which you

21 attained?

22 A. (Redacted)

23 (Redacted).

24 Q. (Redacted)?

25 A. (Redacted).

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 Q. And then, starting in (Redacted), could I ask you to tell the Judges what
2 positions, occupational positions you have held, kind of like a chronological CV if you
3 would, from (Redacted) until present?

4 A. Mr Prosecutor, let me clarify one thing, if I may: I would like to start from (Redacted),
5 but how far do you want me to go? You have asked me to begin in (Redacted), how far do
6 you want me to go to come to as far as today or should I answer only to a specific year
7 which you would like to mention?

8 Q. Well, could I ask you to go from (Redacted) until (Redacted). And then I'll ask
9 follow-up questions if necessary. Could you do that?

10 A. Yes, I can do that, Mr Prosecutor.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 (Redacted)?

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted).

25 Q. Sir, I'd like to ask you a few questions about your knowledge of the origins of

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 the UPC to the extent you can provide the Chamber with information, but first I want
2 to ask the question: Are you familiar with the term "Chui mobile force"?

3 A. Thank you very much, Mr Prosecutor. I know Chui mobile force.

4 (Redacted)

5 (Redacted), at that time, after the RCD, there was a lady called

6 Adèle Lotsove, who was the governor of the Ituri in 1999. She served as governor

7 under the auspices of UPDF, that is, the Ugandan soldiers, for a few months only.

8 Then she was called up to Kampala by Uganda (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted) someone else was going to be appointed as governor of the Ituri district.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted) they promised the lady that she would be appointed to the position of minister

18 of finance, but she turned it down, she refused to accept the post that was being given to

19 her and preferred to stay in exile in Kampala.

20 (Redacted)

21 (Redacted)

22 A few days after, Mr Wamba Dia Wamba landed in Bunia with an entire delegation;

23 namely, people who came with him from Kisangani, Kampala and from Kampala to

24 Bunia.

25 We did not have a governor at that time. Only the sector commander of the

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 Ugandan army was at the airport. His name is Captain Chakabale. He was the one
2 who was the de facto governor of the Ituri. So when Mr Wamba Dia Wamba arrived,
3 he introduced himself as the local president of the RCD-Kisangani.
4 So when he came the sector commander was dismissed and replaced by another
5 commander Colonel Angina, who is now the deputy chief of general staff of the
6 Ugandan army. (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 Now, in 2000, when Mr Wamba Dia Wamba took over, I think it is then that a conflict
13 broke out between Mr Wamba Dia Wamba and his ministers after his government
14 was constituted. He set up his government appointing a vice president and
15 ministers.
16 Now, Mr Wamba Dia Wamba appointed Mr Mbusa Nyamwisi to the position of vice
17 president, and Mr Tibasima, a native of the Ituri. And Mbusa Nyamwisi is a native
18 of the North Kivu.
19 Now, one or two months, I may say, thereafter Mr Nyamwisi and Mr Tibasima could
20 not work with Mr Wamba Dia Wamba. They didn't want to have anything to do
21 with him because he came from the Bas-Congo.
22 And so there was something happening there in the Ituri district. There was also
23 division within the Ugandan army. And as I have told you, Colonel Angina was the
24 one who had served as sector commander and he had received the briefing about
25 protection for President Wamba Dia Wamba.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 Now, Mr Tibasima and Mbusa Nyamwisi, who were not happy about the presence of
2 president Wamba Dia Wamba, linked up with other high ranking officers and
3 generals of the Ugandan army and, therefore, did not respect orders from Colonel
4 Angina who was appointed to the position of sector commander to protect the
5 president.

6 Instead, they confided in General Kazini who dictated orders directly to another
7 commander who supported the two politicians; namely, Nyamwisi and Tibasima.

8 In that regard, a battalion, a special battalion was created and was led by a captain
9 called Léopold. Léopold was assisted by Ntikamanyire, another officer.

10 Then the conflict broke out in the north which was occupied by Mbusa Nyamwisi's
11 battalion and soldiers who had come with him from Kisangani.

12 And to the south, where the administrative services of the Ituri district were set up,
13 this area was occupied by Wamba Dia Wamba and all the ministers as well as the
14 sector commander. (Redacted)

15 (Redacted). And I told you that in the south this is where the
16 administrative services of Ituri district are located.

17 So there was a misunderstanding between the two camps; Mr Wamba Dia Wamba's
18 camp and Mr Tibasima and Mbusa Nyamwisi's camp.

19 That was the beginning of the conflict in 2000.

20 None of Wamba Dia Wamba's soldiers could go up to the north. And none of
21 Tibasima and Mbusa Nyamwisi's soldiers, which had -- which were under a Ugandan
22 battalion Captain Léopold could come down to Mr Wamba Dia Wamba's camps in
23 the south.

24 That is how the conflict broke out, Mr Prosecutor. In fact, there were a few
25 skirmishes. And Mr Wamba Dia Wamba could not leave the south to go to the north

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 and the north to the south.

2 So now let's go to the Chui mobile force. By the way, Mr Prosecutor, I just wanted to
3 give you the background as to how this Chui mobile force came into place. That's
4 why I gave you that general background.

5 Q. And thank you, I appreciate. I think a full explanation of the background is
6 good, but I have a few questions about the spellings of the names just to make sure
7 that we get those correct in the transcript.

8 So Colonel Angina, could I have you spell that name, please?

9 A. Angina is spelled A-N-G-I-N-A. Angina Charles.

10 Q. And could I have you spell the name Chakabale.

11 A. T-S-H-A-K-A-B-A-L-E, Chakabale.

12 Q. And Tibasima?

13 A. Tibasima, T-I-B-A-S-I-M-A, Tibasima.

14 Q. Okay. Thank you for that, sir.

15 Now, just going back to the Chui mobile force, you explained the background.

16 Could I ask you to explain what was the Chui mobile force to the Chamber, please?

17 A. Thank you very much, Mr Prosecutor. Now, let me address the question
18 substantively, that is the Chui mobile force question.

19 As I told you, there was conflict between the north and the south, between

20 Mr Mbusa Nyamwisi and Mr Tibasima's camps and Wamba Dia Wamba's camp.

21 Now, they were using only a few militia who had been trained in Rwampara. And

22 I'm referring here to the Ugandan government. When Madam Lotsove was there,

23 some Ugandans provided training at the Rwampara camp for the militia. They had

24 realised that they could not work only with Ugandan soldiers, so they took up a few

25 militia and children and trained them in Rwampara. And then they took these to the

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 bush and recruited other people into what became the Chui mobile force. Therefore,

2 Mr Prosecutor --

3 PRESIDING JUDGE FREMR: Sorry, mister --

4 THE WITNESS: (Interpretation) -- who went into the bush --

5 PRESIDING JUDGE FREMR: Sorry, Mr Witness, I have to interrupt you for a while.

6 Mr Bourgon.

7 MR BOURGON: Thank you, Mr President. I'm sorry to interrupt my colleague this

8 point in time, but this kind of information, I think, can be elicited in public session. I

9 don't think there's any problem with such information being public. And the

10 answers are quite long, so I think it's possible to stop him if something comes up that

11 we need to stop. Thank you, Mr President.

12 PRESIDING JUDGE FREMR: Do you agree, Mr Iverson?

13 MR IVERSON: Yes, your Honour, I agree. And I would just ask that the witness be

14 mindful of not including what he was doing unless he feels that necessary and then

15 we can go into private session. So I would ask -- I would concur with my colleague

16 that open session or public session would be appropriate here, your Honour.

17 PRESIDING JUDGE FREMR: Mr Witness, you probably understand we would like,

18 at least, conduct at least part of your testimony in open session, which would also

19 allow public to see what is this proceeding, your testimony about. And especially

20 now when you are just describing, for example, Chui mobile force I think there is

21 nothing that could reveal your identity, so I guess you understand that this part of

22 your testimony could be conducted in open session. As soon you would like to add

23 anything that could reveal your identity just raise your hand, stop and we will move

24 into private. Do you understand?

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

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: Very well. So let's move into open session now.

2 (Open session at 10.23 a.m.)

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

4 PRESIDING JUDGE FREMR: And, again, sorry for interrupting you Mr Witness, so
5 now you may continue in answering the question put to you by Mr Iverson
6 concerning Chui mobile force. And if I remember well, you had been interrupted in
7 the time when you described training provided to recruits in Rwampara. So please
8 continue from that point.

9 THE WITNESS: (Interpretation) Thank you very much.

10 Now, Mr Prosecutor, I was telling you that there was conflict between Wamba Dia
11 Wamba, Mbusa and Tibasima.

12 In 1999 to 2000, Tibasima had already trained a number of youth at the Rwampara
13 camp. They had already finished the training and they were working with
14 Mr Léopold's battalion.

15 There was another group which I wanted to mention which arrived when
16 Madam Adèle Lotsove was still governor. That group was known as Commander
17 Mahinga's group and Commander Bosco Ntaganda's group. It also included
18 commander Mukalai and Commander Mugabo, as well as Commander Zairois.
19 That is the group that came from Kampala when Madam Adèle Lotsove was still
20 governor.

21 Now, when Mr Wamba Dia Wamba arrived, that group was still in Bunia. It is at
22 that time that, when the conflict broke out, the group was in the northern camp
23 supporting Mr Nyamwisi and Tibasima. The group was headed by
24 Commander Mahinga. Commander Mahinga received instructions from
25 Mr Tibasima and Mr Mbusa to take the young people who had been trained at the

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 Rwampara camp along with his people to the bush and to recruit.
2 Now, after recruiting, they would then be informed as to what they would do after
3 the young people would have been recruited in the bush. The idea being to counter
4 Mr Wamba Dia Wamba's movement. That is how the young people who had been
5 trained at the Rwampara camp along with Mr Mahinga's group, who himself did not
6 come in, he only came in a few days after into the town and left off
7 Mr Bosco Ntaganda and Mr Mugabo and his -- Zaïrois, as well as another person,
8 they all went along with the youth who had been trained in the bush.
9 Which bush am I talking about? It is a bush in the Irumu territory towards the south
10 of the Ituri district and these things happened in the year 2000 when Wamba was still
11 there. There was already a conflict between Wamba's camp and Tibasima and
12 Mbusa's camp. The young people who went into the bush were under the command
13 of Mr Bosco Ntaganda. That is how at that time, Chief Kahwa and
14 Mr Bosco Ntaganda named that group Chui mobile force.
15 That group which was created in the bush in the Irumu territory, specifically in
16 *Bas-Uele collectivity and Andisoma collectivity and the Bahema, Irumu collectivity,
17 it is in that area that the Chui mobile force was operating while they were in the bush.
18 They also proceeded to recruitments, the recruitment was done by force. First of all,
19 it was a two-tiered recruitment exercise.
20 First of all, it was awareness building by -- for all parents and community leaders,
21 they were requested or required to provide children for the army. He said that these
22 children would have to save the country.
23 Now, the Chui mobile force under Ntaganda and other commanders, when they got
24 to the field and were operational, most of the parents had not complied with
25 Mr Tibasima's orders to provide children and that is how this group began to take

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 children forcibly.

2 So when they arrived in the collectivities which I mentioned, they forcefully took in
3 children to the Chui mobile force. So in a nutshell, you asked me the question about
4 the Chui mobile force and you further asked me how the Chui mobile force was
5 created and I hope that I have given enough answer without insisting too much on
6 the background. So I hope I have answered that specific question, Mr Prosecutor.

7 Q. Yes. As a matter of fact, you exhausted many of my other questions that I had.
8 I just have a few follow-up questions for you. Do you know how large was the Chui
9 mobile force?

10 A. Prosecutor, when you speak about the size, what exactly do you mean "how
11 large"? Could you explain a bit more what you mean?

12 Q. Well, how many militia members approximately, to your knowledge, were in
13 the Chui mobile force, if you know?

14 A. Well, yes, I do know. I could refer to a company of 150 individuals. It started
15 with 150 militia members. The reason I give that number is because the children
16 who were trained in the Rwampara camp and who completed their training, there
17 were roughly 130 of them. And about 20 under Bosco Ntaganda and a few brave
18 ones who hadn't been in the army and who left Bunia and joined the Chui mobile
19 forces. So that's basically I can say there were about 150 members.

20 Q. And do you know whether the members were predominantly of one ethnicity
21 and, if so, what was the ethnicity?

22 A. Yes. They were for the most part dominated by Hemas. They were Hemas.
23 As I said, the Chui mobile forces worked in three collectivities, in Andisoma, that is
24 the Bira -- Bira. But at the time they were occupied by the Hema people and also the
25 Bahema-Sud people in Irumu and they were nomads, so in fact the Chui mobile

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 forces recruited very specifically and Tibasima launched this recruitment. And he
2 himself, Tibasima, is a Hema and he stated clearly that the families that he consulted
3 were Hema and when they recruited children forcefully, and I emphasise I'm
4 referring to children and young people, those who didn't want to come of their own
5 volition, he forced them to join. And they were Hema. It was indeed a Hema force,
6 the Chui mobile force, dominantly. Of course there were a few others, but for the
7 most part they were Hema.

8 Q. And do you know the ages of the children who were part of the Chui mobile
9 force?

10 A. Yes, I do know, Prosecutor. In fact, I saw them myself with my own eyes.
11 When they came in from the bush, the Chui mobile had many more small children,
12 I would say between 11 and 14 years of age. There were some 15 year olds and 16
13 year olds but the majority, most of them were 15 and 16, but it started from 11 years
14 of age. I saw them myself when they got together after they left the bush under the
15 initiative of the UPDF in Bunia.

16 Q. And then one last question and then I'll ask to go into private session to ask you
17 further follow-up questions, but do you know whether anyone else other than
18 Tibasima was involved with the recruitment for the Chui mobile force, excuse me?

19 A. Well, as a Congolese citizen and a person from Ituri I'm familiar with Tibasima.
20 But there were also Ugandans who were in favour of recruiting the Chui mobile
21 forces. So I am familiar with Tibasima who completed his task under the blessing of
22 some Ugandan officers.

23 Q. Sorry, just one more question before private session. You mentioned that
24 Bosco Ntaganda was in command of the young people. Do you know specifically
25 what was his role as the commander within the Chui mobile force?

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 A. As I said earlier, Bosco Ntaganda's group was commanded by Mr Mahinga.

2 But when they went off the bush it was Mr Bosco Ntaganda who took over the

3 command of the Chui mobile until they left the bush. He was the one who was at

4 the head of the Chui mobile force.

5 MR IVERSON: Mr President, I'd like to ask to go into private session, please.

6 PRESIDING JUDGE FREMR: All right.

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

8 (Private session at 10.37 a.m.) *(Reclassified partially in public)

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

10 PRESIDING JUDGE FREMR: Thank you, court officer.

11 Mr Iverson, please proceed.

12 MR IVERSON: Thank you, Mr President.

13 Q. Sir, you provided -- and we're now in private session so it's obviously okay to

14 mention things that reveal your identity. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted).

18 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted).

4 PRESIDING JUDGE FREMR: All right. Let's then remain in private.

5 So please proceed, Mr Witness.

6 THE WITNESS: (Interpretation) Perhaps the Prosecutor could repeat his question
7 because there was an interruption and I'm afraid I have forgotten the precise
8 question.

9 MR IVERSON:

10 Q. Absolutely, I'd be happy to repeat it. What caused the Chui mobile force to
11 cease its operations, what caused its demise?

12 A. Thank you very much. As I told you, they came together, altogether and I said
13 that there had been pressure put on the Ugandan government by the United Nations,
14 so the Ugandan government decided to have this group, that is the Chui mobile
15 forces, have them leave and go to Uganda so that the Ituri district returned to calm.
16 And, therefore, the Ugandan government provided the necessary logistics to
17 transport the Chui mobile forces into Uganda. There were helicopters and Antonovs
18 to transport the group.

19 And when they got to Uganda, they went to a camp called Kyankwanzi, that was a
20 training camp in Uganda, in Ugandan territory, or Ugandan training camp. And
21 there was a lot of pressure put on Uganda because UNICEF had seen that the group
22 of Chui mobile forces in Kyankwanzi had a number of children, and therefore
23 UNICEF put pressure on those groups.

24 And, in fact, those groups were accompanied by a number of members who claimed
25 to be family members of those children. They claimed to be either the parents or

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 family members of those children because everyone had heard on the BBC radio that
2 the parents of the children in Kampala had declared that they were in Kampala with
3 those children.

4 (Redacted)

5 (Redacted)

6 (Redacted) Thomas Lubanga said

7 he was the spokesman of the Chui mobile forces. At the time he was a
8 trader, he was a businessman.

9 But Mr Lubanga at that time, when they came together, in the buildings I mentioned a
10 moment ago, I referred to the governor who used to buy beans. You know, they had
11 to eat. And they had been trained by Ugandans. And the food was purchased
12 from Mr Lubanga. And he was an educated man at the time and he became
13 interested in the Chui mobile forces because nobody had a higher diploma amongst
14 the Chui mobile forces, so Lubanga came in and asked whether he could be the
15 spokesman of that group. So Mr Thomas Lubanga went with the group to Kampala.
16 And then there were those who said they were the parents, there were the cabinet
17 directors, and the legal adviser of Mr Tibasima, Mr Musoko, who said he was a family
18 member, and there were others, other adults who said they were parents or relatives
19 of the children who went to Kyankwanzi.

20 Because when UNICEF started making noise, if you will, these adults said that they
21 were parents or relatives and, at that point in time, that's when the Chui mobile forces
22 started being disbanded. Once the groups left and went to Kampala, little by little,
23 the Chui mobile forces were dissolved and the name disappeared as well.

24 So that's basically what happened. The -- then UNICEF separated the children and
25 the adults and the adults continued their training and UNICEF and the Ugandan

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 government took the initiative to return those children to their families in Bunia.

2 That's when the Chui mobile force in fact disappeared. That is when they left Ituri to
3 go to Kampala. That's basically what happened and how the Chui mobile forces
4 were disbanded.

5 And so when they came back, they were no longer -- when they came back to Bunia,
6 they were not longer the Chui mobile force.

7 Q. Sir, what I'd like to do now in the nine minutes before the break, is I'd like to ask
8 the Presiding Judge that we go back into public session and I'd like to ask a series of
9 questions about your knowledge of the creation of the UPC. But I just want to let
10 you know that I do intend to ask follow-up questions on the basis of your knowledge,
11 which would allow you to -- in private session, so that would allow you to explain
12 that in private session, but I intend to ask the general questions in public session. Do
13 you understand, sir?

14 A. Yes, it's very clear, Mr Prosecutor.

15 Q. All right.

16 MR IVERSON: Your Honour, I'd like to ask that we go into private session.

17 PRESIDING JUDGE FREMR: Very well. And just I would like to note that we
18 appreciate, Mr Iverson, your approach trying to accumulate questions and also trying
19 to explain Mr Witness what would be the aim of your upcoming questions. Very
20 well.

21 Now, let's move into open session, please.

22 (Open session at 10.53 a.m.)

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

24 PRESIDING JUDGE FREMR: Thank you, court officer.

25 Mr Iverson, you may proceed.

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0190

1 MR IVERSON: Thank you, Mr President.

2 Q. Sir, I'd like to ask what was the genesis of the UPC? Can you explain to the
3 Chamber how the UPC was created?

4 A. Thank you very much for that question, Mr Prosecutor.

5 As I said, there were a number of leaders already in Kampala. When the children
6 were separated from the adults and the children were returned to their families and
7 then others remained in Kampala, the Ugandan government organised training for
8 battalion commanders. It's called OBC. And the adults who had been in the Chui
9 mobile forces were -- joined this battalion commander training, which took place in
10 Jinja, which is a district in Uganda.

11 The civilians, that is the spokesman like Thomas Lubanga and others, remained in
12 Kampala. At the same time, when Uganda realised that the situation was not
13 satisfactory in Ituri, there was another leader who came to Kampala. This was the
14 replacement of Wamba Dia Wamba, that was Jean-Pierre Bemba. Jean-Pierre Bemba
15 arrived in Kampala to convince the Ugandans that he could do a better job and that
16 he could manage the Ituri district as well as some other districts that were under the
17 control of the Ugandan army. And that is how the Ituri district was put under the
18 control of Jean-Pierre Bemba, and this was decided in Kampala.

19 So as usual, Mr Wamba Dia Wamba was arrested, as was the case with Madam Adèle,
20 and he could no longer go back to Bunia. Mr Jean-Pierre Bemba then went to Bunia.
21 This is in 2001.

22 Now, Jean-Pierre Bemba set up his own government and appointed Thomas Lubanga
23 as minister of sport and at the time Lubanga was in Kampala. Thomas Lubanga did
24 not accept that position so Mr Jean-Pierre Bemba continued managing the Ituri
25 district part of the North Kivu and Bas-Uélé and Équateur as well.

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0190

1 Shortly thereafter, Mr Mbusa Nyamwisi went back to Uganda, as well as Tibasima, to
2 convince them that they could do a better job than Jean-Pierre Bemba. But they
3 didn't arrest Mr Jean-Pierre Bemba, whose headquarters was in Beni, they used force.
4 In other words, Uganda gave Mr Mbusa Nyamwisi, who had been in exile, the
5 necessary forces. Mr Jean-Pierre Bemba had gone -- Nyamwisi had gone to South
6 Africa in exile and they wanted to show that they could create something so that they
7 could get rid of Jean-Pierre Bemba. So the general Salim Saleh gave the necessary
8 forces to Mr Mbusa Nyamwisi, that is the Ugandan army, to chase out Mr Jean-Pierre
9 Bemba from Beni by force. And that is the case. Bemba was chased out the Beni
10 and Bemba left Beni. So part of the North Kivu, the greater north and the Ituri
11 district remained under Mbusa Nyamwisi. Mbusa Nyamwisi took all the people
12 who were in Kampala and took them back to Beni, including Thomas Lubanga,
13 amongst others, and few other politicians who were in Kampala and the so-called
14 parents or family members of the children. They all went to Beni, Mr Mbusa pushed
15 out the government, that is the ministers, and he himself became president. And he
16 appointed Thomas Lubanga as deputy minister of Defence and he himself, as
17 president, was also minister of defence at the same time with the help of Thomas
18 Lubanga as number 2 and he appointed Tibasima as vice president.
19 Now Thomas Lubanga didn't like that once he got to Beni but he accepted it
20 nonetheless, he accepted the post. A few months later, after his appointment, the
21 soldiers were to come on site, that is the soldiers from Mbusa Nyamwisi, and that's
22 when a series of appointments began.

23 Q. I'm sorry to interrupt you, sir, but now is the time when we normally take a
24 break.

25 So, Mr President, I would ask that we now take the break.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 And then we'll come back to the questions after the break, sir.

2 PRESIDING JUDGE FREMR: Yes, good point. We have to break now for

3 30 minutes so we will resume again at half past 11.

4 THE COURT USHER: All rise.

5 (Recess taken at 11.01 a.m.)

6 (Upon resuming in open session at 11.31 a.m.)

7 THE COURT USHER: All rise.

8 Please be seated.

9 PRESIDING JUDGE FREMR: So after the break we are going to continue with the
10 testimony of our witness, who is examined now by Prosecution. Mr Iverson, do you
11 intend to proceed in the regime of open or private session?

12 MR IVERSON: For now I'd like to ask that we proceed in open session. I'm going
13 to continue to ask a few general questions and then I'll ask for a private session after
14 that, your Honour.

15 PRESIDING JUDGE FREMR: Very well. So now we can proceed.

16 MR IVERSON:

17 Q. Welcome back, sir.

18 A. Yes.

19 Q. So when we left off, I was asking you a question about the creation of the UPC
20 and in your answer you had mentioned that Thomas Lubanga had been appointed as
21 the vice -- or, excuse me, the deputy minister of defence and that he did not like that
22 but accepted the post. Can you explain to the Chamber around what time frame this
23 was?

24 A. Thank you, Prosecutor. *That is indeed (Redacted)
25 when Mbusa Nyamwisi and Jean-Pierre Bemba left, as I explained to you. Mbusa

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0190

1 Nyamwisi formed a government. He appointed Thomas Lubanga as vice minister
2 or deputy minister of defence. He accepted, but he wasn't really pleased with that.
3 And at the army HQ they had to redo things with the RCD-K/ML of Mbusa
4 Nyamwisi and as a minister of defence he reordered all the areas that he controlled.
5 And Mbusa Nyamwisi re-sorted the soldiers under the -- with the blessing of the
6 major commanders, with the chief of general staff and the rest of the état-major, he
7 brought out a list with the people he had appointed to each different territory. He
8 had appointed a commander to each one. And Thomas Lubanga wasn't in
9 agreement with this reordering and appointments that had been made by Mbusa
10 Nyamwisi. He asked for authorisation from the president, Mbusa Nyamwisi, if he
11 could have the Ituri district. And Mbusa Nyamwisi authorised that, that he could
12 have Ituri. And Thomas Lubanga, in turn, he also did his own reordering parallel to
13 that, to what the president had done.
14 And at that time, what he did, he appointed commanders, Mbusa also appointed
15 commanders so there was a lack of compatibility with the commanders. There
16 wasn't an agreement between Mbusa Nyamwisi and Thomas Lubanga, his vice
17 minister of defence. And so the problem started, when the problem started in Ituri
18 with regards to this new allocation, Thomas Lubanga was supported by Ugandan
19 soldiers who were there in Bunia. And Mbusa Nyamwisi was also supported by
20 some of the Ugandan soldiers who were in Beni and Kampala. So this reordering of
21 Thomas Lubanga took place, this was done, he sent soldiers and commanders to
22 different posts. Your question, Prosecutor, was about the UPC. The UPC hadn't
23 been created. I'm speaking about a time when the UPC hadn't been created. This
24 was towards *the end of 2001, *early 2002. The UPC had not been created. And
25 Mbusa Nyamwisi had done this reallocation. He sent other commanders, but he

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 was scared of sending the commanders he had appointed.

2 Q. I'm sorry to interrupt you, sir, but I just want to clarify something on the record.

3 In the English transcript your testimony reads that the events you're describing were
4 towards the end of 2011. Could you clarify what -- the time period when this
5 happened?

6 A. Prosecutor, I can't remember the exact time it was, but it was approximately the
7 end of 2001, 2002. From 2002. But I can't remember the exact date or the exact year.

8 Q. All right. Well, that's fine. I'm not going to ask you something that you're not
9 able to do or to answer. I just wanted to get an approximate time frame so your
10 testimony could be properly understood.

11 Sir, you described the genesis of the events leading up to the creation of the UPC.

12 How was the UPC actually created?

13 A. Yes, Prosecutor. I'm coming to that. I'm coming to that issue. It's just the
14 point that I wanted to give you that was going to help me go into those aspects to
15 answer your question, the reason why I wanted to start with that to explain to you
16 that when there was a conflict between Mbusa Nyamwisi and Thomas Lubanga and it
17 was at that time that the UPC was created. And right at the start of 2002 the UPC
18 hasn't been created yet. So not to jump that point in time, I wanted to explain how
19 the UPC was created, what mobile was and what made the UPC be created. That
20 was the reason why I just wanted to explain what was happening during this period
21 and the conflict that there was between Thomas Lubanga and Mbusa Nyamwisi
22 which meant that the UPC was created, Prosecutor. If you would allow me just to
23 explain before the creation of the UPC to say how the UPC was created. I don't
24 know if you would give me leave to do that.

25 Q. Yes, sir. I would -- I would ask that you do that, but I also ask that you just be

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 mindful of the time. I'd like to be able to complete your testimony by tomorrow and
2 we have a number of topics that I'd like to go through, but please just try to keep it
3 concise, but I would like to have you explain to the Chamber those details leading up
4 to the creation of the UPC, if you would.

5 PRESIDING JUDGE FREMR: I can confirm from the Chamber's point of view that
6 it's also -- we see that relevant, but I also agree with you that it should be made in a
7 concise way.

8 THE WITNESS: (Interpretation) Thank you very much, your Honour.

9 As I told you, conflict had already started when the two restructuring or reorganising
10 exercises had come up with Thomas Lubanga as vice minister of defence and Mbusa
11 Nyamwisi.

12 Thomas Lubanga was already in Ituri. Mbusa Nyamwisi, when he saw Thomas
13 Lubanga, that he had done some restructuring and reorganisation, he appointed a
14 military governor to counter what Lubanga had done, he appointed a soldier, Colonel
15 Molondo, at the time, who's currently a general, the governor of Ituri, and he
16 appointed a governor, Claude, as an operation commander. Militarily, he was
17 seconded, so the government was -- seconded by the governor, Claude.

18 Mr Molondo arrived in Bunia in order to counter the organisation of Thomas
19 Lubanga. He didn't want the restructuring that had been done. Governor
20 Molondo and -- went to his HQ in Ituri and that was in start of 2002. And when
21 Mr Lubanga saw the governor had arrived, Mr Lubanga was with the group. Please
22 don't forget that the Chui mobile force -- well, they were already -- well, the major
23 commander was in Bunia. Some commanders didn't stay in Kampala and they went
24 to Bunia.

25 Bosco Ntaganda was there, there were other commanders, Tchaligonza, Bagonza,

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 Kasangaki, Kisembo, there were several commanders who were there in Bunia.
2 So Thomas Lubanga he took up residence in a house of the Catholic mission, a
3 Coopérative, in Bunia. And some 20 metres from his home all the commanders lived,
4 that's to say Bosco Ntaganda was there, Tchaligonza was there, Kasangaki was there.
5 Kisembo, he was also living not exactly there, but nearby to Thomas Lubanga as well.
6 All of them, they were around in a 50-metre radius of where he was staying.
7 And what he didn't want was that Governor Molondo, who had been appointed, he
8 didn't want him as the operational commander, and that's the reason why the conflict
9 started between the two camps.
10 Thomas Lubanga's with the commander -- and Thomas Lubanga had become a
11 superior and not the spokesperson in mobile force as he'd been appointed -- he'd been
12 appointed minister of defence. Everybody respected him as a minister of defence.
13 And all the commanders were together and they were in Bunia.
14 And Molondo's camp with his soldiers and the camp of Thomas Lubanga with his
15 soldier -- with his commanders, who had all been given positions, but something
16 wasn't working when Molondo arrived, so he called them all back.
17 And that's how there was a conflict between the two camps. Ugandans were present
18 at the airport. The sector commander was present. So in Bunia there were a lot of
19 people in Bunia until *one of the commanders of Mbusa Nyamwisi, he went into the
20 camp, some 5 metres from where Bosco Ntaganda and the other commanders were
21 living. And when he passed to of course provoke them, then they shot at him and
22 Claude died in the field. And when he died there, there was a lot of conflict between
23 the two camps. And the Ugandans saw that there could be something wrong in the
24 Ituri district and he questioned Thomas Lubanga with the elders at -- in Kampala.
25 And that happened after the death of this commander.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 And as there were tensions, there were clashes in the evening. When the
2 commander died there was clashes between the two camps. So when they were
3 questioned, the Ugandan government questioned Thomas Lubanga with his
4 governors and with the elders of Ituri and he left Bunia. That was the start of 2002.
5 He went to Kampala with other members of his government. And some members of
6 his government, well, the government of Mbusa, they had refused to join Mbusa.
7 There wasn't a government so his friends, these groups, all these people left for
8 Kampala and in Kampala they had all been put in a hotel that -- in Kampala there was
9 already a connection with the central government in Kinshasa and the central
10 government was collaborating with the Ugandan government so that they could
11 bring Thomas Lubanga's group with his group so they could be taken to Kinshasa
12 because they were the ones who were creating troubles and tension in the district of
13 Ituri. And that's the reason why Thomas Lubanga, he travelled with the members of
14 his entourage and some members of his team to Kampala, they were put in a hotel,
15 Regency hotel it was. And it is in that hotel after two days that they surrounded the
16 hotel to take all members of Thomas Lubanga's who were in that hotel and they were
17 taken to the Entebbe airport, they were put on a plane and they were taken to
18 Kinshasa.
19 Now, when they were taken to Kinshasa, Thomas Lubanga stayed in Kinshasa. The
20 commander who wasn't in Kampala, or the commanders, they stayed in Bunia. And
21 the commanders who were in Bunia like Bosco Ntaganda, Kisembo, Kasangaki, those
22 three commanders were almost in the leadership, they stayed in Bunia. But
23 Tchaligonza and Bagonza, they stayed in Kampala, but afterwards they also went
24 back to Bunia. And it was at that time that Thomas Lubanga was in Kinshasa with
25 some prominent persons and members of his team in Kinshasa.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 Now, in Bunia the situation was tense. Kisembo was in Bunia, Bosco Ntaganda was
2 in Bunia and all the commanders whose names I've mentioned were in Bunia. But
3 Bunia wasn't a strategic place for these commanders who were pro-Thomas Lubanga
4 and this is why Chef Kahwa, he proposed if he couldn't give his collectivity of
5 Mandro, then that team should go and see how they could be organised in Mandro in
6 order to try to counter Mbusa Nyamwisi's movement with Molondo at the head of it.
7 And that is how Bosco Ntaganda, Kisembo -- well, Kisembo stayed in town and
8 Bosco Ntaganda, with some commanders, they went to Mandro and they set
9 up in -- set up something as a staff HQ to see how they could counter the movement
10 of Mr Molondo. He wanted to finish with the UPC and above all, when they heard
11 that *Thomas Lubanga was arrested in Kinshasa and when -- so Mandro started with
12 Chef Kahwa, he was there and Bosco Ntaganda, he started.
13 Now, that was -- I don't have the exact date, but it was in 2002, but before August.
14 Now, Bosco Ntaganda went to Mandro and he organised things with his commanders
15 and he started to carry out recruitment. And Thomas Lubanga, well, he was still in
16 Kinshasa and the UPC hadn't been created at that point.
17 Now, Bosco Ntaganda started recruitment in schools and he took children from
18 primary schools. I'm speaking about children because primary school --
19 MR IVERSON:
20 Q. Sir, again, sorry to interrupt. And this is what I mean by just asking you to be
21 concise. I see now that you're starting to elaborate on things other than truly just the
22 creation of the UPC. So I just wanted to take you back to ask you a few follow-up
23 questions and if you could just provide concise answers, then we can move on to
24 other topics that I'd like to ask you about.
25 Sir, are you familiar with the name Ntumba Luaba?

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 A. Yes. Ntumba Luaba means something to me. He was the minister of human
2 rights and a special envoy of President Joseph Kabila to negotiate with the groups of
3 militias that were occupying Ituri. That's what I remember. And also Mandro,
4 what I explained to you, that makes me think of Mandro as well. Ntumba Luaba, he
5 arrived with Thomas Lubanga from Kinshasa. So yes, it does remind me of things.
6 If that answers your question, it does -- I do remember that.

7 Q. And what connection, if any, did Ntumba Luaba have to the UPC?

8 A. Well, I can say the arrival of Ntumba Luaba coincides with the creation of the
9 UPC. That's what I can say. Ntumba Luaba arrived with *Thomas Lubanga from
10 Kinshasa and it was the arrival of Thomas Lubanga from Kinshasa that was the
11 end -- or end of August 2002 UPC was created. Ntumba Luaba coincides -- his
12 arrival coincides with the creation of the UPC in Mandro. That's it.

13 Q. And in your previous answer you mentioned a person named Kiza. Could
14 you please explain to the Chamber who Kiza was and what happened to him?

15 A. Commander Kiza Claude, he was a commander for Mbusa Nyamwisi, a
16 battalion commander, and I also said here that when Mbusa sent Lompondo to
17 Bunia -- Molondo, then he sent him with a commander, an operational commander,
18 Kiza. And it was Kiza who was assassinated some 5 metres from the residence of all
19 the commanders of Thomas Lubanga who were together, not far from his residence.
20 He was the operations commander, RCD-K/ML of Mbusa. That tells you something
21 about Claude.

22 MR IVERSON: Mr President, I'd like to ask to go into private session, please.

23 PRESIDING JUDGE FREMR: Certainly.

24 Court officer, let's move into private session, please.

25 (Private session at 11.54 a.m.) *(Reclassified partially in public)

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

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

2 PRESIDING JUDGE FREMR: Thank you.

3 Mr Iverson, you may proceed.

4 MR IVERSON:

5 Q. (Redacted)

6 (Redacted)?

7 A. (Redacted)

8 (Redacted). Mr Kiza, he was on his jeep and he was going to use the phonie radio

9 communication device in the residence of a trader Kodjo Singa, and it was then that

10 Claude -- well, everybody used that phonie to communicate. At that time there

11 wasn't a telephone so when he finished with the communications he could return.

12 But he went through the Ituri avenue, and that is the avenue where the commanders

13 resided, Bosco, Tchaligonza, Kasangaki and the others. And when he passed just five

14 metres from those residences, it was at that time the first shot was heard (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted) the Commander Kisémbó wasn't there. And Thomas Lubanga

18 was in his residence. And quickly Kisémbó wanted to see where the shots

19 had started and he saw a few metres from the residence there were all the

20 commanders, where the commanders were, he saw the vehicle of Claude,

21 Claude's vehicle, which was a jeep, a Mitsubishi jeep with the body on the

22 ground and all the commanders were surrounding the jeep.

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 (Redacted).

2 Q. (Redacted)

3 (Redacted)

4 (Redacted)?

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted).

18 Q. (Redacted)

19 (Redacted)

20 (Redacted)?

21 A. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted).

25 MR IVERSON: Mr President, I'd ask that we go back into public session now,

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 please.

2 PRESIDING JUDGE FREMR: All right. Let's move into open session now.

3 (Open session at 12.14 p.m.)

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

5 PRESIDING JUDGE FREMR: Thank you, court officer.

6 Mr Iverson, please proceed.

7 MR IVERSON:

8 Q. Sir, could I ask you to explain to the Chamber how you know the accused in this
9 case, Bosco Ntaganda?

10 A. Thank you very much, Mr Prosecutor. Let me start by backtracking, if you
11 would. You have asked me how I got to know Mr Bosco Ntaganda. With your
12 leave, let me backtrack somewhat and explain to you how I got to know him. Is that
13 okay?

14 Q. Please do so, but again, concisely, please. Thank you, sir.

15 A. Okay. I will be as concise as you have requested.

16 In 1999, as I told you, when Madam Adèle Lotsove was governor, a team came from
17 Kampala of some Rwanda -- some Rwandese commanders, including Commander
18 Mahinga, Commander Bosco Ntaganda, Commander Mukalai, Mugabo and Zairois.
19 Those commanders arrived in Bunia when Madam Lotsove Adèle was there. They
20 came with the blessings of the Ugandans. They were provided accommodation
21 behind a bank in Bunia, NBK, the Nouvelle banque de Kinshasa. Behind that bank
22 the intelligence officers of the Ugandan army were also living there and they were all
23 together.

24 Madam Adèle was informed by Chakabale, sector commander, that a group of
25 commanders had arrived from Kampala who could be of assistance to the Ituri

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 district. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted).

5 Q. Sir, I just want to ask a clarification question about the armed wing of the UPC,
6 the FPLC. Are you generally aware of how the FPLC functioned?

7 A. Yes. I will attempt to answer that question briefly. Armed groups such as the
8 FPLC which you mentioned operated in disorder, that's the answer I can provide.
9 There was no order.

10 PRESIDING JUDGE FREMR: Sorry, Mr Witness, I have to interrupt you.
11 Mr Bourgon.

12 MR BOURGON: Thank you, Mr President. I think it would be necessary to ask the
13 witness first what he knows about FPLC. He did mention UPC. He did mention
14 creation of UPC on different dates. But the acronym itself FPLC, to the best of my
15 recollection, has not been mentioned before. So before he gets into any details about
16 FPLC, maybe we can ask him for a bit to provide some material as to what he knows
17 what this is about. What is FPLC at all. Thank you.

18 PRESIDING JUDGE FREMR: Yeah, I would support this proposal. But again as
19 concise as possible.

20 MR IVERSON: Yes, I'll ask that question, Mr President.

21 Q. What, if anything, do you know of the FPLC, if you could please tell the
22 Chamber?

23 A. Thank you. Well, if I have not said FPLC before, several times I have talked
24 about armed groups, so from now on I will mention them as the FLPC, as requested
25 by the Defence.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 Now, I don't know, Mr Prosecutor, what the question really is. I know everything
2 about the FLPC, FLPC and the armed groups, all what they did. I might not know
3 everything but I can provide an overview of their organisational structure. But it
4 will take us a lot of time. There might have been meetings at which I didn't
5 participate but if it comes to meetings of the FLPC I can take all the time you need to
6 give you all the explanations about it in detail in matters relating to the FLPC from
7 the beginning, its organisation, its structure.

8 PRESIDING JUDGE FREMR: Mr Witness, if I may make it really concise. So
9 I think for the Chamber it will be interesting if you could just limit yourself on
10 responding what in fact this abbreviation means, what time it had been created and
11 for what purpose. Just those three, three points. Abbreviation, time of creation and
12 purpose. But just I think one sentence for each question would be enough. So what
13 abbreviation means?

14 THE WITNESS: (Interpretation) It's the Front pour la libération du peuple
15 congolais.

16 PRESIDING JUDGE FREMR: What time it had been created, together, the same time
17 like UPC or after that?

18 THE WITNESS: (Interpretation) It was created at the same time as the UPC.
19 Shortly after the creation of the UPC, the FLPC was created and its members, the
20 members of that armed group were appointed shortly after the creation of the UPC.

21 PRESIDING JUDGE FREMR: And for what purpose?

22 THE WITNESS: (Interpretation) The purpose of the FLPC, according to the UPC,
23 was to defend Congolese people. That is how the UPC created it, that is the FLPC.
24 It was a front for the liberation of the Congolese people who were somewhat taken
25 hostage. And that is why the FLPC was created, with a view to liberating Congolese

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 who were held as hostages, according to President Lubanga when he created it.

2 PRESIDING JUDGE FREMR: Thank you very much, Mr Witness.

3 MR BOURGON: I would like to draw the Chamber's attention to, it's in the French

4 transcript, the page of the transcript, page 56 when he was asked to say what the

5 acronym FPLC means. And what is on the record, unless I'm wrong, is -- does not

6 represent what the witness said. So on the screen we have "Front pour libérer les

7 congolais," whereas -- "Front pour la libération du Congo," whereas what we heard is

8 Front pour la libération du peuple congolais. It is material to -- in terms of the

9 acronym itself and I would like if we can ask the question again to be clear for the

10 record.

11 PRESIDING JUDGE FREMR: So, Mr Iverson, please take over the further

12 questioning and I think it should be the last question concerning this general

13 introduction of FPLC, and then please continue with your own questions.

14 MR IVERSON: Yes, Mr President. I'm just confused as to which, I believe the last

15 question was actually yours, your Honour.

16 PRESIDING JUDGE FREMR: Yes, the question was to correct this discrepancy

17 between, at least as Mr Bourgon said, between what the witness said and what is now

18 covered or captured by French transcript because according to Mr Bourgon there is

19 some discrepancy. So maybe we can just kindly repeat the question.

20 MR IVERSON: All right. I'll try to clarify as best I can in a short amount of time,

21 Mr President.

22 Q. Sir, did the UPC have an armed wing? You can just answer that yes or no and

23 then I can ask a follow-up.

24 A. Yes.

25 Q. And what was the name of the armed wing, if you know?

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 A. FLPC.

2 Q. And, according to you, what does the FLPC stand for?

3 A. As I just said, Front pour la libération du peuple congolais, as far as I know.

4 You see, ordinarily I am not a soldier and I did not work in the FLPC army.

5 However, I may be mistaken but, according to my understanding, is the Front pour la
6 libération du peuple congolais.

7 PRESIDING JUDGE FREMR: Please, Mr Laucci.

8 MR LAUCCI: (Interpretation) Thank you, Mr President. The last information
9 that has just been mentioned by the witness is such that can lead to his being
10 identified. Could it be please be taken out of the transcript since we're in open
11 session, Mr President, I believe?

12 PRESIDING JUDGE FREMR: Sorry, Mr Laucci, but in my view it's absolutely
13 general information, "I am not a soldier and I didn't work in the FLPC." I think
14 thousands of people could have the same position, so I think it's -- I don't see any
15 specific information concerning our witness. Or, do you see any?

16 MR LAUCCI: (Interpretation) The reason I say this is because connections can be
17 made between this information and the overall knowledge of the witness expressed
18 here. But I am in the hands of the Court.

19 PRESIDING JUDGE FREMR: Really I don't think so. It's again our general
20 message to parties, you have to be careful that any information which could lead to
21 identification of the witness, but in this case in my view it's very, very broad, so I
22 don't see this risk.

23 Mr Iverson, please proceed.

24 MR IVERSON:

25 Q. Sir, could you explain to the Chamber what role, if any, Mr Ntaganda had in the

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 armed wing of the UPC?

2 A. When Mr Lubanga put in place something out of the FPLC, *Mr Bosco
3 Ntaganda was chief of general staff, deputy in charge of operations. I believe I have
4 answered your question, Mr Prosecutor.

5 Q. I think there may have been a miscommunication, possibly in the interpretation,
6 so I'd like to ask the question again. I'm just asking you to explain what role
7 Mr Ntaganda had in the armed wing of the UPC, if any at all.

8 A. Thank you very much. I have now understood your question. Maybe there
9 was an interpretation problem indeed. But the role of Mr Ntaganda in the FPLC is
10 the following: He was in charge of all military operations on the ground. That was
11 his role. He was in charge of all military operations. Not a single operation could
12 have been undertaken without Ntaganda's involvement in his capacity as person in
13 charge of operations within the FLPC.

14 Q. And, sir, do you know specifically what operations -- what military operations
15 Mr Ntaganda led?

16 A. Mr Ntaganda commanded several operations that I am aware of. He led the
17 operation in Songolo, he led the operations in Mongbwalu, that I'm aware of, and
18 other operations in Bunia and around Bunia, he led other military operations in the
19 area of Bunia. Those are the operations I'm familiar with that Mr Ntaganda led
20 himself as operational commander.

21 Q. And do you know whether a person by the name of Kisémbu had a role within
22 the UPC armed wing?

23 A. Yes, Prosecutor. Mr Kisémbu in the FLPC, he was the chief of staff and
24 Bosco Ntaganda was the number 2. So Kisémbu was the chief of staff of the FLPC.

25 Q. Could you please describe to the Chamber the relationship between

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 Mr Kisembo and Mr Ntaganda within the UPC armed wing?

2 A. Yes. First of all, before the FLPC, if I may, Kisembo was a bodyguard for
3 Bosco Ntaganda and then within the FLPC Kisembo was appointed chief of staff of
4 the FLPC and Bosco Ntaganda was the number 2. And when I said that the FLPC
5 was a disorganised militia, army, within the group you had a chief of staff but his
6 deputy carried out operations without the chief of staff even being aware or informed
7 of those operations. Whatever Kisembo said or proposed wasn't even executed by
8 the chief of staff, Bosco Ntaganda. Some operations, for example, that Ntaganda
9 carried out that Kisembo learned about after the fact and I can give the example of
10 Songolo. In Songolo Bosco carried out the operation and Kisembo was only
11 informed afterwards. So within the FLPC it was disorganised. No one respected
12 the rank of the other. It wasn't like in an official army where the chief of staff or the
13 deputy chief of staff cannot do something without the permission of his superior.
14 Within the FLPC it was totally disorderly. And between Kisembo and Ntaganda
15 there were conflicts and complexes, if you will. Kisembo had been the bodyguard of
16 Bosco Ntaganda a few years earlier. And then just a short time afterwards,
17 Ntaganda -- or, rather, the one who had been bodyguard became the chief and the
18 one who was the chief became the deputy. There was that problem.
19 And there was also the problem of the appointments. When Lubanga made his
20 appointments, he was not allowed to put a Rwanda speaker at the head of the FLPC
21 because then people would think that the FLPC was under the control of the
22 Rwandans and, therefore, he had to appoint a Hema with Bosco in second position.
23 And that's why Bosco was acting without the approval of his superior and he was
24 acting as if he was the chief in fact. Unofficially, if you will, he was acting as if he
25 was the chief but in reality it was Kisembo. That's how the FLPC was functioning.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 I hope I've explained it clearly to you, sir.

2 Q. Could you tell the Chamber whether Kisembo could order Mr Ntaganda to do
3 things, give him military orders, and whether Mr Ntaganda would follow those?

4 A. Well, I never saw Kisembo give orders to Bosco Ntaganda, never, not one time.
5 So I cannot confirm whether or not Kisembo gave orders to Bosco. So I never saw
6 Kisembo give orders to Bosco Ntaganda.

7 Q. And do you know whether Kisembo or Lubanga who later learned what
8 Mr Ntaganda had done, according to you, if they ever disapproved of what
9 Mr Ntaganda had done?

10 A. You asked whether Thomas Lubanga and Kisembo you said? (Redacted)
11 (Redacted) and on numerous occasions Lubanga regretted what
12 Bosco Ntaganda had done.

13 PRESIDING JUDGE FREMR: I have to interrupt you.

14 Mr Bourgon.

15 MR BOURGON: Thank you, Mr President. I don't believe that this question, the
16 last question put by my colleague was appropriate. I read the question again in
17 terms of saying: "And do you know whether Kisembo and Lubanga who later learned
18 what Mr Ntaganda had done, according to you, if they ever disapproved of what
19 Mr Ntaganda had done?" Mr President, it would be much preferable and I think it is
20 necessary to first establish if he did anything wrong before we put a question like this.
21 Because so far the witness has not said, has not given evidence on any wrongdoings
22 of Mr Ntaganda and now we are jumping in front of the train by saying well, did he
23 disapprove of Mr Ntaganda's actions without first eliciting the evidence on any
24 alleged crimes. Thank you, Mr President.

25 PRESIDING JUDGE FREMR: Mr Iverson.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 MR IVERSON: Your Honour, I intend to ask about this witness's knowledge of
2 Mr Ntaganda's wrongdoing. But first, this is a question more dealing with authority.
3 So it's not a question of whether Mr Ntaganda necessarily did something wrong for
4 them to approve or disapprove. It has to do with Mr Ntaganda's authority relative
5 to Kisembo and to Lubanga. So that's the thrust of the questioning here.

6 PRESIDING JUDGE FREMR: Mr Witness, I see that you are approaching a bit issues
7 that also shows your personal relationships with those persons mentioned in question.
8 So be careful. If you really would like to respond in a way that you would like to
9 add anything what really concerns you, then we will have to move into private
10 session.

11 Mr Iverson, please proceed.

12 MR IVERSON: Well, because my next questions probably will touch on his identity,
13 I would ask that we go into private session, please, Mr President.

14 PRESIDING JUDGE FREMR: All right.

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

16 (Private session at 12.39 p.m.) *(Reclassified partially in public)

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

18 PRESIDING JUDGE FREMR: Thank you, court officer.

19 Mr Iverson, please proceed.

20 MR IVERSON:

21 Q. (Redacted)

22 (Redacted)?

23 A. (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted).

3 Q. And just to circle back to the question that I had asked and Defence counsel had
4 objected to, are you aware of any time where Kisembo corrected Mr Ntaganda or
5 disapproved of his actions?

6 A. I'm afraid I didn't understand your question. Would you be so kind as to
7 repeat it, please.

8 Q. Are you aware of any time that Mr Kisembo disapproved of an action taken by
9 Mr Ntaganda? And if so, what did Mr Kisembo do about it?

10 A. I'm afraid I don't understand what the interpreter is saying. I believe there's a
11 reference to disapproving, but I still haven't understood the question, I'm afraid.

12 Q. You mentioned earlier that Mr Ntaganda would take certain actions without the
13 knowledge of Kisembo; is that right?

14 A. That's correct.

15 Q. And did Mr Kisembo later learn of the actions that Mr Ntaganda took without
16 Kisembo's previous knowledge?

17 A. Yes, indeed.

18 Q. Once he had learned of Mr Ntaganda's actions, what did he do, if anything?

19 A. He didn't do anything. He didn't even take action as chief of staff. He would
20 just -- (Redacted)

21 (Redacted) He didn't react. He didn't ask Bosco Ntaganda why did you do this or
22 that? (Redacted)

23 (Redacted) he was not able to act. He was waiting. (Redacted)

24 (Redacted)

25 (Redacted).

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 Q. Could I ask why do you say that Kisembo was not able to act?

2 A. The reason I said that is because I told you Kisembo had been Bosco Ntaganda's
3 bodyguard and he had a complex, if you will, there was always this issue within the
4 FLPC. He felt inferior to Bosco Ntaganda. And Bosco Ntaganda showed that he
5 was the biggest, the greatest commander of all and there was an image of the army in
6 our country, there's a sort of army culture. Bosco was seen as stronger, more capable,
7 so there was a complex between the two and that explains it. It's this complex. At
8 least that's what I can say, sir.

9 Q. Are you aware of any time or any occasion when Mr Ntaganda may have
10 summoned Mr Kisembo to see him?

11 A. On several occasions he called him on the Motorola and asked Kisembo to come
12 and see him. Several times. I can't tell you exactly when because everybody had
13 access to the Motorola frequencies and we could hear "Come see me. Come, come
14 see me." We heard it on several occasions. Not just once or twice, but many
15 occasions.

16 Q. And in those several occasions do you ever recall Mr Kisembo refusing and
17 instead ordering Mr Ntaganda to see him as the -- as the chief of staff?

18 A. I never saw that occur even once, not even once, not even once did he refuse to
19 come.

20 Q. And I won't ask you what all of the troops concluded from this, but just what
21 did you conclude from this interaction that you witnessed between Mr Kisembo and
22 Mr Ntaganda?

23 A. Well, not just myself, but all of those who were within the UPC. And everyone,
24 officially everyone was looking more towards Bosco Ntaganda than toward Kisembo
25 because it was him who was acting far more than Kisembo.

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0190

1 Q. And are you familiar with the name Chief Kahwa?

2 A. Yes, I know that name.

3 Q. And could you tell the Chamber who Chief Kahwa is?

4 A. Well, you've used the word "chief" and he was a traditional chief and within the
5 UPC he was the vice minister of defence or the deputy minister of defence when
6 Lubanga appointed his government.

7 Q. And if you know, was there -- what, if any, relationship was there between
8 Mr Ntaganda and Chief Kahwa?

9 A. Yes, there was a relationship within the FLPC because the FLPC started out in
10 Mandro and that's where his chiefdom was and that's the first very close relationship.
11 It started in Mandro because Mandro is the chef-lieu of his own chiefdom of Chief
12 Kahwa. And in addition, Bosco Ntaganda's wife came from the collectivity that's
13 part of Chief Kahwa's chiefdom. That's what I can say about their relationship.

14 Q. And what role, if any, did Chief Kahwa play in the UPC armed wing?

15 A. As I said, Chief Kahwa was appointed deputy minister of defence for a short
16 time, for a few months. He didn't stay in the UPC very long because he wasn't
17 satisfied with that position of deputy minister of defence. He wanted to be
18 appointed minister of defence, and since Thomas Lubanga was himself minister of
19 defence and Chief Kahwa the deputy minister, Chief Kahwa was dissatisfied and so
20 he left the UPC just a few months later to set up his own political party.

21 Q. And I'll ask you just about a few other individuals, and forgive my
22 pronunciation and I'll try to do my best. Are you familiar with a person named
23 Bulamuzi?

24 A. Yes, I know Mr Bulamuzi. He was the chief of the Andisoma collectivity.

25 PRESIDING JUDGE FREMR: Mr Bourgon.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 MR BOURGON: Mr President, I would like to address the Chamber in the absence
2 of the witness before any questions are put concerning the individual, the name that
3 was just mentioned. I can do it right away, but I do have some legal arguments,
4 some submissions to make in the absence of the witness. Thank you, Mr President.

5 PRESIDING JUDGE FREMR: All right then.

6 So now, court officer, please take Mr Witness away from the courtroom.

7 (The witness stands down)

8 PRESIDING JUDGE FREMR: Mr Bourgon, please proceed.

9 MR BOURGON: Thank you, Mr President. Mr President, the Defence objects to
10 the line of questioning and to the Prosecution eliciting evidence in relation to the
11 murder of the individual that was just mentioned. The name was Bulamuzi.
12 Mr President, this is not the first time that the Prosecution is seeking to elicit evidence
13 regarding a murder that was allegedly committed by Mr Ntaganda which is not
14 found in the updated Documents Containing the Charges nor is it found in the
15 Prosecution's pre-trial brief. This happened, the Chamber will recall, with Witness
16 P-901. It was a question then of the wives -- or, the so-called wives of Mr Ntaganda
17 and sexual slavery. It also happened with the testimony of Witness P-10 and this
18 was related to the personal rape that was allegedly committed on Witness P-10, as
19 well as another issue where child soldiers were allegedly used in order to gather
20 intelligence.
21 It also happened, Mr President, with respect, on a few occasions concerning the
22 alleged murder of a certain Colonel Lusala in Sayo. This, whenever the Prosecution
23 attempted to do so, the Defence objected and we object again because this will refer to
24 at least two areas which the Prosecution could very well address with this witness
25 and the first example the alleged murder of a man called Bulamuzi. Request made

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 by the Defence, both orally and in writing, gave -- paved the way to decisions
2 rendered by the Chamber, an oral decision in some cases, as well as a written decision.
3 In prior decision the Trial Chamber has considered that it was a case by case analysis
4 and that it was necessary to look at the type of evidence which was sought to be
5 elicited by the Prosecution. For example, on one occasion the Trial Chamber said
6 well, the witness is not talking directly about the murder itself but about the fact that
7 the person died and therefore that this is appropriate and relevant and that the
8 Chamber wanted to hear the evidence.
9 In this case we have *two instances, we have -- actually we have a third one but
10 there's an additional problem with the third one so I will limit myself to the murder
11 of -- alleged murder of the Nyankunde leader, that's the gentleman we've just
12 mentioned, as well as the alleged murder of the deputy mayor of Bunia. In both
13 cases according to the information we have in the statement which was provided by
14 the witness, he will provide direct evidence of a crime which was of course not
15 charged in the updated Documents Containing the Charges and is not included in the
16 Prosecution's pre-trial brief.
17 In the Chamber's prior written decision on the issue the Chamber elaborated a test
18 and the test elaborated by the Chamber read as follows -- I do not have the decision.
19 I had it here this morning. Yes, the test that was identified by the Chamber was the
20 following: And the Chamber emphasise -- I'm quoting now from one of our own
21 submissions -- whether the relevance and probative value of such evidence is
22 outweighed by considerations such as unfair prejudice or undue delay.
23 Now I quote from the decision of the Chamber, decision on admissibility of evidence
24 and that was at paragraph 14 and this decision, the number of the decision was 968.
25 In this case, Mr President, we have direct evidence of an alleged crimes, we have

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 crimes that are not charged, we have crimes that are not in the pre-trial brief and, in
2 addition, both events deal with events of alleged murder. And of course we know
3 very well that in the updated Documents Containing the Charges there is only one
4 murder that was charged by the Prosecution and that was the murder of the priest of
5 Mongbwalu.

6 Of course the Prosecution in response to this argument will argue that this is relevant
7 to the mens rea of the accused. We say, Mr President, that this is not the case. In
8 order to cut short on my submission, in a recent submission filed I believe on last
9 Friday or Thursday, this was related to an application by the Prosecution pursuant to
10 Rule 68(3) for Witness P-894. There we explain and we have laid out our arguments
11 as to why evidence specifically related to an alleged incident of murder is
12 inadmissible. I don't want to repeat our submissions there but I would like to
13 incorporate this in my submission at this time.

14 For those reasons, Mr President, the Defence objection at this time is to ensure that the
15 Prosecution is not allowed, not authorised to elicit evidence on those two events, the
16 first one being the alleged murder of the leader of Nyankunde, *Bamulazi - I might
17 not have the name right - and the second incident is the alleged murder of the deputy
18 mayor of Bunia. And I say again in both cases the witness, if he is invited to provide
19 evidence, will provide evidence that those two incidents would have been committed
20 personally by Mr Ntaganda. And so based on the Chamber's test, based on the case
21 by case analysis, based on what we have here before us, we ask the Chamber not to
22 authorise the Prosecution to ask questions and to elicit evidence from the witness on
23 those two areas. Thank you, Mr President.

24 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

25 Mr Iverson, we will deliberate on this objection during the lunch break. But before

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 that we would like to listen to you.

2 MR IVERSON: I will try to keep it as short as possible, Mr President, considering
3 that we are right at the lunch break.

4 PRESIDING JUDGE FREMR: Take your time because we can then shift the break.
5 It's an important issue, so at least you can take the same time like Mr Bourgon.

6 MR IVERSON: Well it was convenient because my answer was relatively short any
7 way, Mr President. The Chamber has decided on this issue many times. Not every
8 scenario is exactly the same so of course the Chamber should look at these incidents
9 just like they have looked at the other incidents, but these facts are relevant to prove
10 the charges that are in the DCC. And if I could just quickly go through the expected
11 testimony and explain why it is relevant. So the expected testimony in relation to
12 the man that I just asked about Bulamuzi is that we're expecting that the witness will
13 state that it was thought that that person was complicit with the Lendu, and that fact
14 that goes to the motive for killing that particular person is probative evidence of the
15 prosecutorial state of mind that they're specifically targeting Lendu when they're
16 going after and murdering that person.

17 The same goes for Adriko, the deputy mayor of Bunia. The expected evidence is that
18 Mr Ntaganda accused him of hiding Lendu during ratissage, during a sweeping-up
19 operation and that Mr Ntaganda shot, killed and dumped him in the river.

20 And then the third one is a Kenyan MONUC major and the evidence of that is that
21 Bosco Ntaganda shot and killed him because the MILOB, as it's called, the military
22 observer, were -- they were complicit with the Lendu.

23 So for all three instances it's, among other things, relevant to show the prosecutorial
24 intent and the targeting of Lendu because of perceived affiliation. And it also of
25 course relates to other parts of the DCC.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 Those are my submissions, your Honour.

2 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.

3 Mr Bourgon, any reaction?

4 MR BOURGON: Yes, Mr President. Very quickly, I would just like to add one
5 detail and also make this a request to the Prosecution. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Of course, Mr President, if the Prosecution is -- should the Prosecution be in
13 possession of such information, then it would even make our argument much
14 stronger about the relevance and probative value to be drawn from such evidence in
15 this case. But regardless of whether they have this information or not, I think that
16 we need to -- this should not be allowed.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Thank you, Mr President.

21 PRESIDING JUDGE FREMR: Mr Iverson, are you in the position to respond
22 immediately?

23 MR IVERSON: We'll have to look into our records. I can't just respond off the cuff
24 to that, but even still, even if that were the case, that's not testimony.

25 Defence counsel

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 standing up and saying so isn't testimony. And of course if there is countervailing
2 testimony, the Chamber is in a position to weigh that. So that doesn't really bear on
3 the issue that's in front of your Honours I would respectfully submit. And that's all I
4 have.

5 PRESIDING JUDGE FREMR: All right.

6 Now, court officer, let's move into open session. I will just announce our further
7 planning.

8 (Open session at 1.05 p.m.)

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

10 PRESIDING JUDGE FREMR: Thank you, court officer.

11 So now we break and since we are slightly over our time schedule, we will resume at
12 2.35.

13 THE COURT USHER: All rise.

14 (Recess taken at 1.05 p.m.)

15 (Upon resuming in open session at 2.36 p.m.)

16 THE COURT USHER: All rise.

17 Please be seated.

18 PRESIDING JUDGE FREMR: Good afternoon, everybody.

19 The Chamber will first deliver its oral ruling on the Defence objection and its oral
20 ruling on scope of questioning of Witness P-190 on alleged conduct by the accused.

21 The Defence requested the Chamber to rule that the Prosecution not be allowed to
22 question the witness about murders allegedly directly perpetrated by Mr Ntaganda.

23 As the Defence referred to in its submission, the Chamber addressed this issue in its
24 decision of 30 October 2015, number 968, its decision on the Defence request for

25 clarification of the admissibility of evidence related to any allegations of rape and

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 sexual slavery committed personally by Mr Ntaganda.

2 The Chamber later clarified, and now I am referring to the English transcript number
3 45 at page 23, that such incidences are not directly charged, the Chamber has already
4 ruled that such evidence is potentially relevant and indicated the applicable test. In
5 this regard, we recall that, as held already in our decision number 968, the conduct of
6 an accused in particular during the temporal period of the charges has sufficient
7 potential relevance including in relation to various modes of liability and to mens rea
8 and thus has prima facie probative value.

9 The evidence is not in principle inadmissible, but the Chamber recalls that it may
10 intervene on lengthy examination on such matters. The Chamber therefore indicates
11 that the Prosecution may lead such evidence; however, the focus of such
12 examinations must remain confined to the scope of the charges. In this regard we
13 note that the Prosecution indicated that the purpose of leading the evidence on the
14 alleged murders with this witness relates to alleged motivation or prosecutorial intent
15 on the side of the accused. Prosecution's explorations of the context of the murders
16 should therefore focus on this and not exceed too much beyond that.

17 That concludes our ruling.

18 And now witness may be escorted into the courtroom.

19 (The witness enters the courtroom)

20 PRESIDING JUDGE FREMR: Mr Witness, good afternoon. We will continue with
21 your testimony by examination conducted by Prosecution, concretely Mr Iverson.

22 Mr Iverson, do you want to proceed in open or in private session?

23 MR IVERSON: For my first question, Mr President, I'd like to proceed in open
24 session. There is just a general background question that I wanted to ask that I
25 wasn't able to ask this morning, and I hope after a relatively brief answer then

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 I would ask for private session.

2 PRESIDING JUDGE FREMR: All right. Please proceed.

3 MR IVERSON:

4 Q. Sir, I'm not asking you for a lengthy answer, but could you explain in general
5 terms the relationship between the Hema and the Lendu at that time frame in 2001,
6 2002, 2003?

7 A. Thank you. 2001, 2002, 2003. In those years the relation between them, well,
8 there was a conflict between the Hema and the Lendu, between those two tribes,
9 Hema and Lendu.

10 Q. All right.

11 MR IVERSON: Mr President, I would ask that we go into private session, please.

12 PRESIDING JUDGE FREMR: All right. Let's move into private session now.

13 And before you continue, Mr Iverson, allow me to make one general remark. As we
14 already highlighted in our supplemental decision on conduct of proceedings, and this
15 I think would be a good opportunity to emphasise that there are some topics that
16 have been already several times explored by you and commented by witnesses, one of
17 them is also the relationship between Hema and Lendu. So okay, you may proceed
18 on this topic, but really have in mind that at least for the future we would rather
19 avoid further testimony on the same topic for 20 times, so unless there is no chance to
20 get something new, so we would like to in fact finish exploration of this topic with the
21 upcoming witnesses.

22 MR IVERSON: I've heard your concerns and I understand them. That is actually
23 the only question that I had regarding the issue. I intend to move back to the issue
24 that we were discussing before the break.

25 I just wanted that established with this

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 witness. That's all, Mr President.

2 PRESIDING JUDGE FREMR: Very well then.

3 (Private session at 2.44 p.m.) *(Reclassified partially in public)

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

5 PRESIDING JUDGE FREMR: Thank you.

6 Please proceed, Mr Iverson.

7 MR IVERSON:

8 Q. Sir, I'd like to return to my questions about a person named Bulamuzi. Could
9 you tell the Chamber who was Bulamuzi?

10 A. Mr Bulamuzi was the chief of the collectivity of Babira, Andisoma, Andisoma
11 chefferie in the district of Ituri in Irumu territory.

12 Q. And could you tell the Chamber is Bulamuzi alive today?

13 A. No, he's not alive. He's dead and has been since 2002.

14 Q. Are you aware of the circumstances of his death, sir?

15 A. Yes. He was assassinated.

16 Q. Could you explain to the Chamber why it is that you're familiar with the
17 circumstances of his death, that he was assassinated?

18 A. On the day when he was assassinated, that was the day on which there was
19 clashes in his collectivity with the FRPI and the UPC, there were clashes. And when
20 Mr Kisémbu, chief of general staff of the FLPC left, in order to arrange the landing
21 strip in Irumu, the headquarters of the chefferie of Bulamuzi, it was at that time the
22 chief of general staff Kisémbu was wounded and Chef Bulamuzi came back to Bunia.

23 At the same time as Chef Kisémbu was taken to Bunia injured, so Chef Bulamuzi
24 arrived at the residence of the chief of the staff Kisémbu and Kisémbu started
25 mocking him and for -- Kisémbu said to the bodyguard to take the chef de collectivity

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 and to shoot him -- or to take him downstairs and next to the UNTZa, next to the
2 residence of Bosco Ntaganda. And that's where he was assassinated.

3 (Redacted)

4 (Redacted).

5 Q. And why was Mr Kisémbó mocking him, if you know?

6 A. I don't know. Well, I know that he was injured in his collectivity. And for the
7 chief of general staff Kisémbó, Bulamuzi had been an accomplice for the FRPI against
8 him. And that's the reason why when he saw Bulamuzi, who was with the
9 commander of the police of Nyankunde, Mr Mbusa, he was angry and that's the
10 reason why he acted in that way.

11 Q. And if you know, what did that mean for Mr Kisémbó that Mr Bulamuzi was an
12 accomplice for the FRPI? What did that signify for Mr Kisémbó?

13 A. I haven't well -- I haven't well understood the question, Prosecutor.

14 Q. The allegation or the fact that Mr Bulamuzi was an accomplice for the FRPI,
15 what did that mean for Mr Kisémbó?

16 PRESIDING JUDGE FREMR: Mr Iverson, I will not allow this question. It's about
17 opinion. You may ask whether he said something more, something more specific,
18 but what does it mean for Mr Kisémbó, I can't permit such a question.

19 MR IVERSON: I'll rephrase, your Honour.

20 Q. What, if anything, did Mr Kisémbó say to Mr Bulamuzi about being an
21 accomplice for the FRPI?

22 A. I haven't understood the question.

23 Q. Do you know why Mr Bulamuzi was being accused of being an accomplice for
24 the FRPI?

25 A. No, I don't know. I don't know why. But it was just an allegation because the

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 police commander was there with Bulamuzi to say that Bulamuzi normally was not
2 their accomplice because he was with the national police, which is meant to protect
3 the population, and as he came with Kisémbó and with Bulamuzi in the residence of
4 the chief of general staff Kisémbó, it was just an allegation that Mr Kisémbó said to
5 Mr Bulamuzi.

6 Q. And could you explain in your own words what the FRPI was?

7 A. The FRPI, well, in my opinion, that's a militia of the collectivity of
8 Walendu-Bindi. But the abbreviation of the FRPI, that I can't correctly tell you what
9 the abbreviation is, but I do know that it's a militia organisation of the collectivity of
10 Walendu-Bindi.

11 Q. And do you know who actually assassinated Mr Bulamuzi?

12 A. The person who assassinated him was Bosco Ntaganda.

13 Q. (Redacted)?

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted).

19 Q. Do you know when this assassination occurred?

20 A. Well, I can't be precise in that regard. Well, 2002. Well, I know that it was in
21 2002, but I don't remember the month. But it was in 2002 when Chef Kisémbó
22 occupied his usual staff HQ. When the others were in Mandro, he stayed in the
23 town. All happened -- everything happened in that residence, but I don't know the
24 precise date. But the year was 2002.

25 PRESIDING JUDGE FREMR: Sorry, Mr Iverson. One question from my part.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)?

3 THE WITNESS: (Interpretation) (Redacted)

4 (Redacted).

5 PRESIDING JUDGE FREMR: Okay. Thank you.

6 MR IVERSON:

7 Q. (Redacted)?

8 A. Chef Kahwa was annoyed. He said, "Why did he fire on my colleague, the
9 customary chief?" And that was the word -- those were the words that he said. But
10 he was angry.

11 Q. (Redacted)?

12 A. (Redacted).

13 Q. And do you know whether in fact Mr Bulamuzi was a member of the FRPI?

14 A. No, he wasn't a member of the FRPI. He was also a victim of his collectivity
15 even before he was killed. He wasn't a member of the FRPI.

16 Q. And do you recall what Mr Bulamuzi's ethnicity was?

17 A. Bulamuzi was Bira.

18 Q. I think I've asked almost all the questions I want to ask on this topic, but how
19 was Bulamuzi, how was he actually killed? Was there a weapon involved? Could
20 you describe that?

21 A. Yes. He was shot. Of course before that he was beaten up, but he was
22 finished off with a firearm.

23 Q. Do you recall what type of firearm?

24 A. Yes, an AK, AK-47.

25 Q. Okay. I'd like to move on to another topic but remain in private session.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 Are you familiar with a person called Adriko, Adriko?

2 A. Yes, I am.

3 Q. And could you tell the Chamber about Adriko?

4 A. Yes, Adriko was the mayor of the town of Bunia and he was a close friend of
5 Thomas Lubanga, so I heard from afar that Adriko had been killed -- well, that he had
6 disappeared and some people in the family said that he had been assassinated by the
7 UPC. I didn't see it, but that was said everywhere. Even Radio Candip announced
8 the fact that he had disappeared. So that's all that I know with regards to Adriko.

9 Q. Do you recall whether the accused Mr Ntaganda ever spoke of Mr Adriko?

10 A. No, I have no recollection, Mr Prosecutor.

11 MR IVERSON: Mr President, could I just ask for one moment to confer with my
12 colleague?

13 PRESIDING JUDGE FREMR: No problem.

14 MR IVERSON: Thank you.

15 (Counsel confers)

16 MR IVERSON: Thank you, Mr President.

17 Q. Sir, could you identify who the people were who were talking about the
18 assassination of Adriko?

19 A. First of all, it was the media. His disappearance was first announced by the
20 radio. So after the media, the UPC also talked about the disappearance of Adriko by
21 way of rumours and whispers. Then throughout the Aru territory there was a lot of
22 talk about Adriko's disappearance and the finger was pointed at the UPC, which was
23 present at the time when Adriko disappeared.

24 Q. Now, I don't -- I'm not asking you for rumours, so only -- I only want you
25 to -- and I'm not asking you to speculate, but did you hear anyone explain why

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 Mr Adriko had been killed?

2 PRESIDING JUDGE FREMR: Hold on, Mr Witness.

3 Mr Bourgon.

4 MR BOURGON: Thank you, Mr President. I think the matter has been dealt with,
5 the question was asked. The witness provided his source of information. He says
6 that's all I know about Mr Adriko. This is in French on page 83, lines 8 and 9.

7 I think we've dealt with the matter, Mr President.

8 THE INTERPRETER: Mr President, correction from the interpreter's booth: The
9 witness did not say rumours, he said people were murmuring about it. Not
10 whispering and rumours, murmuring.

11 PRESIDING JUDGE FREMR: So even that, Mr Iverson, really as we decided you
12 should focus on topic we have mentioned it now in our decision. Do you think that
13 Mr Witness has some information about the topic you should be concentrated on?

14 MR IVERSON: Well, my last question was directed at that obviously, but it is my
15 last question on this topic and to the extent the witness can answer, I would perhaps
16 ask a follow-up.

17 PRESIDING JUDGE FREMR: But it's still some double, triple hearsay because what
18 people said about that, or what would be the question?

19 MR IVERSON: Well, if he were to confirm he knew the reasons why and
20 explained -- and I don't want to say what those reasons could be because I don't want
21 to influence anything, but that would be relevant just -- it's hearsay, but it's not to
22 prove the actual --

23 PRESIDING JUDGE FREMR: Mr Iverson, it will not be relevant. I can assure you.

24 MR IVERSON: Okay. If I could be heard just very briefly.

25 PRESIDING JUDGE FREMR: Okay, please.

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0190

1 MR IVERSON: It's not to prove that the actual murder happened. So in that sense,
2 it's not hearsay, it's not offered for the truth of the matter asserted. That it was
3 uttered is in itself relevant.

4 PRESIDING JUDGE FREMR: But anyway, as we said in our decision, we are
5 more -- if we are interested, so we are interested in motivation, so if such a witness
6 have almost no direct knowledge about the event itself, I have picked up that it is
7 something about motivation. Put the last question, but as I said, we will be very,
8 very reserved to the outcome of this.

9 MR IVERSON:

10 Q. Do you know what the motive behind the assassination of Adriko was?

11 A. The motive for the disappearance? Well I can't confirm any motive about the
12 murder or the assassination, but the idea was about his ethnicity. And everyone was
13 talking about it. For the Hema population, Mr Adriko was an accomplice when it
14 came to acts of violence against the Hema by the Lendu. That's all I know. So
15 I cannot confirm anything that I was not aware of it. So it was a matter of ethnicity,
16 his ethnic belonging.

17 MR IVERSON: All right. I'll move on, your Honours.

18 Q. Sir, did you at any other point witness any killing by Mr Ntaganda where
19 Mr Ntaganda killed another person?

20 A. Yes. In 2013 -- rather, 2003, I remember the killing of a MONUC staff at the
21 time. He was killed by Bosco Ntaganda in 2004, not 2003.

22 PRESIDING JUDGE FREMR: Mr Bourgon.

23 MR BOURGON: Thank you, Mr President. If I can be heard in the absence of the
24 witness in relation to the evidence that is about to be elicited from him.

25 PRESIDING JUDGE FREMR: All right. Court officer, please take the witness for a

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 while away from the courtroom.

2 Sorry, Mr Witness, sorry for this inconvenience, but there are some issues that simply
3 are not for you to be heard, so we have to make it this way.

4 (The witness stands down)

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

6 MR BOURGON: Thank you, Mr President. This is the third incident I was
7 referring to in my earlier submission. Again, this is not the first time that the
8 Prosecution is trying to lead evidence about an alleged murder directly committed by
9 Mr Ntaganda outside of the time period covered by the updated Documents
10 Containing the Charges. This happened most recently during the testimony of
11 Witness P-907 concerning a rape committed in 2004. The Defence objected to
12 evidence being adduced in relation to events taking place beyond the time period
13 covered by the updated Document Containing the Charges because it was irrelevant
14 and because it had very little, if any, probative volume.

15 The Chamber issued its ruling shortly thereafter and the ruling of the Chamber is
16 twofold. First, the Chamber recalled that the fact that purported evidence may fall
17 outside the temporal scope of the charges does not as a matter of principle
18 automatically result in it lacking relevance or probative value. And the Chamber
19 once again confirmed that this was a case-by-case analysis.

20 Then the Chamber held in that specific case about the rape in 2004, I quote from the
21 transcript which is T-94, and this is on page 3 and this is at line 9 to 14. And it goes
22 as follows:

23 "In the present case, the Chamber concurs with the Defence that evidence concerning
24 an alleged incident of rape falling outside the temporal scope of the charges, and
25 which does not directly relate to the charged conduct, may potentially be only

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 marginally relevant and have little probative value. The Chamber shall therefore not
2 allow any questions to be put to the witness on this incident, whether by the
3 Prosecution, or, if still applicable, the Legal Representative of Victims."

4 What we have before us this afternoon, Mr President, is an incident which took place
5 in 2004. It's an incident where a UN observer would have been killed during an
6 encounter and based on the information we have in the witness statement this
7 incident, Mr Ntaganda would have been the one who allegedly killed the UN
8 observer. Based on the previous ruling of the Trial Chamber, and I recall of course
9 the Defence observation, if we want to get this trial finished one day, we need to
10 circumscribe it, if not on the facts at least to the time period to which the charges were
11 laid by the Prosecution. The Prosecution could have laid charges for a longer period.
12 It did not. Now it's too late to try and bring these events post -- and in terms with
13 our -- after the time period covered by the charges.

14 We've said before, and this will happen during this testimony, some events which I
15 believe the Prosecution will cover with the witness are prior to the time period
16 covered by the charges. And we've heard a lot of that this morning. Of course that
17 can be relevant because it is prior, it may be a buildup to a motivation, a buildup to an
18 intent in some cases, not all cases. But to try and elicit evidence of events that
19 happened after is both a waste of time, it's not relevant, it has no probative value and
20 also it is prejudicial to the accused because he is not at this time to put up a Defence
21 against these events. For all these reasons, Mr President, we ask that the Prosecution
22 not be allowed to ask questions on this event. Thank you.

23 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

24 Mr Iverson, before I give floor to you. This case seems to me a bit different
25 compared to previous two cases because your main argument was that you would

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 like to prove some motivation having something to do with ethnicity of the victims.

2 What about this case? It seems like it's different compared to previous two cases.

3 MR IVERSON: Well, it is a bit different in that the victim was a major in MONUC,

4 but the motivation is the same. So the expected testimony is that Bosco Ntaganda

5 said (Redacted), they have a bad plan, I quote here, "the people from

6 MONUC, they are complicit with the Lendu. I need to finish this person."

7 That's a me sight translating the -- what it says in French here.

8 PRESIDING JUDGE FREMR: All right. And do you think that this witness would

9 be able to testify on this? Because in previous cases it was shown that he in fact

10 didn't have any personal knowledge of the motivation of Mr Ntaganda.

11 MR IVERSON: Well, your Honour, I mean, I can't predict that he's going to say

12 those exact words. I'm going to ask him the question. I'm going off of what he said

13 in his statement about the event.

14 PRESIDING JUDGE FREMR: All right.

15 Mr Bourgon.

16 THE INTERPRETER: Microphone.

17 MR BOURGON: I'm sorry. The issue, Mr President, is that intent before or an

18 event that takes place before can allow to have some relevance in establishing intent

19 after. But intent or motivation in 2004 has no probative value and no relevance to

20 establishing intent before. And in this reason there's no reason that this question

21 should be allowed. Thank you, Mr President.

22 PRESIDING JUDGE FREMR: I will conclude this litigation by saying that by

23 decision that this questioning is allowed.

24 I agree with you, Mr Bourgon, that proof on some behaviour or activity of the accused

25 before the temporal scope has or should have greater relevance, but even some

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 behaviour after the scope of charges, if there is a sign of some trend or tendency or
2 permanent approach could be relevant, even if, frankly speaking, I am a bit sceptical,
3 but again, in very limited scope Mr Iverson will be allowed to put few, really few
4 questions on that.

5 Please, court officer, bring the witness in the courtroom.

6 MR IVERSON: And of course I intend to keep this very short, Mr President.

7 (The witness enters the courtroom)

8 PRESIDING JUDGE FREMR: So, Mr Iverson, please proceed.

9 MR IVERSON:

10 Q. Okay. I'd just like to go back to the assassination of the Kenyan -- or excuse me,
11 the MONUC major. (Redacted)?

12 A. (Redacted).

13 Q. (Redacted) and who actually killed this MONUC observer?

14 A. It is Mr Bosco Ntaganda who killed the MONUC observer.

15 Q. And do you know why he killed the MONUC observer?

16 A. According to Mr Bosco Ntaganda, the gentleman of MONUC was complicit
17 with the Lendu against the UPC or the FPLC and that's the allegation made by
18 Bosco Ntaganda.

19 Q. Sir, are you familiar with a military operation in the area of Ezekere? Have
20 you heard of that before, Ezekere?

21 A. I am not aware of the name Ezekere.

22 Q. And it may be to my own poor pronunciation. So I'll try that again with a
23 different pronunciation. Are you familiar with an operation in a location called
24 Ezekere or Ezekere?

25 A. Yes, Ezekere. Yes, I am aware of the Ezekere operation which was conducted

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 by Bosco Ntaganda and Chief Kahwa. The operation Ezekere took place in the
2 Walendu-Tatsi collectivity. Now, the operation was led by Bosco Ntaganda and
3 Chief Kahwa. They came with a group from Mandro in 2002. They arrived in
4 Ezekere village according to a report which I read. When they got to Ezekere,
5 Bosco Ntaganda and Chief Kahwa's groups burnt down the entire village. People
6 died. Some were murdered while some were burnt to death.
7 After the Ezekere operation, Chief Kahwa immediately opened a centre for the
8 Ezekere survivors and it was created by Chief Kahwa in Mandro as a ploy to take
9 away attention from the international community by creating such a centre for the
10 Ezekere survivors. This is what I know about the Ezekere operation.

11 Q. Sir, what I'd like to do is I have a number of questions about a number of
12 operations. I would like to ask to move into open session so that I can ask you
13 questions about your knowledge of these operations and then back into private
14 session to elicit information about how you are familiar with these operations.
15 Would that be an acceptable way to proceed for you?

16 A. Yes.

17 Q. Thank you.

18 MR IVERSON: Mr President, I'd like to ask that we go into open session, please.

19 PRESIDING JUDGE FREMR: Very well. We appreciate this organised approach.
20 Court officer, let's move into open session now.

21 (Open session at 3.20 p.m.)

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

23 PRESIDING JUDGE FREMR: Small correction of the transcript. I said we
24 appreciate this organised approach.

25 Mr Iverson, please proceed.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 MR IVERSON:

2 Q. Sir, do you know what units or what personnel were involved in the Ezekere
3 operation other than Mr Ntaganda?

4 A. Besides Mr Ntaganda, I have already mentioned Chief Kahwa, but they had a
5 group or troops of people who were part of their operation.

6 Q. Are you aware of the reasons why this particular locality, Ezekere, was
7 attacked?

8 A. Ezekere shares borders with the Bahema-Banywagi chefferie and Mandro, so
9 what happened is that the massacres were initiated by the chief of the collectivity
10 himself. They went up the hill and said that the Lendus and the Ezekere were also
11 killing the Hema, so when -- and that happens when the Hema go down to Lake
12 Albert. And according to information, there were a number of deaths. That is why
13 Ezekere was considered to have been a victim of these massacres.
14 In short, it is part of the conflict between Ezekere and the Mandro collectivities
15 Bahema-Banywagi and the chief of Mandro himself, that's Chief Kahwa, who in fact
16 was the one who led up the operation with Ntaganda.

17 Q. And now I'd like to ask you about whether you have any knowledge about an
18 alleged August 2002 attack on Bunia. What, if anything, can you tell the Chamber
19 about that alleged attack?

20 A. Are you talking about the attack on the town of Bunia or on Ituri in August 2002?
21 I don't know whether you are talking about Bunia or about the Ituri in general.

22 Q. I'm just -- my question only pertains the city of Bunia. So I'm just asking about
23 whether you have any knowledge about any attacks, armed violence in Bunia in
24 August 2002.

25 A. Yes. Molondo's troops and the UPC troops had some clashes. The Ugandans

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 intervened, supporting the UPC group in that clash in Bunia. I was informed of that
2 attack on Bunia between the UPC and the RCD-K/ML troops.

3 Q. And do you know who from the UPC forces led the attack in Bunia?

4 A. Chief Kisémbu was there. He was in town. Bosco Ntaganda supported him,
5 supported Kisémbu, who was present in Bunia town himself. But it is Kisémbu
6 himself who was initially commanding that attack and then the other commanders,
7 the group of other -- the group of other commanders then joined Kisémbu, that is,
8 these other Ugandan commanders, to attack Bunia.

9 THE INTERPRETER: Rather, to attack the other groups, says the witness.

10 Correction from the interpreter.

11 MR IVERSON:

12 Q. And do you know if there were fatalities during this attack?

13 A. Yes, there were many victims. The confrontation was between a group
14 supported by a Ugandan government army, they used tanks and heavy weapons
15 against the opposite group, which also had weapons, including heavy weapons. So
16 on each side there were casualties. People died. However, the group of the
17 Ugandan army, which was stronger and had heavy weapons, led by the commanders
18 whose names I have mentioned, attacked. When they attacked the RCD-K/ML
19 group was on the defensive. Most of our natives supported the RCD-K/ML because
20 they perceived this to be a tribal conflict and they therefore had to align with the
21 RCD-K/ML group. Whereas the UPC group and the Ugandans were able to drive
22 out the RCD-K/ML and subsequently take it out on the people who had supported
23 the RCD-K/ML and that is how the population fell.

24 THE INTERPRETER: Says the witness.

25 THE WITNESS: (Interpretation) They fell and many people died.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 MR IVERSON: I'd like to ask for private session so I can ask a few specific questions
2 here, Mr President.

3 PRESIDING JUDGE FREMR: For sure.

4 Court officer, let's move into private session, please.

5 (Private session at 3.29 p.m.) *(Reclassified partially in public)

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

7 PRESIDING JUDGE FREMR: Thank you.

8 MR IVERSON: I apologise.

9 PRESIDING JUDGE FREMR: Please proceed.

10 MR IVERSON:

11 Q. (Redacted)

12 (Redacted)?

13 A. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted).

20 Q. Just so it's clear, when you say "victims", are you referring to soldiers who were
21 in the battle or are you referring to civilians or both? What are you -- what do you
22 mean when you say "victims"?

23 A. When I refer to "victims," and when I refer to the people in charge of security,
24 I was thinking in terms of civilians. Obviously there were also military victims, but
25 here I was referring to civilians.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 Q. Okay. You reported seeing mass graves of civilian victims. Do you know
2 what the ethnicity was of these victims that you personally saw?

3 A. Yes, I know some of the women whose bodies I had seen and people, women
4 were crying and -- about the Nande people. That's what I saw. So I'm referring to
5 Nande victims because I saw family members who were mourning their family
6 members and they were speaking the Nande language.

7 Q. Sir, do you know because of your status within the UPC whether these people
8 were specifically targeted by the UPC or whether their deaths were incidental? If
9 you understand what I'm asking. Do you know if these victims, these civilian
10 victims were specifically targeted by the UPC?

11 A. Yes, I can say that the Nande victims were targeted by the UPC.

12 Q. And could you explain to the Chamber why you say that? How do you know
13 that they were specifically targeted by the UPC?

14 A. I say that because Mbusa Nyamwisi was -- he was a Nande and he supported
15 the Lendu and they had serious problems with the Lendu community. So for the
16 UPC anybody who was a Nande was considered as an enemy of the UPC and an
17 enemy of the Hema. So that's how I would explain it. That's why they targeted the
18 Nandes because Nyamwisi was also a Nande so the entire group was targeted for that
19 reason.

20 Q. And could you explain what was the gender of the people you saw in this mass
21 grave? Was it just men or just women or a mixture of both? If you could explain
22 that.

23 A. I can't tell you whether it was men or women or children because the mass
24 grave was closed, but the bodies that I saw people carrying were female. I saw
25 women and children that the families had come to mourn and in those cases the

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 bodies were being taken away by the Red Cross. So -- but as for the mass grave I
2 can't tell you whether they were women or children or men because the mass grave
3 was closed at that point, was covered.

4 Q. Did you see any corpses of men or children being carried as well?

5 A. The bodies, the corpses I saw being carried were the ones that were there, but
6 (Redacted), there were other corpses at the morgue but that I didn't
7 see myself. The ones I saw were women and children, yes. I saw them.

8 Q. And just to give the Chamber a sense of the scale or the number, could you
9 estimate the number of dead women and children that you saw on that scene?

10 A. I didn't see how many corpses were in the mass grave, but the families that
11 were mourning their members, there were many of them. I can't tell you an exact
12 number, but there were many people moaning and mourning their dead.

13 Q. Sir, are you aware of any terms used by the UPC referring to other ethnicities
14 other than Hema, so any -- was there any terminology used by the UPC to signify that
15 somebody was not Hema?

16 A. Yes, there's a word that the UPC used that's used in Ituri. The word is
17 *jajambo (*phon*), *it means you're like stranger, stranger, stranger. That's the
18 expression that was used by the UPC, it's jajambo (*phon*), in other words, *stranger.
19 That's the expression that was used.

20 Q. All right. I'd like to ask that we go back into open session, please,
21 Mr President.

22 PRESIDING JUDGE FREMR: Yes. Let's move into open session, please.
23 (Open session at 3.38 p.m.)

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

25 PRESIDING JUDGE FREMR: Thank you, court officer.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 Mr Iverson, please proceed.

2 MR IVERSON:

3 Q. Sir, we're in open session, so I just would ask to -- that you're mindful of not
4 referring to anything that would identify you, but I would like to ask you whether
5 you have any information, whether you're familiar with a military operation in a
6 place called Mabanga?

7 A. Yes, I'm familiar with that operation in Mabanga.

8 Q. And approximately when was there a military operation in Mabanga?

9 A. It was before the UPC was set up that the Mabanga operation took place.
10 When there were soldiers in Mandro, that's when the Mabanga operation took place
11 in 2002, but I don't remember the exact date.

12 Q. And who was involved in that Mabanga operation?

13 A. The Mabanga operation was initiated by Bosco Ntaganda.

14 Q. And do you know why the Mabanga operation was initiated? Do you know
15 what its objective was?

16 A. The goal of the Mabanga operation was -- well, I hesitate to use the term
17 "economical" but it was to get money basically. Mabanga was composed of several
18 different tribes and they were gold diggers so the Mabanga operation, in my opinion,
19 was to profit from the situation and take back the mine so that the commanders,
20 Bosco and his soldiers could take over the mine. I think that was the goal. At least
21 that's the goal that I would suggest.

22 Q. And do you know who was in Mabanga that it needed to be attacked? In other
23 words, who did the UPC forces attack in Mabanga?

24 A. Well, Mabanga, in fact, the people who were there were from a variety of tribes,
25 so they all were impacted by this attack. The purpose was to chase them all away,

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 and anyone who resisted was -- was killed by Bosco's troops. So I can't really
2 confirm exactly who was targeted as such in the Mabanga operation. It was
3 Mabanga as a whole, if you will.

4 Q. And do you know whether the Mabanga operation was regarded as a success?
5 Was the operation -- did it meet its objectives?

6 A. Yes, the Mabanga operation did reach its goal, but not for long because shortly
7 thereafter Mabanga was taken back by the former occupants before they had been
8 chased away. So they did reach their goal, but only in the short term.

9 MR IVERSON: Mr President, I would ask that we go into private session briefly.

10 Thank you.

11 PRESIDING JUDGE FREMR: Certainly.

12 Let's move into private session now.

13 (Private session at 3.44 p.m.) *(Reclassified partially in public)

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

15 PRESIDING JUDGE FREMR: Thank you, court officer.

16 Mr Iverson, please proceed.

17 MR IVERSON: All right.

18 Q. (Redacted)

19 (Redacted).

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted).

7 Q. And are you aware whether there were any civilians targeted in the Mabanga
8 operation by the UPC forces?

9 A. Well, I would answer directly in saying that when the UPC soldiers went off for
10 an operation, their goal -- they had a main goal in mind, and since Mabanga was at
11 the -- in Lendu territory and given the troops that were there, the people who were
12 resisting, they were all Lendus. So anybody who resisted was attacked and became
13 a victim, and that's why the Lendus were really the main victims because they had
14 resisted this takeover of Mabanga. And I mentioned that there were other ethnic
15 groups. They simply ran away when the town was attacked. The ones who
16 resisted were Lendus; therefore, the victims were for the most part Lendus because
17 they had bladed weapons and the UPC already had guns, firearms.

18 Q. Do you recall whether there were any casualties among the UPC forces?
19 Whether there were any fatalities?

20 A. There were soldiers who died because their bodies were taken back to Mandro
21 and buried in Mandro, (Redacted)

22 (Redacted)

23 (Redacted).

24 Q. (Redacted)?

25 A. (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted).

5 MR IVERSON: Mr President, I'd ask that we go into open session, please.

6 PRESIDING JUDGE FREMR: All right.

7 Let's move into open session, please.

8 (Open session at 3.50 p.m.)

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

10 PRESIDING JUDGE FREMR: Thank you.

11 Mr Iverson, you may proceed.

12 MR IVERSON:

13 Q. Sir, are you familiar with a military operation in a place called Songolo?

14 A. Yes, I was aware of that. I was informed of that.

15 Q. So keeping in mind that we're in open session, could you tell the Court who was
16 involved in that military operation?

17 A. In the case of Songolo, Bosco was involved a hundred per cent. He led the
18 operation from Mandro. He left Mandro to go on that operation. So it was
19 Bosco Ntaganda who was involved.

20 Q. And could you tell the Chamber, if you know, what was the objective of that
21 attack in Songolo?

22 A. Yes, the Songolo attack was aimed at attacking the village to massacre the Ngiti
23 population, the local population. They were Ngiti. That was the purpose, to
24 massacre the Ngiti people.

25 Q. And to the best of your knowledge, did Mr Ntaganda and his troops accomplish

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 their objective?

2 A. Yes, they did reach their objective.

3 Q. Who were the residents or the people found in Songolo?

4 A. Songolo is Walendu-Bindi so these are Ngiti people who live in Songolo. And
5 a few Bira, but it's 99 per cent Ngiti people.

6 Q. And are you aware whether there were any opposing militias in Songolo, so any
7 militias that were opposed to UPC?

8 A. From what I know, in Songolo it was only the local population. Of course they
9 had their self-defence; in other words, each family had something to defend itself,
10 perhaps a bladed weapon or something else.

11 Q. But to your knowledge -- well, I'll leave it there.

12 Well, were there any militias to your knowledge in Songolo other than the UPC?

13 A. I don't know what you mean exactly by "militia." I do know that the Songolo
14 people had their own self-defence system, if you will. But the UPDF, the Ugandan
15 army, was just a few miles away, but the population had their own self-defence
16 system. I don't know whether there was actually any militia present in Songolo.

17 Q. And do you know approximately when this attack at Songolo took place?

18 A. At the end of August approximately, around 28 or 29 August, but I'm not
19 exactly certain of the precise date, but I would say toward the end of August 2002.

20 Q. And just in -- so we can place the attacks in some type of order, did the Songolo
21 operation occur before or after the attack in Bunia in August 2002?

22 A. The Songolo operation took place afterwards.

23 Q. And did the operation at Songolo take place before or after Mabanga, the attack
24 at Mabanga?

25 A. Afterwards.

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 Q. And the operation at Ezekere, could you place that in a timeline from the attack
2 in Bunia, Mabanga, Songolo?

3 A. Songolo was always afterwards, but Ezekere and Bunia took place before, but
4 Songolo was after. Songolo was once Thomas Lubanga had already come back from
5 Kinshasa.

6 Q. And why, if you know, why did the UPC have it as an objective to massacre, as
7 you put it, the Ngiti?

8 A. As I explained, Mr Prosecutor, there had already been conflicts between the
9 Hema and the Lendu, and for the Lendu, the Hemas was the enemy and for the
10 Hemas the Lendu was the enemy. So if you ask me why, well, for the Hemas they
11 had to put an end to the Lendu and for the Lendu they had to put an end to the Hema.
12 That's why they attacked Songolo because it was a Lendu town, a Lendu or Ngiti
13 town, and there was no real reason other than that. There's no other reason I can
14 give you. It was just for that reason. That's all.

15 Q. And just to follow up on your last answer, you said it was a Lendu or Ngiti
16 town. I just want to know, according to you, are those two words or labels
17 interchangeable, or if not, how are they related if at all?

18 A. In the Ituri district you have the Walendu-Bindi collectivity and in that
19 collectivity, Walendu-Bindi, the people who live there are called Ngiti. But there are
20 other collectivities further north, the Walendus, whether it's Tatsi, Djatsi, Tatsi, Djatsi
21 and the others, the Pitsi, they are Lendus and they border with the Hema north.
22 Whereas in the Walendu-Bindi collectivity where the Ngiti live, that's where they live,
23 they border on the Hema-Sud community the Hema south and the Bira community.
24 That's the difference. The Ngitis are Lendus, but since they are from Walendu-Bindi,
25 they call themselves Ngiti. If you go to Walendu-Pitsi in Bunia, they call themselves

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0190

1 Walipa (phon). And the people from the Walendu-Bindi, they are called Ngiti.

2 That's basically the difference, but they are all Lendus.

3 Q. Thank you for that clarification, sir. Do you know which units or personnel
4 from the UPC were led by Mr Ntaganda at the operation on Songolo?

5 A. During the Songolo operation Mr Ntaganda had appointed a commander who
6 had taken over Irumu, including Songolo, and that was Bagonza. Commander
7 Bagonza was there and he was arrested by Bosco Ntaganda in Mandro and it was --

8 THE INTERPRETER: A name that the interpreter did not catch.

9 THE WITNESS: (Interpretation) -- who was the commander and in charge of the
10 entire territory of Irumu.

11 THE INTERPRETER: Note from the interpreter: Could you ask the witness to
12 repeat the name of that commander?

13 MR IVERSON:

14 Q. Sir, could you just repeat the name of the commander that you just mentioned.
15 I have Bagonza, but if you mentioned another commander, the interpreter wasn't able
16 to hear and interpret what you said.

17 A. It's Bagonza, Bagonza.

18 Q. You stated that Commander Bagonza was there and he was arrested by
19 Bosco Ntaganda in Mandro. Could you explain how that happened and why it
20 happened?

21 A. No, I didn't say he was arrested. I said he was -- he was stopped or he called
22 him, he called him. He called upon him perhaps.

23 Q. Okay. Thank you for that clarification.
24 And that was in today's transcript page 104 at line 7.

25 And do you know, if you know this, why did Mr Ntaganda call upon Commander

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 Bagonza?

2 A. He asked him about the Songolo operation because he was in charge. He
3 called upon Commander Bagonza to give him instructions so that they start the
4 Songolo operation together. That's all I know.

5 Q. And other than the commanders that Mr Ntaganda used in the Songolo attack,
6 could you describe the other personnel who were present during that attack in
7 Songolo from the UPC?

8 A. Aside from the two commanders, I can tell you that Bosco left Mandro with his
9 soldiers and they were minors, minors, they were under 18. Those were the ones
10 who carried out the operation in Songolo. He went with them because on site
11 Mr Bagonza didn't have many soldiers. In fact, he left with the soldiers from
12 Mandro to go to Songolo.

13 Q. When you say the soldiers were minors under 18, were you able to estimate
14 how old the minor soldiers were?

15 A. Yes, Prosecutor. I could make an estimation. And why? Because the
16 recruitment of these troops was carried out -- well, I knew how the recruitment was
17 carried out and that's the reason why I said minors. The recruitment was done in
18 primary schools, and in the Congolese system primary school is for children. Well,
19 they normally finish primary school when they are 11 years old or 12 or 13 if the child
20 has had a delay. And that's the reason why I spoke to you about minors. That's the
21 real part. But also looking at them, there are Pygmies in our country, I can't tell by
22 looking at people, just because somebody is short doesn't mean they're a child, but
23 you do know that children from primary school, well, they were recruited by
24 Bosco Ntaganda. (Redacted)
25 (Redacted).

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 MR IVERSON: Mr President, I would just ask that we go into private session,
2 please.

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

5 (Private session at 4.07 p.m.) *(Reclassified partially in public)

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

7 PRESIDING JUDGE FREMR: Thank you.

8 Mr Iverson, please.

9 MR IVERSON:

10 Q. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)?

17 A. Prosecutor, as I told you, recruitment was done in the primary school and
18 that's the primary school (Redacted). Other recruitment was carried out
19 in towns where the parents complained to the security services that their
20 children were victims. They had gone to military training while they were still
21 children, they were minors. And that's the reason why I spoke to you about
22 minors. As I told you, in primary school it's minors who finish primary school,
23 not adults.

24 Q. What I'm asking you is, if you know, how old were these children on the
25 Songolo operation, if you know?

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 A. Yes, 12, 13, 14, 15 most of them. Even 11 years old.

2 Q. And these child soldiers you just mentioned, do you know if there were any
3 fatalities amongst them in the attack?

4 A. There were lots of victims. There were a lot. Firstly, the bodies were taken to
5 Mandro, both of them. There were relatives there who still today, they don't know
6 where their children are, they're parents, and they have written to the security
7 services at the time to see if it could be checked to see if their children were in Mandro
8 or in the UPC. That's what I can say to you, Prosecutor, in that regard.

9 Q. In a way you've answered this, but I just want to be clear. How was it that you
10 were able to estimate their ages, these child soldiers?

11 A. Well, I repeat again. They were recruited from a primary school, and secondly,
12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted). I would repeat it again, with regards to they were primary school children
16 and also what I saw with my own eyes. And I'm also able to see psychologically, I'm
17 able to see whether somebody is a child given the behaviour, the way in which the
18 child speaks and even the way in which they bear weapons because sometimes it's too
19 heavy. Even if it's somebody -- well, you will be able to see whether it's an adult or a
20 child. That sort of thing makes it possible for me to see -- makes it possible for me to
21 state that we were really talking about children.

22 Q. And do you recall whether these child soldiers for the Songolo operation, what
23 I'm referring to now, wore military uniforms?

24 A. Most of them didn't have uniforms, and the few who did, they were uniforms
25 that were given by Ugandans and by Rwanda as well. When Rwanda dropped

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 weapons, there was also military uniforms, but they couldn't wear military uniforms
2 of large persons and that's the reason why they sometimes wore civilian clothing,
3 most of them.

4 Q. And for the child soldiers who did wear military uniforms, how did those
5 uniforms fit them?

6 A. Well, it was funny because when you see them you would see that you
7 had -- they had these trousers which were very big and sometimes they were tied up
8 with a piece of string. It wasn't good to see. But those who could wear them, wore
9 them. But most of them couldn't. They were just too, too big.

10 Q. Sir, do you know or are you aware whether Lubanga and Kisembo were aware
11 of the operation in Songolo?

12 A. No. Lubanga wasn't informed because he had just arrived recently from
13 Kinshasa. Kisembo was in town. He wasn't informed. And they were informed
14 when the operation had finished, and it was at that time that they were informed.

15 Q. Are you aware whether anyone within the UPC ever received any discipline or
16 punishments for the events that happened in Songolo?

17 A. Prosecutor, I never saw a soldier who was punished in the UPC firstly. Now,
18 to say that in Songolo there were people who were punished, there was nobody.

19 Q. And what, if any, consequence befell Mr Ntaganda or what happened to
20 Mr Ntaganda as a result of not having informed Lubanga and Kisembo prior to the
21 attack at Songolo?

22 A. I haven't well understood the question. The consequences for whom? Could
23 you ask the question again.

24 Q. Did Mr Ntaganda suffer any consequences for not having informed Lubanga or
25 Kisembo about the Songolo attack, prior to the attack?

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 A. No. It wasn't a problem for Bosco. To inform or not, that wasn't a problem
2 for him because nobody could be opposed to any operation which he suggested.

3 Q. Do you know how long the attack on Songolo happened, how long was the
4 attack in total, if you know?

5 A. Well, the attack on Songolo, I know one day there was the real attack, that was
6 when Bosco himself was in the field with his troops. The troops that had
7 taken -- taken from Mandro. And the next day Bosco Ntaganda had to come back
8 quickly to Bunia because there was a delegation from the minister of human rights of
9 Kinshasa who came with Thomas Lubanga and the UPC had taken him as a hostage.
10 Now, normally these people who were taken hostage by the UPC had to be handed
11 over officially to Kinshasa by the Ugandans at the airport.

12 Now, Ntaganda had to quickly come to sign because when people had been taken
13 hostage he had to sign, so Ntaganda had to sign also for them to be handed back and
14 that's the reason why Ntaganda quickly went back one day and then he left Bagonza,
15 Commander Bagonza to continue the operation and the operation which he said was
16 a ratissage operation and he said "I left Bagonza for the ratissage operation, the
17 sweeping-up operation."

18 Q. And do you know if Mr Ntaganda punished Mr Bagonza or whether there are
19 any consequences for Mr Bagonza for having conducted the ratissage operation, the
20 sweeping up?

21 A. There can't be -- there can't be consequences because he was the one that left
22 Bagonza in the field to carry out the ratissage. So he couldn't blame him or punish
23 him for that.

24 MR IVERSON: Okay. I would -- I would ask that we go back into open session and
25 I intend to ask the last 10 minutes of questions in open session but, your Honour,

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Private Session)

ICC-01/04-02/06

1 I would like just a moment to explain to the witness that it's important that when he
2 answers the questions he doesn't reveal his identity.

3 Q. So it's basically the same exercise, I'm going to ask you a series of questions.
4 Just omit any information that tells us things about your identity and I will ask
5 questions pertaining to that after you have told us the general information so that the
6 Chamber is able to evaluate the evidence that you give. Do you understand, sir?

7 A. Okay.

8 PRESIDING JUDGE FREMR: Very well. Court officer --

9 MR IVERSON: Thank you.

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

11 (Open session at 4.21 p.m.)

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

13 PRESIDING JUDGE FREMR: Thank you, court officer.

14 Mr Iverson, please proceed.

15 MR IVERSON:

16 Q. Okay, sir, I'd like to ask you questions now about your knowledge of military
17 operations in Mongbwalu. Are you familiar with UPC military operations in
18 Mongbwalu?

19 A. Yes, I was informed about them.

20 Q. Now, first of all, I'd just like to ask, to your mind, how many military
21 operations -- UPC military operations were there in Mongbwalu?

22 A. In Mongbwalu there were two operations carried out by the UPC.

23 Q. And can I have you briefly describe the first operation in Mongbwalu
24 conducted by UPC?

25 A. The first operation carried out by the UPC was a failure because they entered

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 Mongbwalu and they met with resistance from the APC. That's the army of
2 RCD-K/ML that was still there in Mongbwalu. They had serious resistance and so
3 they were driven back and they went back. That's the first operation.

4 Q. And the same question then for the second operation, could you explain in
5 general terms how the second operation in Mongbwalu unfolded?

6 A. Well, the last operation like the first operation was a failure because they still
7 had to meet up with Bosco Ntaganda in order to see how to succeed with the
8 operation that they had to take over Mongbwalu. So this time they called Jérôme
9 Kakwavu from Aru's troops -- he had his troops in Aru and he called some
10 commanders, Mr Jérôme's commanders who arrived in Bunia and they had a strategic
11 meeting together to see how they could retake Mongbwalu. And after this meeting,
12 with the commander Mr Jérôme and his troops, they left Aru and they went towards
13 Mongbwalu with the commander. And that is how they entered Mongbwalu.
14 They met with resistance again but it wasn't too much because there were other
15 troops, Jean-Pierre Bemba's in the forest and they were called the Effacer le tableau
16 troops and they were the ones who joined the group of the UPC in order to finally
17 take Mongbwalu, but the operation was hard because there were a lot of people died,
18 a lot of civilians died, civilians were in Mongbwalu, it was a town which was
19 concentrated with a lot of civilians, it was a mining region, a lot of men, a lot of
20 women and families who were there. It's also a locality with a lot of people. That
21 was the second operation. Until they were able to drive out the APC who were
22 strong there. They were a strong enemy. But as I said, a lot of people died in this
23 operation in Mongbwalu. So they managed to take over the locality of Mongbwalu
24 the second time.

25 Q. Other than Jérôme Kakwavu and Bosco Ntaganda, who were the commanders,

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 to your knowledge, who took part in the planning for the Mongbwalu operation?

2 And I'm referring to the second attack.

3 A. Thanks. Jérôme Kakwavu wasn't in the meeting, the strategic meeting for this
4 operation, but he sent two of his commanders, Commander Manu Ndukutse and
5 Commander Seyi. And it was these two who attended the strategic meeting to take
6 Mongbwalu. Jérôme Kakwavu was in Aru, he just sent his commanders.

7 Q. So I just ask you to -- there was a name that wasn't -- wasn't captured in the
8 transcript. So you mentioned a Manu and then you mentioned a second name.
9 Could you say that full name please for the transcript.

10 A. Perhaps I might mispronounce it myself, but Ndukutse. I can -- I might
11 mispronounce it, but Ndukutse. But perhaps I mispronounce it as well.

12 Q. Well, I am happy to know that I'm not the only person in the courtroom to
13 mispronounce words, but I think that's clear, Mr Witness, and I think we can move on.
14 And I note -- I notice, actually, that it's about time to end for the day. So I think in
15 terms of -- your Honours, in terms of timing, I think we've made pretty progress, I
16 should be able to finish, I approximate, in the second morning session tomorrow.

17 PRESIDING JUDGE FREMR: Just to provide you with our measuring because
18 according our measuring you have already so far exhausted almost four hours, so it
19 should be ideally in the half of your task, but I understand that you are even further?
20 Because you still -- you still should have four hours at your disposal, so at least two
21 morning sessions and even a piece of the afternoon, but if you would be faster, we
22 would appreciate.

23 MR IVERSON: Well, I don't want to promise something that I can't --

24 PRESIDING JUDGE FREMR: Don't make promises.

25 MR IVERSON: I don't want you to hold me to it, but I think I might -- if things go as

Trial Hearing
WITNESS: DRC-OTP-P-0190

(Open Session)

ICC-01/04-02/06

1 they have today, I estimate that I should be finished tomorrow by the end of the
2 second session.

3 PRESIDING JUDGE FREMR: All right. It's mainly for LRV and for Defence to be
4 ready to start with their examination, if any, tomorrow afternoon. Okay. Thank
5 you very much, Mr Iverson.

6 Thank you, Mr Witness. So for today we will conclude for today your testimony.
7 We will continue tomorrow. I would like to thank you because I can imagine it was
8 a very long day for you, but you were doing very well. You observed our guidance.
9 You patiently and clearly responded all questions put to you, so thank you very much
10 for that. It's also my task to warn you that in the meantime till tomorrow you must
11 not discuss your testimony with anyone apart from your lawyer -- lawyer, sorry, from
12 your lawyer, Mr Laucci. Do you understand that?

13 THE WITNESS: (Interpretation) Thank you very much, your Honour.

14 PRESIDING JUDGE FREMR: So otherwise we wish you a good rest and we will see
15 you again tomorrow.

16 So that's the end of this session. Yes, we are in open session, fine. So it's the end of
17 this session and we will resume tomorrow 9.30.

18 THE COURT USHER: All rise.

19 (The hearing ends in open session at 4.32 p.m.)

20 RECLASSIFICATION REPORT

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