

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 Wednesday, 8 June 2016
 8 (The hearing starts in open session at 9.33 a.m.)
 9 THE COURT USHER: All rise.
 10 The International Criminal Court is now in session.
 11 Please be seated.
 12 PRESIDING JUDGE FREMR: Good morning, everybody.
 13 Court officer, please call the case.
 14 THE COURT OFFICER: Thank you, Mr President.
 15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
 16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
 17 And we are in open session.
 18 PRESIDING JUDGE FREMR: Thank you, court officer.
 19 Now appearances, starting with Prosecution.
 20 MR IVERSON: Good morning, Mr President and your Honours. Appearing today
 21 for the Office of the Prosecutor are James Pace, assistant trial lawyer; Rens van der
 22 Werf, assistant trial lawyer; Dianne Luping, trial lawyer; Selam Yirgou, case manager;
 23 and Judith Boekstal, intern; and myself Eric Iverson, trial lawyer.
 24 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.
 25 Defence, please.

1 MR BOURGON: (Interpretation) Good morning, your Honour, your Honours, and
2 everybody else present in the courtroom. Representing Bosco Ntaganda who is
3 present this morning, Margaux Portier, Chloé Grandon and myself,
4 Stéphane Bourgon. Thank you, your Honour.

5 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.
6 Legal Representatives of Victims, please.

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

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

12 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you Mr Suprun.
13 And at the end duty counsel, please.

14 MR LAUCCI: (Interpretation) Thank you very much, your Honour, good morning.
15 Good morning, your Honours, as well as everybody else in the courtroom. Cyril
16 Laucci to assist the witness this morning.

17 PRESIDING JUDGE FREMR: Thank you, Mr Laucci.

18 Before we approach to the testimony of our witness I have two procedural issues.
19 First one, I wanted to inform you about the issue yesterday brought by Mr Laucci, but
20 because I also understood that Mr Laucci would like to approach Chamber on this
21 issue, I will give you floor first.

22 Mr Laucci, please.

23 MR LAUCCI: (Interpretation) Yes --

24 PRESIDING JUDGE FREMR: Yes, maybe it would be better to move into private
25 session for that.

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

2 (Private session at 9.37 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 Laucci, please proceed.

6 MR LAUCCI: (Interpretation) (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 PRESIDING JUDGE FREMR: (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 MR LAUCCI: (Interpretation) (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE FREMR: Very well.

16 Now the second issue is the request the Defence made yesterday about time allotted
17 to the Defence for its cross-examination. So Chamber has thoroughly considered all
18 those factors mentioned both by Defence and also reply made by Prosecution and we
19 decided that the Defence is allotted 8 hours for its cross-examination.

20 Now, Mr Witness, we will commence the second part of your testimony. You will be
21 now cross-examined by Defence. I would like to again remind you that you are still
22 under oath, which means that you have to speak truth and nothing but the truth.
23 You know it.

24 And the second issue I would like to highlight is that this Court is governed by the
25 principle of fair trial, which means that both parties are treated equally. It also

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1 concerns you because you, and I said you did it very well so far, so you should
2 continue the same style of responding when you will respond questions put to you by
3 Defence.

4 Do you understand?

5 WITNESS: DRC-OTP-P-0190 (On former oath)

6 (The witness speaks French)

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

8 PRESIDING JUDGE FREMR: All right.

9 So Mr Bourgon, you may proceed.

10 MR BOURGON: Thank you, Mr President.

11 QUESTIONED BY MR BOURGON: (Interpretation)

12 Q. Good morning, Witness.

13 A. Good morning, Counsel.

14 Q. Please allow me to introduce myself. Stéphane Bourgon, I'm accompanied by
15 my colleagues this morning and together we represent the accused in this case,
16 Bosco Ntaganda.

17 A. Thank you.

18 Q. Witness, you remember we met briefly last week for just a few minutes; do you
19 remember?

20 A. Yes, I remember, yes by way of introduction.

21 Q. So during the next hours you've heard the Presiding Judge say that we're going
22 to spend the next eight hours together. I have several questions to put to you. The
23 same rules apply, that's to say that if you don't understand a question, don't hesitate
24 to stop me or ask me to repeat the question once again. Do you understand that?

25 A. Yes, I understand.

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1 Q. By the same token, we also have to make a three-second stop, particularly
2 because we're both speaking in the same language so it's very important to make a
3 pause of three seconds; do you understand that?

4 A. Yes, I understand that.

5 Q. (Redacted)

6 (Redacted)

7 (Redacted)

8 A. (Redacted)

9 Q. (Redacted)

10 A. (Redacted)

11 Q. (Redacted)

12 (Redacted)

13 A. (Redacted)

14 MR BOURGON: (Redacted)

15 Q. (Redacted), you met with the
16 representative of the Prosecution a few days afterwards; is that correct?

17 A. Yes.

18 Q. At that time you had an interview with them which was recorded; do you
19 remember that?

20 A. Yes.

21 Q. You were also -- or, having had this interview, you also signed a declaration on
22 paper?

23 A. Yes.

24 Q. When you signed this statement during the interview, if I understand well, it
25 was explained to you that at any time you could make corrections or modifications to

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1 it to what you said?

2 A. Yes.

3 Q. And at the end when you signed the statement you were satisfied with its
4 content?

5 A. Yes.

6 Q. And the representative of the accused -- the Prosecution, representative of the
7 Prosecution -- I'm not obeying my own rules. I should wait three seconds. The
8 representative of the Prosecution during this interview that it was important to tell
9 the truth, did they not?

10 A. Yes, and nothing but the truth.

11 Q. You have to make a difference, there is nothing but the truth and nothing of the
12 truth. So nothing but the truth; is that right?

13 A. Yes.

14 Q. You also had another meeting with the representative of the Prosecution
15 who -- which led to your presence here today, so I would like to refer to a meeting
16 that you had with the representative of the Prosecutor and that was in (Redacted)
17 (Redacted). Do you remember that
18 meeting with the Prosecution?

19 A. I don't remember.

20 Q. So here we have a question from an interview. The exact date that I have here
21 (Redacted)

22 There were two people from the Prosecutor who met you. (Redacted)

23 (Redacted) In reality there was a third person as well, (Redacted). Three
24 people who met you in the month of (Redacted); do you remember that?

25 A. I don't remember that at all. That was (Redacted) years ago. I don't remember.

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1 Q. Do you remember the first time you met representative of the Prosecution?

2 A. I can't think of it.

3 Q. Could you help us shed some light on this. What year or what period did you
4 meet representatives of the OTP for the first time?

5 A. For the first time?

6 Q. Yes, the first time.

7 A. The first time I got a call from the OTP, (Redacted) if my memory serves me well.
8 (Redacted), if I remember well. That was the first time.

9 Q. And before this date of (Redacted), is it your testimony that you never met witnesses
10 from the Office of the Prosecutor before?

11 A. No, because every time that I met with representatives of the Prosecutor they
12 always recorded it and after the recording I would sign. I don't remember signing a
13 document which proves that I met with them before 2014.

14 Q. So on the last point I agree with you. We're not speaking about a meeting
15 during which there was a statement that was taken, quite simply a meeting during
16 which you were asked questions concerning your knowledge of the events in 2002
17 and 2003 with three investigators; do you remember that?

18 A. Counsel, in the last 12 years I've met a lot of people, given my functions, but
19 I don't remember meeting representatives of the Office of the Prosecutor in (Redacted).
20 I don't remember that, unless it's something that escaped by memory.

21 Q. Well, it is a long time ago and it is possible that you might have forgotten, so I'm
22 going to ask that you be shown a document, which was made following that meeting.
23 Court officer, please could you show document (Redacted).

24 THE COURT OFFICER: Mr Bourgon, could you please provide us with the ERN
25 number of the first page of the document, please.

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1 MR BOURGON: (Interpretation) Well, to the best of my knowledge, the number is
2 the one that I've given, (Redacted).

3 THE COURT OFFICER: The document will be displayed on the evidence 1 channel.

4 MR BOURGON: (Interpretation) Thank you.

5 Q. Witness, now there's a document which is going to appear before you. This is
6 a document entitled (Redacted) (Speaks English)

7 (Redacted)

8 (Interpretation) Now, I will have questions to put to you with regards to the content
9 of this document, but for the moment, do you recognize having seen this document
10 last week when you met the representative of the Prosecutor?

11 A. I've never seen this document, frankly. It's quite strange to me.

12 Q. Do you recognize having met the representative of the Prosecution for several
13 days between (Redacted) this year, (Redacted) and (Redacted)? Do you remember this meeting
14 with the representatives of the Prosecutor?

15 A. Could you repeat the date, please?

16 Q. Since you arrived in The Hague, I don't know what date that was, but between
17 (Redacted) and (Redacted), so last week, I was told that you met representatives of the Office
18 of the Prosecutor for several days. Do you remember that?

19 A. I don't remember several days, but I met them twice and the second time it was
20 just a few hours.

21 Q. So here what we're talking about is the preparation of your testimony, witness.
22 You would agree with me that your preparation lasted over several days, did it not?

23 A. Yes.

24 Q. Now, when one finishes a preparation session, the Prosecution provides you
25 with a document with a summary of what happened during the preparation. Did

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1 you know that?

2 A. Yes.

3 Q. So given the document here --

4 MR BOURGON: For the record, Mr President, I refer to document number DR -- I'm
5 not sure if there is a document number. Number 118 on our list. And of course
6 there is no official number, but it is the witness preparation session log and disclosure
7 note.

8 Q. (Interpretation) Witness, the document that I have here refers to documents
9 which were shown to you on that occasion, so according to the information that I've
10 got here, the document -- or the documents in question, the one that's before you on
11 the screen -- well, I don't know if you can see the bottom of the document. There's a
12 number at the bottom. I imagine that -- well, I'm going to ask my colleague from the
13 Prosecution if I understand well --

14 (Speaks English) Mr President, I would like to clarify with the Prosecution whether
15 this document was indeed shown to the witness during his preparation session.

16 PRESIDING JUDGE FREMR: Mr Iverson, please.

17 MR IVERSON: Mr President, just for the record, just to identify the document from
18 which Defence counsel speaks, the witness preparation session log and disclosure
19 note, that's DRC-OTP-2093-0016, just so we have the identification.

20 PRESIDING JUDGE FREMR: Thank you.

21 MR IVERSON: The document from (Redacted) to which Defence counsel is referring is not
22 on that list and was not shown to the witness.

23 MR BOURGON: Thank you, Mr President.

24 Q. (Interpretation) Witness, I understand -- well, I don't understand what's
25 happened *because you were not shown the document. I should perhaps check the

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1 list a bit more closely because normally you check each document. So if we look at
2 the document in front of you, then I'm going to read the first paragraph of it. And
3 it's in English, I'm going to read it in English. You will have the interpretation in
4 your headphones. This is the document (Redacted).

5 (Speaks English) I read in English paragraph 1 of the document:

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Interpretation) Witness, I'd just like to know if you remember this meeting with the
11 three representatives of the OTP?

12 A. I'm repeating again, I do not remember that meeting.

13 Q. I'm now going to refer -- well, I'll go back to the content of the document, but
14 we're going to a second time when you met representatives of the OTP and according
15 to the information that I have, you had a long interview with the representative of the
16 OTP in the month of (Redacted). Do you remember that?

17 A. I remember that.

18 Q. You will remember that this interview in the month of (Redacted) was
19 recorded, was it not?

20 A. Yes.

21 Q. Before the beginning of the discussion, do you remember that they read you
22 your rights as a suspect?

23 A. Yes.

24 Q. And you accepted, nonetheless, to respond to the questions of the
25 representatives of the OTP; is that correct?

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1 A. Yes, indeed I did accept.

2 Q. While that statement was taken and was recorded, if I understand correctly, the
3 representatives of the OTP reminded you of the importance of saying the truth; is that
4 correct?

5 A. Yes.

6 Q. They also told you at the end of each session that you were allowed to make any
7 necessary changes to your statement if you felt that was necessary; is that correct?

8 A. Yes.

9 Q. And when you finished the interview, you were asked whether you had any
10 corrections to make; do you remember that?

11 A. I don't remember absolutely everything, but they asked me many questions and
12 I answered, but I don't remember exactly every single question they asked me at the
13 time.

14 Q. At the end of the interview, you were satisfied that the statements you had
15 made to the investigators represented to the best of your knowledge the truth; is that
16 correct?

17 A. Yes, that's the case.

18 Q. And you did have an opportunity to review and to re-read the statement you
19 had made completely?

20 A. Well, I remember discussing with the representatives of the Prosecutor and each
21 time at the end they read it out to me and I signed the statement. Now, I don't
22 remember every single detail that you're referring to, but that's it.

23 Q. When you met with the representatives of the OTP last week in order to prepare
24 your testimony, you were told what the purpose of that preparation was; is that
25 correct?

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1 A. Yes.

2 Q. You were told that the first goal was to review your various statements and to
3 make any necessary changes if changes were necessary; is that correct?

4 A. Yes.

5 Q. And that is exactly what you did, you did make a few changes for the OTP?

6 A. Yes.

7 Q. And the representatives of the OTP asked you a number of questions and you
8 answered those questions; is that correct?

9 A. Yes.

10 Q. Therefore, on the basis of that exercise, you in fact reviewed your (Redacted)
11 statement completely and aside from the information that is in the report that I was
12 given, you were satisfied that that corresponds to the truth?

13 A. Yes.

14 Q. Fine. I'd like to now go back to the document that you don't remember, the
15 one that should be on the screen in front of you at this point. I'd like to draw your
16 attention -- just a moment. Just a moment. Before I do that, I'd like to ask you
17 something else about the preparation session. I've neglected a point.

18 During the preparation session you mentioned something to the OTP that attracted
19 my attention. And this is what I was told and I would ask you to confirm that this is
20 indeed what you stated to the OTP and I'm going to read it in English. I'm going to
21 read the information that was relayed to me in English. And please pay attention, it
22 will be interpreted into French for you.

23 (Speaks English) I will read in English for the record. The number of the document
24 is the witness preparation session log and disclosure note. And the number is as
25 mentioned by the Prosecution a few minutes ago, (Redacted). I read from

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1 the bottom of page 4:

2 "The witness was informed about the request for in-court protective measures and
3 about recourse to private session. The witness stated that, based on his experience,
4 regardless of private sessions and other measures, the information will come out.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Interpretation) I'll go back to French, Witness. Can you confirm that you indeed
16 stated that when you met with the representative of the OTP?

17 A. Yes, I confirm that.

18 Q. My first question about this in order for things to be absolutely clear, you have
19 just said "Yes, I understand," but my question is: Do you recognize that you indeed
20 made that statement to the OTP?

21 A. Yes, that is the information that I gave to the OTP.

22 THE INTERPRETER: Please remind speakers to wait for a few seconds between
23 question and answer.

24 THE WITNESS: (Interpretation) Could you please repeat the question.

25 MR BOURGON: (Interpretation)

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1 (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 A. (Redacted)

5 Q. (Redacted)

6 A. (Redacted)

7 Q. (Redacted)

8 THE INTERPRETER: Your Honour, the speakers are overlapping.

9 THE WITNESS: (Interpretation) (Redacted)

10 PRESIDING JUDGE FREMR: Please, I would like to ask both of you to slow down

11 and please observe pauses, otherwise we will not have precise transcript. Thank

12 you.

13 MR BOURGON: (Interpretation)

14 Q. (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 Q. (Redacted)

19 *A. (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 (Redacted)

23 (Redacted)

24 THE INTERPRETER: (Redacted)

25 (Redacted)

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1 MR BOURGON: (No interpretation)

2 PRESIDING JUDGE FREMR: Sorry, Mr Bourgon --

3 MR BOURGON: (Interpretation) The paragraph states in the second to last
4 paragraph --

5 PRESIDING JUDGE FREMR: We had a problem with translation, but now it's okay.

6 MR BOURGON: (Interpretation)

7 Q. I'm referring to the very last line of the second to the last paragraph. And I'm
8 going to read it in English and you'll have the interpretation in your headphones.

9 (Speaks English) "The witness stated that he possesses a lot of knowledge because
10 (Redacted)"

11 Q. (Redacted)

12 A. (Redacted)

13 Q. (Redacted)

14 (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 A. (Redacted)

10 PRESIDING JUDGE FREMR: Sorry, Mr Bourgon, just a reminder to Mr Witness.

11 Mr Witness, you are speaking now in the optimal pace, but still please observe pauses

12 because you have a tendency, it's absolutely natural, to respond immediately. But

13 because your answers are translated to English, we need this at least three seconds

14 pause between Mr Bourgon's question and your response. Please. Okay?

15 Mr Bourgon, please proceed.

16 MR BOURGON: Thank you, Mr President.

17 Q. (Interpretation) (Redacted)

18 (Redacted)

19 (Redacted)

20 A. (Redacted)

21 (Redacted)

22 Q. If I were to put to you, Witness, that Adèle Lotsove was not in Bunia when

23 Bosco Ntaganda arrived for the first time in the summer of the year 2000, would that

24 refresh your memory?

25 A. I have just stated that I don't remember the exact date, but I said it was between

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1 1999 and 2000. I didn't give you a precise date. I said between 1999 and 2000. But

2 I know that Adèle Lotsove was in office between 1999 and 2000.

3 Q. Do you agree with me, Witness, that Adèle Lotsove left at the end of '99; isn't

4 that correct?

5 A. No, I don't agree with you.

6 Q. When did she leave?

7 A. Madam Adèle Lotsove left in the year 2000 officially. It was when Wamba Dia

8 Wamba came into Bunia. Because Wamba Dia Wamba didn't come into Bunia in

9 1999 and the truth is Adèle Lotsove was replaced by Mr Wamba Dia Wamba, so that

10 was in the year 2000.

11 Q. Witness, we met with Adèle Lotsove and she denies having met with

12 Bosco Ntaganda when she was in Bunia. Does that refresh your memory at all?

13 A. No, not at all. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. I'd like to move on to another topic, Witness. I'd like to come back to the

18 document that we had on the screen a moment ago, the document that you were not

19 shown during your preparation session.

20 (Speaks English) For the record, it is document (Redacted) and I would

21 like the witness -- the document to be shown to the witness, please.

22 (Interpretation) Witness, do you see the document on the screen?

23 A. Yes, I can see it.

24 Q. I know that you have limited knowledge of English. I'm going to read out a

25 few paragraphs from this document and I'd like to ask you to tell me whether the

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1 information contained is correct.

2 So first of all I'll read paragraph 2, where it states:

3 (Redacted)

4 (Redacted)

5 (Interpretation) So this is the information that the investigators noted; is that

6 correct?

7 A. Yes, what you just read out is correct. So yes, it's my name and it does

8 correspond to my date of birth and place of birth and my origin.

9 Q. I'm going to read out paragraph 3:

10 (Speaks English) "(Redacted)

11 (Redacted) said that at the time Wamba was in charge, a group of Hema

12 started a rebellion, and that these young Hema were directed by Rwandans. (Redacted)

13 named among these young Hema Bosco, Mugabo, Bagonza, Tchaligonza and

14 Kisémbu. (Redacted) said that everything was organised by Tibasima and that Lubanga

15 was chosen as their spokesperson."

16 (Interpretation) This information as noted down by the investigators; is it correct?

17 A. The information that I've read and that you've just read out is correct because it

18 was part of my statement.

19 Q. Therefore, when in paragraph 3 it states that the rebellion was started by a

20 group of young Hemas directed by Rwandans, is that the information that you had

21 because (Redacted)?

22 A. No, I didn't say they were directed by Rwandans. Well, I -- what it says here,

23 what I read is "directed by Rwandans." Perhaps you can repeat my question so that I

24 understand exactly what you're asking me and that I not go beyond that.

25 Q. In English -- (Speaks English) "and that these young Hema were directed by

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1 Rwandans."

2 (Interpretation) So I will leave the professionals do the work of interpretation. You
3 said the information was correct. Where did this information come from?

4 A. I was wondering where this information came from because it's exactly the
5 information that was in my testimony or statement.

6 Q. So the question that I put to you is what was your source to make such a
7 statement?

8 A. To make what statement?

9 Q. To say that the young Hema were directed by Rwandans?

10 A. Well, (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted) So that is how I had that information.

15 Q. Witness, what I'm interested in is that you said it was directed by Rwandans.
16 Where did this information come from? And on what basis do you make that
17 statement?

18 A. I repeat, in my statement I didn't speak about Rwandans. This document, I've
19 told you, I don't remember this document. All the more, I didn't sign this document.
20 The document that I recognize, the discussion that I had with the Office of the
21 Prosecutor, I always sign the document and I have to read it before I sign it. If there
22 are changes, as you just said yourself, you asked me the question when you have a
23 meeting with the Office of the Prosecutor, are you asked to read it and if there are
24 changes to make, then you do that, and I answered yes.

25 But for this document, I did not read this document. I don't know how they had this

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1 information about me. And furthermore, personally I did not see, I wasn't in
2 possession of this document, so it's strange for me to see the information that came
3 from my statement is in this document.

4 Q. I'd like to draw your attention to the fact, Witness, that the document is from
5 (Redacted).

6 But let's go to another line in the document and this is in paragraph 3, where it says:
7 (Speaks English) "(Redacted) said that everything was organised by Tibasima and that
8 Lubanga was chosen as their spokesperson."

9 (Interpretation) That's information that you said?

10 A. I repeat once again, the information that I said here, that resembles the
11 information in my statement. It's not that I recognize having said that to somebody
12 other than the Office of the Prosecutor in (Redacted).

13 Q. So I understand from your testimony, Witness, that when three representatives
14 of the Office of the Prosecutor wrote in this document "(Redacted) said," that was not the
15 truth.

16 A. I didn't say it wasn't the truth. I told you that I don't recognize having met a
17 representative of the Office of the Prosecutor in (Redacted) so I can't say that they lied. I
18 can't say that because I didn't recognize them. How am I going to judge people
19 whether they lied or not if I don't recognize them? It's difficult to answer you to say
20 they've lied or not because I don't recognize them. Or I don't recognize having met
21 these three representatives of the Office of the Prosecutor.

22 Q. I will now quickly move on to paragraph 4 and I'm going to read the last three
23 lines thereof in paragraph 4, where it states:

24 (Speaks English) "(Redacted)

25 (Redacted)

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1 (Redacted)"

2 (Interpretation) Let's forget whether you recognize it or not, this statement, does it
3 correspond with your testimony today?

4 A. Could you read it again?

5 Q. (Speaks English) (Redacted)

6 (Redacted)

7 (Redacted)

8 (Interpretation) Do you agree with that statement?

9 A. No, I'm not in agreement. I'm not in agreement.

10 Q. Well, I'll go on to another paragraph. Paragraph 5 and the last line thereof:

11 (Speaks English) (Redacted)

12 (Interpretation) Is that statement, do you recognize that as being correct?

13 A. No, I don't.

14 Q. I understand from your testimony that the people who wrote "(Redacted)

15 (Redacted)", well, that's not true?

16 A. I repeat again, you're speaking to me about people and I don't recognize or
17 know the people who questioned me about this.

18 PRESIDING JUDGE FREMR: Mr Witness, there is no need to repeat what you have
19 already said. You just can briefly say that you are insisting what you already said,
20 and that's it. There's no need to return back to those details.

21 Mr Bourgon, please.

22 MR BOURGON: Thank you, Mr President.

23 Q. (Interpretation) Very quickly, Witness. In paragraph 6 it states right at the
24 start:

25 (Speaks English) (Redacted)

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1 (Interpretation) Is that the truth?

2 A. I didn't understand your question.

3 Q. Well, I was referring to the first sentence in paragraph 6, the document that's in
4 front of you where it states:

5 (Speaks English) (Redacted)

6 (Interpretation) And I put it to you, Witness, that that is the truth. Are you in
7 agreement with me?

8 A. I don't agree with you.

9 Q. The second line of the document states:

10 (Speaks English) (Redacted)

11 (Redacted)

12 (Interpretation) My question is as follows: Did you (Redacted)

13 (Redacted)?

14 A. No.

15 Q. (Redacted)

16 A. (Redacted)

17 Q. I would now like to --

18 THE INTERPRETER: Interpreter corrects. The question was: (Redacted)

19 (Redacted)

20 MR BOURGON: (Interpretation)

21 Q. Now, if we go back to (Redacted), do you recognize this where it concerns the subject
22 that was put to you with regards the (Redacted)? And here I'm referring to
23 your statement.

24 MR BOURGON: Mr President, this is (Redacted) and I quote from page

25 (Redacted):

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1 (Interpretation) It's in French, Witness, and I would ask you to listen well.

2 Question: "Interviewer 1: (Redacted)

3 (Redacted)"

4 Person interviewed, and that's you: (Redacted)

5 (Redacted)

6 (Redacted)

7 Do you recognize having stated these words in your statement, Witness?

8 A. Yes, I recognize my statement.

9 Q. Witness, I'm now going to change subject. We're going to something that you
10 know well, Bunia. (Redacted) I would ask you if you're able to identify
11 certain places that you mentioned during your testimony on a map of Bunia.

12 MR BOURGON: Mr President, I would like to have permission to show the witness
13 of course a document on the screen. The document bears the number
14 DRC-OTP-0207-0330. And this is a map of Bunia. And I would like, Mr President,
15 to show the enlargement on the -- beside the witness in order to assist him in locating
16 having a broader view of Bunia.

17 PRESIDING JUDGE FREMR: All right. Do you need any assistance from court
18 officers?

19 Maybe please assist.

20 MR BOURGON: (Interpretation)

21 Q. Witness, on your right in front of you there's a map. Do you recognize this
22 map?

23 A. Yes. It's the map of the town of Bunia.

24 Q. On your screen obviously it's digital, but do you see on your screen at the
25 moment that that is the same map? Is it the same map?

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1 A. The same map.

2 Q. Witness, I'd like to ask you, looking at the large map that's in front of you, to
3 point out the place called Mudzipela. Are you able to locate it on the large map, a
4 place called Mudzipela?

5 A. Could the map be moved closer to me, please, so I can look at it.

6 PRESIDING JUDGE FREMR: Mr Bourgon, why do you prefer to make this exercise?

7 Because it's not -- are not like in the previous cases with the electronic version because,
8 you know, Mr Witness is limited by his headphones and so.

9 MR BOURGON: Mr President, it's easier -- we've tried it before and we think it's
10 easier to look at the big and then to find on the screen. So the big map is only an
11 assist --

12 PRESIDING JUDGE FREMR: Now I see. Fine.

13 MR BOURGON: To assist him because it's bigger.

14 Q. (Interpretation) Can you see the place called Mudzipela?

15 A. Yes.

16 Q. Witness, on your screen where on the large map is Mudzipela?

17 A. It's in the north of Bunia.

18 Q. Very well. So I'm now going to show an enlargement with the area called
19 Mudzipela. Can you see it in front of you?

20 A. Yes.

21 Q. It's the same as on the map next to you?

22 A. Yes.

23 Q. So on the map I would ask you to write to make certain annotations thereon.
24 (Speaks English) I would ask the assistance of the court usher to use a pen and to
25 make some markings.

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1 (Interpretation) First of all, Witness, on the map in front of you, are you able to find

2 (Redacted)?

3 A. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 MR BOURGON: (Redacted)

10 (Redacted)

11 Q. (Interpretation) Now, Witness, I would like you to indicate the two primary

12 schools that you referred to in your testimony. Are you able to find the two primary

13 schools?

14 A. There's one primary school for boys or girls? You speak about two primary

15 schools.

16 Q. In your testimony you speak about a school where there was recruitment.

17 That's the school I'm talking about.

18 A. Okay. Well, you spoke about two schools and that's the reason why I wanted

19 to have precision in that regard.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. Witness, could you just put a circle around it even if it cuts through the first one,

24 and if you could write a "2" next to it.

25 A. I can't write a 2 because there are already markings.

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1 PRESIDING JUDGE FREMR: So then, Mr Witness, just add 2 or just mark 1 plus 2
2 close to the number 1.

3 It will be anyway clear from the record.

4 MR BOURGON: (Interpretation)

5 Q. Now, Witness, if I want to go to Mandro from the school, what road do I have to
6 follow?

7 A. Well, it depends, it depends on what type of road to go to Mandro. There's a
8 main road where you have to go into the town, go through the town and you get to
9 Mandro. But there's another road from Mudzipela where you cross Ngezi river and
10 you go through Ndibakodu village and after Bembeyi village and then you get to
11 Mandro. That's the shortcut.

12 But I don't know what type of road. There's a shortcut for everybody to go to
13 Mandro. Mudzipela is a village. Nobody could have a village or a -- nobody could
14 have a motorbike at the time to go to Mandro. Everybody went on the shortcut.
15 And this shortcut went through the road you can see here at the bottom, it crossed
16 that here in order to continue towards the east to get to Mandro.

17 But there's a main road which would take you to the south and then the east to go to
18 Mandro.

19 Q. Well, the road I'm interested in is the road which, according to you, was taken
20 by the young people who were taken to Mandro.

21 A. That's the shortcut.

22 Q. Could you indicate, if you're able to do so, the shortcut on the map?

23 A. Can I see a legend for this map? Where's the river? Because I can't imagine
24 drawing it when I don't have references on my screen.

25 Q. Can you see next to you you've got the complete map. That's the reason why

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1 we put the complete map there.

2 A. Unfortunately it's in English. I don't know if I could have a translation of what I
3 can see as the legend there because I'd like to have some clarifications. It's written in
4 English. Could I have it in French? That would help me in order to be able to find the
5 road.

6 Q. What information would you like exactly, Witness? *I am checking to see if you
7 can do it visually.

8 *A. I'm looking for the Ngezi river.

9 Q. On the map which is in front of you on the screen, if you go right towards the
10 bottom you will see the letters N-G-E-Z, there's an "I," I think that's the river you're
11 looking for.

12 A. Yes. Can I see where Mandro is?

13 Q. So on this map, I'm not going to move it because we're going to put it in evidence,
14 but Mandro -- where is Mandro in relation -- just put an X on the edge of the map
15 where Mandro is.

16 A. I won't do a cross, but I'll show the road.

17 Q. Well, I'm going to ask you to write "Mandro" but on the map and not on the side.

18 On the arrow. Thank you. I would now ask for the bottom to write "P-190."

19 MR BOURGON: Mr President, I would like to have this exhibit admitted into
20 evidence.

21 PRESIDING JUDGE FREMR: Prosecution, any objection?

22 MR IVERSON: No objection, Mr President.

23 PRESIDING JUDGE FREMR: All right then. So the document or map annotated by
24 the witness, (Redacted), is admitted into evidence as a Defence exhibit.

25 MR BOURGON: And I see it's 11 o'clock, Mr President. If we can have the

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1 morning break.

2 PRESIDING JUDGE FREMR: Very well. So we break now for 30 minutes and we
3 will continue 11.30.

4 THE COURT USHER: All rise.

5 (Recess taken at 10.58 a.m.)

6 (Upon resuming in open session at 11.32 a.m.)

7 THE COURT USHER: All rise.

8 Please be seated.

9 PRESIDING JUDGE FREMR: So let's continue, but we are in the open session.

10 Mr Bourgon, I guess that character of your questions will require to move into private;
11 am I right?

12 All right. Then, court officer --

13 MR BOURGON: Yes, Mr President.

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

15 (Private session at 11.33 a.m.) *(Reclassified partially in public)

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

17 PRESIDING JUDGE FREMR: Thank you, court officer.

18 Mr Bourgon, please proceed.

19 MR BOURGON: Thank you, Mr President.

20 Q. (Interpretation) Witness, welcome back. We're now going to finish the
21 exercise with the map. We're going to go on to another subject.

22 Now, on the screen before you, you have an enlargement of the map. I would ask
23 you to show some -- or to indicate some locations on the map which -- the map which
24 you can see in front of you.

25 Now, my first question: Can you confirm that the photo or the illustration that you

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1 see on your screen is the same as the one next to you, the map of Bunia? Is that
2 correct?

3 A. No, because I'm more concentrated on the north towards Mudzipela. Now, the
4 map in front of me, this is the town.

5 Q. Well, I'll ask my question again. The map that's next to you, that's the large
6 map of Bunia and the one that's on the screen is part of that?

7 A. Yes.

8 Q. So I'm going to ask you on the basis of the illustration in front of you, can you
9 indicate where Thomas Lubanga's house was after his return? I'm sorry I might
10 have made a mistake. Where was Thomas Lubanga's house before Bunia was taken
11 by the UPC?

12 (Counsel confers)

13 MR BOURGON: (Interpretation)

14 Q. Can you see Thomas Lubanga's house?

15 A. Yes.

16 Q. Could you write number "1"?

17 MR BOURGON: For the record, the witness indicated number 1 as to where he
18 believes the house of Thomas Lubanga before Bunia was taken over by UPC.

19 Q. (Interpretation) Now I would ask you to show where Bosco Ntaganda's
20 residence or compound was after Bunia was taken.

21 I would ask you to put the number "2" there.

22 MR BOURGON: For the record, the witness indicated with number 2 the house or
23 the premises occupied by Bosco Ntaganda after the takeover of Bunia.

24 Q. (Interpretation) And the last place, where was Kisembo's house before Bunia
25 was taken?

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1 I would ask you to put number "3" there.

2 MR BOURGON: For the record, the witness indicated with number 3 the house -- or
3 the house occupied by Kisembo before the takeover of Bunia.

4 Q. (Interpretation) Now, Witness, I would ask you where the staff HQ was of the
5 UPC after Bunia was taken. Are you able to identify that on the map?

6 A. Defence counsel, I would like to have a bit more clarification. The staff HQ of
7 the UPC, l'état-major, that's what you want to say, not of the patriotic forces, you
8 mean the UPC; is that what you mean?

9 Q. I appreciate your question. I'm talking about the staff HQ of the FPLC.

10 A. Well, I'll just clarify that the FPLC did not have an état-major staff HQ, but the
11 UPC had its HQ with an office of the president of the UPC, and Kisembo had his
12 residence, not this one, because this residence -- you said to indicate it before Bunia
13 was taken. Now, the staff HQ of the UPC, Kisembo had his residence after Bunia
14 was taken and that's another place. Bosco Ntaganda had his residence there where
15 I've indicated. He also worked there at his house, Kisembo as well. But the defence
16 minister worked in the HQ of the UPC. But the FPLC, the patriotic forces, did not
17 have an office. That's just a clarification which I would like to make in order to
18 answer your question.

19 Q. So before tendering into evidence the sketch, I'd put it to you, Witness, that
20 where you've written the number 3, that was the former residence of Kisembo before
21 Bunia was taken and it became the staff HQ of the FPLC; would you agree with that?

22 A. I'm not -- I don't agree with that.

23 MR BOURGON: Mr President, I would like to admit this illustration in evidence.

24 Q. (Interpretation) Witness, could you write "P-0190." Can you just write on the
25 side, write the letter P and then 190.

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1 A. Which sketch?

2 Q. The one in front of you.

3 THE INTERPRETER: Overlapping speakers.

4 MR BOURGON: (Interpretation)

5 Q. Please just write P-190.

6 MR BOURGON: Mr President, if you can admit this sketch into evidence.

7 PRESIDING JUDGE FREMR: Prosecution, any objection?

8 MR IVERSON: No objection, Mr President.

9 PRESIDING JUDGE FREMR: All right. Then the sketch or map annotated by the
10 witness is admitted into evidence as a further Defence exhibit.

11 Mr Bourgon.

12 MR BOURGON: Thank you, Mr President.

13 Q. (Interpretation) Now, Witness, I'm going to show you another sketch from the
14 same map of Bunia and I'd also like you to --

15 PRESIDING JUDGE FREMR: Mr Bourgon.

16 THE COURT OFFICER: Mr Bourgon, I will ask you for a one-minute break in order
17 to save the first sketch. Thank you.

18 Thank you.

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

20 MR BOURGON: Thank you, Mr President.

21 Q. (Interpretation) I'm now going to show you a new sketch still taken from the
22 Bunia map and this is going to appear on the screen. My first question --

23 PRESIDING JUDGE FREMR: I think, I guess we will need now a clear map again;
24 am I right?

25 So please, court officer, we will need to watch clear map again.

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1 Fine.

2 MR BOURGON: I'm not sure if I can get the next zoom that was prepared.

3 Thank you.

4 Q. (Interpretation) Witness, do you see the map or sketch on your screen?

5 A. Yes, I can see it.

6 Q. Now, my first question, you recognize that, well, the sketch on the screen is part
7 of the map of Bunia you've got next to you, yes?

8 A. Yes.

9 Q. I would like to know if you're able to locate Thomas Lubanga's house after
10 Bunia was taken.

11 You're faster than I. You've already written number "1." Thank you.

12 A. Thank you.

13 Q. I would now ask you to indicate Kisembo's house after Bunia was taken.

14 Can you see Kisembo's house after Bunia was taken?

15 A. Yes.

16 Q. You've put the figure "2"; is that right?

17 A. Yes.

18 MR BOURGON: For the record, the witness indicated with number 2 the house he
19 believed was the house of Kisembo after the takeover the Bunia.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 MR BOURGON: (Redacted)

24 (Redacted)

25 Q. (Interpretation) (Redacted)

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- 1 (Redacted)
- 2 MR BOURGON: (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 Q. (Interpretation) (Redacted)
- 6 A. (Redacted)
- 7 Q. (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 MR BOURGON: (Redacted)
- 11 (Redacted)
- 12 Q. (Interpretation) And now, Witness, I would ask you to indicate on the
- 13 map -- during your testimony, you mentioned a mass grave. Could you say where it
- 14 was, the mass grave in the subregion?
- 15 A. I can't indicate it precisely because of the pen, but it is a few metres from
- 16 number 4, between two houses.
- 17 Q. Could you put number "9" -- could you put number "7," I'm sorry.
- 18 MR BOURGON: For the record, the witness indicated with number 7 the area where
- 19 there would have been a fosse commune as mentioned previously during his
- 20 testimony.
- 21 Q. (Interpretation) Witness, I would now ask you to write "P-190" at the side.
- 22 MR BOURGON: Mr President, while the witness does this, I would like to have this
- 23 exhibit entered into evidence.
- 24 PRESIDING JUDGE FREMR: Prosecution.
- 25 MR IVERSON: No objection, Mr President.

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1 PRESIDING JUDGE FREMR: Thank you, Mr Iverson.

2 So this sketch annotated by Mr Witness is admitted into evidence as a further Defence
3 exhibit.

4 Mr Bourgon, please.

5 MR BOURGON: Thank you, Mr President.

6 Q. (Interpretation) Witness, we're now going on to another subject.

7 PRESIDING JUDGE FREMR: Mr Bourgon, please, we need some time technically to
8 include this sketch into evidence.

9 Now it's fine. Please proceed.

10 MR BOURGON: Thank you, Mr President.

11 Q. (Interpretation) Witness, before going on to my next subject, I have a question
12 concerning Bosco Ntaganda's residence. You marked it on the previous sketch.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 A. (Redacted)

22 Q. I'll go on to my next subject.

23 I would like to go back to your testimony concerning Mongbwalu. Now, you

24 testified yesterday, you will remember, on what happened in Mongbwalu, did you

25 not?

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1 A. Yes.

2 Q. I understand, according to your functions, that you were aware of the situation
3 in Mongbwalu before the attacks, were you not?

4 A. Yes.

5 Q. Without going into too much of your testimony, you told us that the APC,
6 which came under the RCD-K was present in Mongbwalu, was it not?

7 A. Yes.

8 Q. (Redacted)

9 A. (Redacted)

10 Q. (Redacted)

11 A. (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 A. (Redacted)

15 (Redacted)

16 Q. (Redacted)

17 A. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 A. (Redacted)

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1 (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 A. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 A. (Redacted)

10 Q. (Redacted)

11 (Redacted)

12 A. (Redacted)

13 Q. (Redacted)

14 A. (Redacted)

15 (Redacted)

16 Q. You would agree with me, wouldn't you, that the road, the two roads between
17 Bunia and Mongbwalu, the two were not pliable in November 2002, motorable I
18 should say?

19 A. I do not understand. But what do you mean by "motorable"?

20 Q. Was it possible for a car to go from Mongbwalu to Bunia by road?

21 A. Many four-by-four vehicles were able to ply that road; therefore, the road was
22 motorable, but it was in a bad state. All vehicles could not use it, but the
23 four-by-four vehicles were able to use it.

24 Q. Which road are you talking about?

25 A. Road Bunia, Iga-Barrière, Nizi, Bambu, Kobu, right up to Mongbwalu.

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1 Q. You knew that at that time -- I'm sorry, let me finish off the last line of
2 questioning. (Redacted)
3 (Redacted)

4 A. Yes.

5 Q. You knew that Mongbwalu was a strategic location in relation to any possible
6 attack on Bunia; is that correct?

7 A. No, I didn't know that. I am learning that from you.

8 Q. No one ever told you that the Mongbwalu airport was an important airport
9 because whoever was in control of the airport would be in a position to receive
10 material support and attack Bunia?

11 A. Let me just specify that there has never been an airport in Mongbwalu.
12 However, when the UPC took over the town, it repaired the airport so that supplies
13 might come from Rwanda to Mongbwalu, but before then there was no airport
14 whatsoever in Mongbwalu.

15 Q. (Redacted)

16 A. (Redacted) But when I went to Mongbwalu myself
17 as a member of the UPC, I was aware of the fact that the airstrip was being arranged
18 or the soldiers of the patriotic forces were working on it.

19 Q. Before you went to Mongbwalu, there was no airport; is that your testimony?

20 A. What I have told you is that before Mongbwalu was captured there was no
21 airport whatsoever.

22 Q. When did the APC come to Mongbwalu?

23 A. The APC arrived in Mongbwalu since the RCD-K/ML occupied the Ituri district.
24 It is from that time that the APC was present in Mongbwalu.

25 Q. What is the date on which the RCD-K/ML occupied Mongbwalu?

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1 A. I am not able to give you the exact date. I have forgotten. This happened
2 many, many years ago.

3 Q. Can you give us an idea of the date on which the RCD-K/ML occupied
4 Mongbwalu (Redacted)?

5 A. The only idea I can offer is that it was before August. Before August they were
6 there. July, June they were there. Before the UPC recaptured, they were there. So
7 I cannot tell you the date. I have forgotten. It happened a long time ago.

8 Q. Maybe my question was not clear enough. At what time did RCD-K/ML take
9 over the government of the Ituri?

10 A. RCD-K/ML did so when it drove out the MLC and the FLC, that is Jean-Pierre
11 Bemba's army. It is at that time that the RCD-K/ML occupied the Ituri district.

12 Q. When was that?

13 A. I am not able to give you a date, Counsel.

14 Q. Can you mention a year?

15 A. Well, I can give you a year, but it's not easy. Between 2001 and 2002, but
16 I cannot be more specific.

17 Q. (Redacted)

18 (Redacted)

19 A. (Redacted)

20 Q. (Redacted)

21 (Redacted)

22 (Redacted)

23 A. (Redacted)

24 Q. (Redacted)

25 A. (Redacted)

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(Private Session)

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1 (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. (Redacted)

8 MR BOURGON: Mr President, if we can go into public session.

9 PRESIDING JUDGE FREMR: All right. But we will remain vigilant.

10 Court officer, let's move into open session.

11 (Open session at 12.13 p.m.)

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

13 PRESIDING JUDGE FREMR: Thank you.

14 Mr Bourgon, please proceed.

15 MR BOURGON: Thank you, Mr President.

16 Q. (Interpretation) Mr Witness, apart from the presence of the APC in

17 Mongbwalu you knew that there were also Lendu combatants there, didn't you?

18 A. No. I knew that Jean-Pierre Bemba's soldiers were present and they were

19 referred to effacer le tableau ordinarily.

20 Q. (Redacted)

21 (Redacted)

22 A. (Redacted)

23 (Redacted)

24 Q. (No interpretation)

25 PRESIDING JUDGE FREMR: Sorry, Mr Bourgon. Mr Iverson first.

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1 MR IVERSON: It of course depends on Defence counsel's questions, but there may
2 be a need to go into private session. Just my objection.

3 PRESIDING JUDGE FREMR: I guess, Mr Laucci, you have the same point?

4 MR LAUCCI: Exactly the same, Mr President.

5 PRESIDING JUDGE FREMR: In the last response indicated a bit, so I think it would
6 be safer, Mr Bourgon, to move into private session.

7 MR BOURGON: I agree, Mr President.

8 PRESIDING JUDGE FREMR: Give you even more free space for your questioning.

9 So sorry to the public, but we have to move into private session.

10 (Private session at 12.15 p.m.) *(Reclassified partially in public)

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

12 PRESIDING JUDGE FREMR: Thank you.

13 Mr Laucci first.

14 MR LAUCCI: And Mr President, I will ask you for a redaction order concerning the
15 last question of the counsel.

16 PRESIDING JUDGE FREMR: A good point. The last response given by
17 Mr Witness has to be redacted.

18 Now, Mr Bourgon, please proceed.

19 MR BOURGON: (Redacted)

20 (Redacted)

21 PRESIDING JUDGE FREMR: (Redacted)

22 (Redacted)

23 MR BOURGON: (Redacted)

24 Q. (Interpretation) (Redacted)

25 (Redacted)

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1 (Redacted)

2 Q. (Redacted) you did not hear that

3 many Lendus had come to Mongbwalu in 2000?

4 A. Lendus coming to Mongbwalu from where?

5 Q. From several locations in the Ituri?

6 A. When the UPC occupied Mongbwalu other Lendus were already there, so those
7 who came back to Mongbwalu were not only Lendus. They were Nyali and all those
8 other people who had business and trade in Mongbwalu. After the war, they came
9 back. They came back to their usual places of residence. So it was not only the
10 Lendus who returned massively to the town. All those who had lived in the city
11 before and who had interests, who had their interests, among others, in -- including
12 gold digging and what have you, they came back to the city. Not just the Lendu.
13 Several people came back. Even non-natives came back because they had fled the
14 war previously.

15 Q. Witness, I'm referring to the situation in the year preceding the attacks on
16 Mongbwalu. That is the year before. Did you have any information to the effect
17 that several Lendus had left where they were to come to Mongbwalu?

18 A. No, I did not (Redacted).

19 PRESIDING JUDGE FREMR: Again, take your time. There's no need to hurry up.
20 Keep pauses between the question and the answer. Thank you.

21 MR BOURGON: (Interpretation)

22 Q. So, Mr Witness, (Redacted) to the effect that the APC,
23 till the end of 2001 was opposed to the Lendu in Mongbwalu; you were not aware of
24 that, is that the case?

25 A. No, I was not aware of that.

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1 Q. You were also not aware that from the end of 2001 to into 2002 the APC was
2 working in collaboration with Lendu combatants; you were not aware of that, is that
3 the case?

4 A. What type of work are you talking about? I know, but I would like you to
5 specific in your question. What type of work are you talking about?

6 Q. You are right. They were allies in an effort to chase out the Hema from
7 Mongbwalu?

8 A. (Redacted)

9 (Redacted) Now, what I'm telling you is that they did
10 not come into any alliance to chase out the Hema from Mongbwalu. What happened
11 is that they worked together in the mines. They worked with the Lendu and the
12 Nyali in order to have them dig the goldmines for them. But whether they targeted
13 the Hema to drive them out, I would say that was not the case.

14 Q. Now, Mr Witness, towards the end of 2001 you must know that there was an
15 alliance between the APC and the Lendu, given that the APC was no longer opposed
16 to the measures taken by the Lendu. Were you aware of that and do you agree with
17 it?

18 A. I don't agree with it and I'm learning this from you.

19 Q. Witness, did you know that towards the end of 2000 most of the business
20 persons in Mongbwalu were Hema; were you aware of that?

21 A. It is from 1990 that the businesses in Mongbwalu were in the hands mostly of
22 Hemas up until the year 2000.

23 Q. The period I am referring to is from and during the year 2000 and 2001 and I'm
24 putting it to you that most of the traders or business persons were Hema, were you
25 aware of that?

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1 A. Yes, I know that there were Hema traders and business persons but I know that
2 there were others as well, not only Hema. Most of them came from Aru, from
3 Lugbara, and there were many of them. There were also Nande traders, business
4 persons who were also part of the majority of business persons. So the Hema were a
5 set of business persons among other business persons. But the majority of
6 businesses were held by the Nande.

7 Q. (Redacted)

8 (Redacted)

9 A. (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. You also did not know, I believe, that from January 2002 the Hemas were
13 systematically being driven out of Mongbwalu, were you aware of that?

14 A. No, I was not aware of that. (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. (Redacted), after the capture of Bunia, and I'm
18 referring here to the month beginning around 15 August, from around 15 August.
19 It's an arbitrary date that I have picked and there is no fact linked to it. So from
20 August to November 2002 were you aware that in Mongbwalu the APC was the
21 last -- or that Mongbwalu was the last stronghold or bastion of the APC? The APC
22 had left every other part of Bunia and came to Mongbwalu?

23 A. Are you talking about Mongbwalu town or Mongbwalu area or region?

24 Q. I'm talking about the Ituri region. Would you agree with me that at that time
25 the UPC was controlled -- was controlling Bunia?

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1 A. Yes.

2 Q. What I'm putting to you is that at that time there were two locations, two APC
3 locations which would have stopped the APC from coming back to Bunia. I put it to
4 you that one of them was Mongbwalu and the APC had to be taken out of
5 Mongbwalu for that reason. Do you agree with me?

6 A. Yes.

7 Q. Now, if there's another location where the APC was still organised with a
8 possibility of re-attacking Bunia, that would have been Beni; is that correct?

9 A. No.

10 THE INTERPRETER: Overlapping speakers, Mr President.

11 PRESIDING JUDGE FREMR: Please, please, I know that you are both emotionally
12 engaged in your role, but again, it makes really big trouble for the interpreters and
13 our -- we will then need to correct our transcripts, so please both of you, please
14 observe pauses.

15 And, Mr Witness, I told you please just try to count to three and only then respond,
16 please.

17 Mr Bourgon.

18 MR BOURGON: Thank you, Mr President.

19 Q. (Interpretation) Mr Witness, you already told us that there were two attacks,
20 according to you, on Mongbwalu and that the first attack was a failure. My question
21 to you is why, do you know why it failed, if you do?

22 A. The reason is force, performance between two forces; one of the forces was
23 stronger than the other. That's the reason. The APC was strong and was able to
24 drive out the UPC. The APC forces were stronger than the patriotic forces of the
25 UPC.

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1 Q. Which UPC units were involved in that first attack, if you do know?

2 A. I am not able to tell you the unit or units that operated in Mongbwalu during
3 the first attack because the UPC was not an organised army with brigades and
4 battalions and companies and platoons and sections. Therefore, when it came to an
5 attack, Mr Bosco Ntaganda would gather the soldiers present and ready and he
6 would take them to a training centre and then they would go on to attack a village.
7 There was no special unit as such which I could identify to you as such and such a
8 unit. No, I cannot provide that kind of information because it was an army. In fact,
9 not even an army. It was a disorganised militia.

10 Q. Mr Witness, you already told us that you were fully familiar with Kisembo's
11 name, Bosco Ntaganda, and did you know the names of the other commanders
12 involved in that first attack?

13 A. Yes, I do, a few. I am not sure I can remember all the names, apart from
14 Mr Kisembo, Mr Bosco Ntaganda. There was also Commander Salumu who was
15 there. Commander Salongo was also there who was known by a nickname which I
16 forget -- rather, Tiger One. And then there was Innocent, the commander, who was
17 known as India Queen. Those are the commanders who were with Ntaganda and
18 Kisembo. But I mention Bosco and Kisembo because those were the leaders in
19 Mongbwalu. The others were simply ordinary commanders.

20 Q. I just wanted to confirm the information that you had at the time. Salongo
21 participated in the first attack with Bosco; is that correct?

22 A. Yes, I gave the name of the commander who was with Bosco.

23 Q. And it was Bosco who carried out the attack, the first one?

24 A. Yes, I confirm that.

25 Q. And Kisembo was also there at the first attack?

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1 A. Yes.

2 Q. India Queen was also there for the first one?

3 A. During the first one I couldn't give you exact precisions or confirmations
4 concerning the first attack, (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. (Redacted)

10 (Redacted)

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. (Redacted)

15 (Redacted)

16 (Redacted)

17 A. (Redacted)

18 Q. (Redacted)

19 (Redacted)

20 A. (Redacted)

21 Q. (Redacted)

22 (Redacted)

23 A. (Redacted)

24 Q. (Redacted)

25 A. (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. (Redacted)

10 (Redacted)

11 A. (Redacted)

12 Q. (Redacted)

13 A. (Redacted)

14 Q. (Redacted)

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. From who did you hear about the preparations of the first attack?

21 A. I can't tell you from whom and I couldn't say whether there was preparations or
22 not, but I found out that there was a first attack afterwards when they failed to get
23 Mongbwalu. But I didn't hear from somebody about the planning of it.

24 Q. Now, let's go on to the second attack. Now, you already told us that there was
25 planning of the second attack and that the planning took place in Bunia at Bosco's

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1 residence?

2 A. Yes.

3 Q. You confirmed that you didn't take part in the meeting as such?

4 A. No, I didn't take part.

5 Q. However, I put it to you that you were informed of the arrival in Bunia of
6 Jérôme's delegation at that time?

7 A. Yes, I was informed of that.

8 Q. That Jérôme's delegation came for the planning?

9 A. Yes, I was informed.

10 Q. And you know that in arriving Bunia, Jérôme's delegation went to Thomas
11 Lubanga's residence?

12 A. Yes, they did go there to greet him.

13 Q. And in the delegation, in Jérôme's delegation, Commander Seyi was there?

14 A. Yes.

15 Q. (Redacted)

16 (Redacted)

17 A. (Redacted)

18 Commander Seyi and you also need to mention the two commanders who came to
19 greet Lubanga. It wasn't just Commander Seyi. Manu, Commander Manu was
20 there, (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. So, starting with Manu, my question was among the delegation there was Seyi
24 and you confirm that there was Manu and Seyi and that they visited Thomas
25 Lubanga; is that correct?

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1 A. Yes.

2 Q. Now, you tell us that when they went to Thomas Lubanga's residence in order
3 to greet him, you knew about it?

4 A. I didn't know that they were going to greet Thomas Lubanga. I found out that
5 they had done so afterwards. I got the information that they had gone to greet him.

6 (Redacted)

7 (Redacted)

8 Q. Witness, I would like to refer to your statement.

9 (Speaks English) For the record, I would like to have on the screen

10 DRC-OTP-2075-0936 at page 0944 and I would like to zoom to lines 322 to 331.

11 (Interpretation) Witness, the statement is going to be put on your screen. This is
12 the transcript of the audio statement. Now, I will read it from line 322:

13 Now, I'd like to draw your attention to line 322:

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Person interviewed:" and that's you "I was informed because there was the delegation
21 of Commander Jérôme who had arrived and they came to Lubanga's residence in
22 order to greet him and then they left. (Redacted) They then went to Bosco's
23 residence for the meeting.

24 And what meeting?

25 That was the meeting to see how they could retake Mongbwalu again, which was

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1 under the APC of Mbusa Nyamwisi."

2 Are those your words, Witness?

3 A. Yes, those are my words.

4 Q. So if I understand well, according to you, Seyi informed Lubanga of the
5 possibility to obtain support from Jérôme; is that correct?

6 A. I haven't read that.

7 Q. No, no. I'm asking you. That's all from the statement. I'm putting it to you,
8 I put it to you that in your statement -- well, I'll give you the paragraph.

9 (Speaks English) If I can have please on the screen DRC-OTP-2075-0733 at page 752
10 and I would like to focus on lines 757 to 762.

11 (Interpretation) So, Witness, if you would look at lines 757 to 762. Now, you are
12 speaking as the person interviewed:

13 "Seyi, the group, informed Thomas ... and Thomas Lubanga with these people. 'No,
14 you have failed to get Mongbwalu. And us ... us, we're there. You just have to talk
15 to Jérôme, they're going to add other troops.' And that's how we sent people there
16 who were still with Jérôme to convince Jérôme. And among others, there was
17 Commander Manu who today is in Kinshasa."

18 Those are your words, are they not, Witness?

19 A. Yes.

20 Q. So Seyi invited Lubanga to call upon Jérôme; is that your testimony?

21 A. Yes, I found out about that afterwards.

22 Q. Now, in your testimony yesterday you told us that (Redacted)

23 (Redacted) Now, if I say

24 that's not what you said in your statement, are you surprised?

25 A. No, I'm not surprised, but the statement that I read before this one, you didn't

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1 give me the time to explain that, to give me time to explain why I could say nothing

2 about that, but as I indicated to you (Redacted)

3 (Redacted) You have to understand my French well here. I don't know if

4 you can go into that.

5 Q. Witness, yes, let's go back a bit and let's look at the passage that was on page

6 0733 -- I'm sorry, 0752, line 767. 757 -- the passage that we saw a moment ago. So

7 you've got the two paragraphs in front of you. I'd like to draw your attention to

8 these lines, 757 to 762.

9 I'm sorry, it's the other paragraph. I'm looking for the reference.

10 (Counsel confers)

11 MR BOURGON: (Interpretation) The reference is as follows, DRC-OTP-2075-0936,

12 page 0944, and the line 322 to 321.

13 THE INTERPRETER: 322 to 331, corrects the interpreter.

14 MR BOURGON: (Interpretation)

15 Q. Witness, if you look at the line 327 to 331, I'd like to draw your attention to the

16 second line: (Redacted)

17 (Redacted)

18 Could you explain to us if that means something else than (Redacted)

19 (Redacted)?

20 A. Thank you. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted) That is the explanation, so.

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1 Q. Witness, we'll leave it to the Chamber to assess that, but if we look at another
2 place in your statement, DRC-OTP-2075-0753, page 0754 and I would like to look at
3 lines 15 to 18.

4 Now, if we look at line 15, interviewer says:

5 "Thank you very much. I'm briefly going to take up the issue of the Mongbwalu
6 operation. You stated that there was a meeting between the commanders. And the
7 next day, Bosco went to inform Mr Lubanga. Is that correct?"

8 It's correct."

9 Do you agree with that?

10 A. Yes, it's correct.

11 Q. So there's the meeting. And the next day Bosco Ntaganda informs the
12 president.

13 A. Yes.

14 Q. Now, if we go a bit further down, lines 22 to 30 on the same page, it
15 states -- well, we're going to start with 19, in fact.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 And there lines 25 to 28 it's stated:

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Those are your words, are they not?

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1 A. Yes.

2 Q. So your testimony yesterday to say that (Redacted)

3 (Redacted) that's false?

4 A. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. Witness, you mentioned the presence of Manu and Seyi with Lubanga. Do you
17 know how Seyi and Manu came to Bunia?

18 A. I can't tell you how they arrived in Bunia anymore, (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. You would agree with me that Seyi participated in the attack, on the second
22 attack on Mongbwalu, did he not?

23 A. Yes.

24 Q. So your testimony that they came to Bunia for the planning and then went back
25 to Aru to participate in the attack; is that your testimony?

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1 A. Yes, from Bunia they went for the attack on Mongbwalu.

2 Q. So they left for the attack on Mongbwalu from Bunia?

3 A. I couldn't say that they left Bunia and they arrived in such and such a village to
4 get to Mongbwalu. I didn't say that. What I said was after the meeting in Bunia the
5 commanders, they were all with the UPC in the Mongbwalu attack, with Jérôme's
6 troops who came from Aru, in order to support the patriotic forces.

7 I didn't watch their movements from Bunia to know how they arrived in Mongbwalu.

8 That's not something I can tell you. I can't tell you if they went on foot or by vehicle.

9 I couldn't tell you that, but I said in my statement that they were in Mongbwalu after
10 the Bunia meeting for the attack in order to support the patriotic forces.

11 Q. Witness, Jérôme's forces, according to what you've told us, they attacked from
12 the north, did they not?

13 A. From the north, that's to say north of Mongbwalu.

14 THE INTERPRETER: Overlapping speakers.

15 THE WITNESS: (Interpretation) I couldn't tell you if they came from the north, the
16 south, east or west, but to the best of my knowledge, the geographical situation in
17 Mongbwalu with regards to Aru, Aru is in the northeast, it's northeast of Mongbwalu.
18 I can't tell you which position they came from, whether it was the north or whether it
19 was the south.

20 MR BOURGON: (Interpretation)

21 Q. So we're now going to refer to your statement here to refresh your memory,
22 document (Redacted)

23 (Counsel confers)

24 MR BOURGON: (Interpretation)

25 Q. So (Redacted).

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1 I would like to draw your attention, Witness, to line 295.

2 So it says "Person interviewed" and it says:

3 "But I know that the second attack, now, Jérôme's people left the north. So towards
4 north of Mongbwalu they entered. And towards the south, the people from -- the
5 people from the UPC entered, and they called upon the west, there were Bemba's
6 people. And the people -- to Bemba's people as well."

7 Do you see that?

8 A. Yes.

9 Q. So you knew that Jérôme's forces came from Aru from the north?

10 A. Aru is in the north. Bunia is in the south. To say that the UPC groups, when I
11 speak about the south, though they came from Bunia. When I said Jérôme's group,
12 they came from the north, that means they came from Aru.

13 Q. So, Witness, the troops from the north, were they with Commander Seyi or was
14 he in Bunia?

15 A. I couldn't tell you the war tactic or the planning of their war on Mongbwalu or
16 how it was planned. That's not something I can tell you. I can't tell you how they
17 arranged things so that the troops from the north arrived before or after the UPC,
18 before or after, or if they were going to meet somewhere in order to enter. I couldn't
19 tell you that. Normally I wouldn't be able to tell you because I was not at that
20 strategic meeting in order to be able to see how they could attack Mongbwalu and
21 what their war technique was, their war plan. I couldn't answer that question.

22 Q. Thank you, Witness. I put it to you, Witness, the planning meeting at Bosco's
23 residence never took place and Manu and Seyi did not go to Bunia before the second
24 attack and all your testimony in this regard is just fabrication; would you agree with
25 me?

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- 1 A. I don't agree.
- 2 MR BOURGON: Mr President, I think it's 1 o'clock and we can take a break.
- 3 PRESIDING JUDGE FREMR: Very well.
- 4 So we break now for lunch break and we will resume half past 2.
- 5 THE COURT USHER: All rise.
- 6 (Recess taken at 1 p.m.)
- 7 (Upon resuming in open session at 2.34 p.m.)
- 8 THE COURT USHER: All rise.
- 9 Please be seated.
- 10 PRESIDING JUDGE FREMR: Good afternoon, everybody.
- 11 Good afternoon, Mr Witness. We will continue with your testimony. But before
- 12 doing that I will just put on the record that Mr Suprun has excused himself from the
- 13 afternoon session and this was accepted by the Chamber.
- 14 Now, Mr Bourgon, you are free to continue with cross-examination.
- 15 MR BOURGON: Thank you, Mr President.
- 16 Q. (Interpretation) Good afternoon, Witness.
- 17 A. Good afternoon, Counsel.
- 18 PRESIDING JUDGE FREMR: (Microphone not activated)
- 19 THE INTERPRETER: Microphone, Mr President.
- 20 PRESIDING JUDGE FREMR: Sorry. I guess we will again move into private or
- 21 not?
- 22 MR BOURGON: Not for the first two questions and then maybe yes, Mr President.
- 23 PRESIDING JUDGE FREMR: All right.
- 24 MR BOURGON: (Interpretation)
- 25 Q. Mr Witness, just before the break we were talking about events relating to the

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- 1 attacks on Mongbwalu. Before I proceed along those lines, let me revisit two points
- 2 in particular: First relates to a document which was shown to you yesterday?
- 3 MR BOURGON: We have to move into private session, Mr President, I'm sorry.
- 4 PRESIDING JUDGE FREMR: All right then.
- 5 Court officer, please let's move into private session.
- 6 (Private session at 2.36 p.m.) *(Reclassified partially in public)
- 7 THE COURT OFFICER: We're in private session, Mr President.
- 8 PRESIDING JUDGE FREMR: Thank you.
- 9 Mr Bourgon, you may proceed.
- 10 MR BOURGON: Thank you, Mr President.
- 11 Q. (Interpretation) (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 A. (Redacted)
- 15 Q. (Redacted)
- 16 (Redacted)
- 17 MR BOURGON: (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 Q. (Interpretation) (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 A. (Redacted)
- 24 Q. (Redacted)
- 25 A. (Redacted)

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1 A. (Redacted)

2 THE INTERPRETER: (Redacted)

3 THE WITNESS: (Interpretation) (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 It is after that date that the commander informed me that instructions had been

11 received in relation to the letter from Thomas Lubanga calling for a meeting or

12 deliberation. That was the explanation I provided.

13 PRESIDING JUDGE FREMR: Mr Witness, please observe at least three-second

14 pause between the question and your answer, otherwise there are overlappings and,

15 in such a case, we will have to ask you to repeat your question, so it will be wasting of

16 time. So please have it in mind, three seconds between question and your response.

17 Thank you.

18 THE INTERPRETER: Mr President, correction from the interpretation booth: The

19 witness in his answer mentioned being liberated, not deliberation. Correction from

20 the interpreters.

21 And the witness goes on to say thank you, Mr President, for the clarification.

22 MR BOURGON: (Interpretation)

23 Q. Witness, in your answer yesterday this is what you said, and I quote:

24 "I remember that date because I was called up and told that instructions had been

25 given that we had to deliberate." Is that what you meant?

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1 A. No, that's not what I wanted to say.

2 Q. Thank you for that clarification because I found it odd that you had information
3 relating to a letter which was signed on the 13th. So I thank you very much for that
4 clarification.

5 Second point, before we go on to Mongbwalu, is to revisit quickly the first attack and
6 your answer this morning to a question which I put to you. My question at page 66,
7 line 7 to 12 was the following:

8 "Was it Bosco who led the attack itself, the first?"

9 And the answer, your answer: "Yes, I can confirm that."

10 Mr Witness, I put it to you that Bosco Ntaganda was not in that location during the
11 first attack because he was in Aru. Does that jog your memory?

12 A. No.

13 Q. You went on in your answer to say, in relation to the persons who were there
14 during the first attack, that Commander Salongo was present; is that correct?

15 A. Yes.

16 Q. I put it to you that Salongo arrived in Bunia to join the FPLC after the first attack.
17 Does that jog your memory?

18 A. No, because I said that Salongo and the other commanders, I did not confirm
19 whether they were there or not during the first attack. I don't know if you
20 understood my answer. When I mentioned those names, I mentioned other names
21 of other commanders as well, but I confirmed that they were present at the second
22 attack. I confirmed that he was in Bunia during the first attack.

23 Q. Now, what about Kisembo, can you confirm or are you uncertain whether he
24 was there or not during the first attack?

25 A. When it comes to the first attack, I told you that I did not have -- or, that I was

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1 not very familiar with it (Redacted)

2 (Redacted)

3 Q. Now, about the second attack and regarding Kisembo, can you confirm it now?

4 A. Yes, for the second attack I can confirm it.

5 Q. I put it to you, Mr Witness, that up until two days after Mongbwalu was
6 captured Kisembo was in Bunia and, therefore, did not participate in that attack; does
7 that jog your memory?

8 A. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. (Redacted), but rather

13 to find out whether he is the one who led the attack on Mongbwalu. Can you
14 confirm that?

15 A. I can confirm that because that is what he told me himself.

16 Q. Finally, I have a last question on the last person you talked about, India Queen.
17 I take it that you did not know whether he participated in the first attack or not, but
18 what about the second attack, can you confirm whether he participated in the second
19 attack?

20 A. I think that I told you about the three commanders whose names I mentioned
21 (Redacted), namely, Bosco, Kisembo
22 and Salumu, those three commanders. Now, when I talked about India Queen and
23 the others, it was in relation to the question you asked about other commanders.
24 They had had a meeting before the departure for Mongbwalu. I never told you that I
25 saw them or that I saw India Queen in Mongbwalu. I have insisted on this point

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1 since yesterday. I only said that I saw Kisembo, Bosco and Salongo.

2 Q. Once again, my question was not to find out whether you saw India Queen in
3 Mongbwalu. I was simply asking you what you know about India Queen in relation
4 to the first and second attacks. Do you know anything about India Queen and those
5 two attacks?

6 A. No, no. About the attacks, no.

7 Q. So this morning you mentioned his name but you don't know anything about
8 him in relation to the first or the second attack?

9 A. I mentioned that name among other names of commanders before -- in relation
10 to the period before the second attack. That is when I mentioned that name.

11 Q. What was India Queen doing before the second attack?

12 A. They were all at Bosco Ntaganda's residence.

13 Q. I'll move on to something else because, as I told you this morning, my position
14 is that that meeting never took place. So I move on to the issue of Mongbwalu.

15 The question about Mongbwalu is the following: On what date exactly did those
16 two attacks -- those two military operations take place? I understand from your
17 testimony that you are not certain about the -- or you are not sure of the exact date.
18 You said September, but you also say that it was possible to have taken place in
19 November; is that correct?

20 A. Yes.

21 Q. You yourself did not participate in the attack, and that we know, but you say
22 that you went to Mongbwalu; is that correct?

23 A. Yes.

24 Q. Did you ask for permission from Thomas Lubanga before going to Mongbwalu?

25 A. I did not ask for permission from Thomas Lubanga to go to Mongbwalu.

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1 Q. Let me refer now to your statement.

2 MR BOURGON: (Redacted)

3 (Redacted)

4 THE COURT OFFICER: (Redacted)

5 (Redacted)

6 MR BOURGON: (Redacted)

7 (Redacted)

8 Q. (Interpretation) (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. (Redacted)

16 Q. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Do you recognize that statement?

2 A. Yes, I do.

3 THE INTERPRETER: Reference was made to line 231 in the previous question.

4 MR BOURGON: (Interpretation)

5 Q. Now we know that you went there two days after Mongbwalu had been
6 captured. What information did you have regarding the situation in Mongbwalu
7 two days after it had been captured, before going to Mongbwalu? What was the
8 security situation in Mongbwalu two days after the town was captured?

9 A. (Redacted), Mongbwalu had fallen.

10 Second, there was insecurity in Mongbwalu arising from actions by the UPC
11 following the attack on Mongbwalu. That is the situation regarding security (Redacted)
12 (Redacted).

13 Q. Next question, Mr Witness, is the following: How did you travel to
14 Mongbwalu? What route did you take on the motorbike? Yesterday, if I look at
15 your testimony from yesterday, I did not find an exact answer to that question.
16 What I found from your testimony of yesterday is that one had two options if one
17 wanted to travel to Mongbwalu. And I'm referring to transcript number 97, page 25,
18 lines 26 and page 26, lines 1 to 3, and then transcript 97, page 25, lines 4 to 21.
19 Now, to be quick, let me summarise your testimony. You said there are two options:
20 One, Nizi, Bambu, Kobu, Kilo, Mongbwalu. Do you agree with that?

21 A. Yes.

22 Q. According to your testimony the second option would be on foot going through
23 Lipri, Nyangarai, Kilo, Mongbwalu. Do you agree with that?

24 A. Yes.

25 Q. So which road did you use?

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1 A. Thank you for that question because yesterday I wasn't asked which road I had
2 taken. I used the road from Bunia, Iga-Barrière, Nizi, Bambu, Kobu, Kilo and
3 Mongbwalu. That's the road I used because I was on a motorbike.

4 Q. We will then return to the situation that obtained when you arrived in
5 Mongbwalu, but before that let us talk about the second attack, how it was carried out.
6 From your testimony of yesterday, and I'm referring to transcript number 97, page 26,
7 lines 4 to 18, I understand from your testimony of yesterday that the FPLC used the
8 Nizi, Bambu, Kobu, Lipri road; is that correct?

9 A. Are you referring to yesterday's testimony or today's testimony?

10 Q. Yesterday's testimony. I'm trying to understand what you said yesterday
11 about the road which was used by what you referred to as the patriotic forces on their
12 way to Mongbwalu?

13 A. Yes, I said that when I was asked the question about the itinerary and I
14 explained that the road you must take if you're in a vehicle, then it's Nizi, Bambu,
15 Kilo and Mongbwalu. Now, the Lipri-Nyangarai road is not a road you can take by
16 car or by vehicle. And that's why yesterday I referred to that road that the patriotic
17 forces used.

18 Q. Yes, that's what I wanted to have you confirm. When you say that the UPC
19 entered into Mongbwalu from the south, I assume you're referring to the
20 Kilo-Mongbwalu road; is that correct?

21 A. Kilo is a roundabout. All of the roads that go to Mongbwalu from the south
22 you necessarily must pass through Kilo.

23 Q. Now, this is a topic that we referred to this morning, that is Jérôme's forces.
24 I think you confirmed that they came from the north; is that correct?

25 A. Yes.

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1 Q. You also confirmed in your testimony yesterday that Bemba's forces, that is the
2 clean slate forces, that they had come from the west; is that correct?

3 A. Yes, that's correct.

4 Q. To come back to the forces that came from the north, which towns did they go
5 through before they got to Mongbwalu?

6 A. Well, I can't tell you exactly which towns they went through. What I do know
7 is that they came from Aru and Aru is to the north, northeast of Mongbwalu. That's
8 all I can tell you. I don't know about the exact towns they went through.

9 Q. Could you be more precise as regards the forces that came from the west?

10 A. Well, I can tell you that west of Mongbwalu is a forest area. And for some 50
11 kilometres to the west it's only forest. So since the troops were spread out, they went
12 into the forest. So I cannot tell you which villages in the west that they went through
13 because they came from the forest and I don't know exactly where they entered the
14 forest.

15 Q. If I were to say that west of Mongbwalu you have Sayo and Nzebi, is that
16 possible that they went through those villages?

17 A. I cannot confirm because they came from the west and I do not know -- well, the
18 west that I'm familiar with is a forest. They weren't in a specific village. They came
19 from the forest. Now the two villages you've just mentioned, after that, it's forest.

20 Q. The units of the patriotic forces, as you've called them, who participated, were
21 you familiar with them?

22 A. What forces are you referring to you referring to?

23 Q. You referred to the patriotic forces, I've called them the FPLC.

24 A. I told you that the commander of the UPC, I gave you the name of Bosco,
25 Kisembo and Salumu.

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1 Q. Do you have any references regarding the units commanded by those
2 individuals?

3 A. Well, I've told you here that the UPC forces -- well, I can't tell you the exact
4 names of the units because it was very disorganised and they didn't really have an
5 official headquarters in order to really organise their forces.

6 Q. If I were to put it to you that the patriotic forces, the FPLC, that there was a
7 brigade from Mandro under the command of Salumu who went through Mabanga,
8 Dala, Lalu and then Mongbwalu, could you confirm that? Do you have any
9 information regarding that fact?

10 A. I cannot confirm that because a brigade is some 3,000 soldiers, so I really cannot
11 confirm something that I am not aware of. What I do know is that the soldiers, the
12 troops that went to Mongbwalu, if you followed what I've said, I've said that the
13 commanders took troops from the training camps, from one of the training camps,
14 and the only training camp that I was familiar with was the Mandro camp. And you
15 have just confirmed they have come from Mandro. That's -- that's it.

16 Q. Have you already seen a brigade of the patriotic forces assembled in Mandro?

17 A. No, because the numbers that I saw in Mandro wouldn't reach the number in a
18 brigade.

19 Q. Can you help us as regards the actual attack in Mongbwalu, how did it occur
20 with the various forces coming from three different areas?

21 A. No, I cannot tell you exactly how it took place (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. (Redacted)

25 A. (Redacted)

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1 Q. Do you know which brigade attacked which part of Mongbwalu?

2 A. I'm not able to tell you which brigade. What I do know is that the patriotic
3 forces attacked Mongbwalu with Jérôme's soldiers, with the support the Jérôme's
4 soldiers.

5 Q. So you don't know at the point in time when the attack started, you don't know
6 who would have been in Sayo?

7 A. No, I'm not able to tell you that because I was not on site.

8 Q. And you didn't visit Sayo while you were in Mongbwalu?

9 A. No.

10 Q. Mongbwalu, how long did it take for the city to fall, can you tell us anything
11 about that?

12 A. Well, I cannot confirm in how many days Mongbwalu actually fell or how long
13 it took Mongbwalu to fall. What I do know is that the news arrived from here and
14 there that Mongbwalu had fallen and that news came in two days afterwards. (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. (Redacted)

18 (Redacted)

19 (Redacted)

20 A. (Redacted)

21 Q. (Redacted)

22 A. (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 A. (Redacted)

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1 Q. (Redacted)

2 A. (Redacted)

3 Q. (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. (Redacted)

11 (Redacted)

12 A. (Redacted)

13 (Redacted)

14 Q. (Redacted)

15 A. (Redacted)

16 (Redacted)

17 Q. Where were the patriotic force's soldiers and where did they spend the night?

18 A. What I can tell you is that once the soldiers took Mongbwalu, they were spread

19 out all over. There was no particular military camp in Mongbwalu where all of

20 those soldiers could come together and spend the night. And after the attack in

21 Mongbwalu, the situation was very insecure. The soldiers did not come together in

22 any particular place to sleep. They were spread out in small villages in the

23 surroundings. They went as far as Mbidjo.

24 Q. (Redacted)

25 (Redacted)

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1 A. (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. (Redacted)

11 (Redacted)

12 A. It was combatants who were there in Kobu, but before Mongbwalu there were
13 militia members from the UPC, in other words the patriotic forces.

14 Q. I'm a bit -- I'm trying to understand here. You mentioned a barrier, you spoke
15 about combatants. Do you mean the Lendus?

16 A. Yes.

17 Q. But the entire sector had already been liberated by the patriotic forces, they had
18 already been there?

19 A. No.

20 Q. But you just said there were also UPC militia, what do you mean by that?

21 A. Let me explain. When you leave Bambu to go to Mongbwalu, you have Kobu
22 on the way. Kobu was still under the control of the combatants and once you get
23 beyond Kobu, you have the town of Kilo or the village of Kilo, and it was only Kilo
24 that had been liberated by the patriotic forces. Once I left Kilo to go to Mongbwalu
25 there was a barrier. When I mentioned militia forces, I beg your pardon, I refer to

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1 the patriotic forces as a militia because it was a disorganised group in my mind. So
2 that group that I refer to as a militia, the patriotic forces at the entrance of Mongbwalu,
3 that's where they were. So when Mongbwalu fell, it doesn't mean that every single
4 village in the surroundings had also fallen under the control of the patriotic forces.
5 That wasn't the case. Only Kilo and Mongbwalu at that particular point in time.

6 Q. All right. Let me be perfectly certain I've understood. In Kobu the
7 combatants let you through; is that right?

8 A. No, it's not that they let me go through. I said I went through the barrier at my
9 own risk.

10 Q. What do you mean? Did you force a passage or did you skirt around it?
11 What did you do? How did it work?

12 A. It wasn't a real barrier, if you will. It was just a cord, just a rope, and I was able
13 to pass around it. You know, with a motorcycle or a bicycle it's pretty easy to skirt
14 around it. That's what I did.

15 Q. And did the combatants shoot?

16 A. Well, the combatants in Kobu had bladed weapons, and they did not use their
17 weapons.

18 Q. So in Kobu the Lendus only had bladed weapons?

19 A. I cannot confirm what types of weapons they had because I did not stop in
20 Kobu to check. What I know is that most of the combatants in Kobu, (Redacted)
21 (Redacted), for the most part they had bladed weapons.

22 Q. And they saw you passing through in Kobu, didn't they?

23 A. Yes, of course. Well, yes, there were people there, but I passed through very
24 quickly at my own risk.

25 Q. And they didn't use any firearms against you?

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- 1 A. Yes, that's correct, they didn't.
- 2 Q. And when you got to Kilo, it was under the control of the patriotic forces?
- 3 A. Yes, but they were hardly -- they were not very present.
- 4 Q. What happened?
- 5 A. I kept going. I just went through. I didn't stop to see what was going on, (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 Q. (Redacted)
- 9 (Redacted)
- 10 A. (Redacted)
- 11 Q. (Redacted)
- 12 A. (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 Q. (Redacted)
- 19 A. (Redacted)
- 20 (Redacted)
- 21 Q. (Redacted)
- 22 A. (Redacted)
- 23 Q. (Redacted)
- 24 (Redacted)
- 25 A. (Redacted)

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1 (Redacted)

2 Q. (Redacted)

3 A. (Redacted)

4 Q. (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. What about Commander Seyi, did you see him in Mongbwalu?

10 A. Only in passing. I didn't sit down and talk to him, no.

11 Q. When you saw Seyi passing through, where was he in Mongbwalu?

12 A. I really can't tell you with any precision because myself, I don't really have a
13 true mastery of the town of Mongbwalu.

14 Q. Was Commander Seyi an agent in Mongbwalu -- or, rather, did he have
15 headquarters in Mongbwalu?

16 A. I don't -- I don't know. I don't have that information.

17 Q. Did you meet with Commander Manu in Mongbwalu?

18 A. No.

19 Q. So you don't know whether Manu, Commander Manu had headquarters or not
20 in Mongbwalu?

21 A. I know that Seyi and -- they all came from Jérôme. I don't know if each of them
22 had headquarters. What I do know is that the soldiers, Jérôme's soldiers were in
23 Mongbwalu to support the patriotic forces' troops. And what I know is that Seyi
24 and Manu were the two commanders that were part of Jérôme's men. And I learned
25 in Bunia that they were in Bunia.

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1 Q. My question was did you see Manu and Seyi's troops, and if so, where did you
2 see them?

3 A. I couldn't identify Manu and Seyi's troops and distinguish them from the
4 patriotic forces. All the more so, that they didn't have any particular uniform within
5 the patriotic forces compared to the men that were with Seyi and Manu, so I couldn't
6 identify which soldiers were with which commander or with the patriotic forces.
7 What I can confirm, however, and I can identify the troops of the patriotic forces
8 because there were more children amongst those troops.

9 Q. In other words, in Mongbwalu you saw children from the patriotic forces all
10 over?

11 A. I didn't just see children. I said that I was able to identify the patriotic forces
12 solely because of the fact that there were children amongst those troops. Not just
13 children, but there were children amongst them.

14 Q. And you do not know whether there was any headquarters or any -- of any
15 particular unit in the area of Mongbwalu; is that correct?

16 A. That's correct.

17 Q. I would like to suggest to you that an airplane landed in Mongbwalu to come
18 and pick up the wounded. Do you have any information about that?

19 A. I do have information about the airplane that landed in Mongbwalu. It was a
20 Let 410. And I told you that we -- they arranged the landing strip, the patriotic
21 forces, but I don't know for a fact that the plane came in to transport the injured but I
22 do know that the plane landed and brought supplies to the patriotic forces. That's
23 what I said in my statement.

24 Q. So the airplane landed -- let me correct. The patriotic forces had time to
25 prepare the landing strip for the airplane to be able to land; is that correct?

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1 A. Yes.

2 Q. If I were to suggest to you that that airplane took off from Bunia, do you agree?

3 A. No. (Redacted) that airplane

4 came from Rwanda.

5 Q. What point in time was that during your visit?

6 A. What exactly do you mean?

7 Q. The first airplane that you saw in Mongbwalu, when did it arrive? Was it the
8 first day, the second day, the third day of your visit to Mongbwalu?

9 A. I don't remember exactly, but what I remember is that the landing strip was
10 being prepared as soon as Mongbwalu was taken over. And the landing strip was
11 prepared, it was almost in the forest. It was right next to the forest. That's all I can
12 say. I can't tell you exactly when the airplane landed for the first time.

13 Q. And the UPC sent a delegation to Mongbwalu, I would put that to you. Do
14 you have confirmation of that?

15 A. I'm not aware of that information.

16 Q. So you can't tell me that if there was a delegation sent you don't know where
17 they went in Mongbwalu?

18 A. I'm not aware of that information.

19 Q. Mr Witness, I would now like to show you a video, a video that was shot in
20 Mongbwalu. And I'll be asking you to answer a few additional questions thereafter.
21 The video is number (Redacted). I would like the following excerpt to be
22 played for the attention of the witness at timestamp 2.39 to 3.16.

23 Mr Witness, when the video will be ready, it will be displayed on your screen and
24 I would like you to pay attention to the people you see and to what you see on the
25 video. Please play the video without sound.

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1 THE COURT OFFICER: The video is being played by your team member and will
2 be displayed on the evidence 2 channel.

3 MR BOURGON: I forgot to ask for the control. I'm sorry.

4 PRESIDING JUDGE FREMR: Mr Iverson, any objection to the usage of that?

5 MR IVERSON: No objection, Mr President.

6 PRESIDING JUDGE FREMR: Very well then.

7 MR BOURGON: (Interpretation)

8 Q. Witness, if you are ready, I would like you to please -- I'm sorry, Mr President.

9 (Viewing of the video excerpt)

10 MR BOURGON: (Interpretation)

11 Q. Can you see the first image on that video before you, Witness?

12 A. Yes, I can see the back of someone's head.

13 Q. That will be 2.36.21. Now we will play it up to 3.16. Let's go.

14 (Viewing of the video excerpt)

15 MR BOURGON: (Interpretation)

16 Q. Would you like to view it again a second time?

17 A. Not necessary.

18 Q. Do you recognize what has been played on that video?

19 A. Yes. Let me start by the plane. The plane that I see here, I recognize it, it is
20 the Manjoro (phon) as it was called. A single engine craft. Then I see Commander
21 Kisembo who was the first to alight. Then I see the Ugandan journalist,
22 Mike Arereng. And then I also recognize Commander Tchaligonza, as well as the
23 delegation that came, which was received by Bosco Ntaganda. That is what I saw on
24 the video in brief.

25 Q. Were you able to recognize any other persons among those who came out of the

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1 plane?

2 A. I mentioned a few names, but Mr Rafiki was also there in military uniform.

3 Q. We will play back the video and please tell us when you see Mr Rafiki so that
4 we stop the video at that point. So let's go back to the beginning, 2.39.

5 (Viewing of the video excerpt)

6 THE WITNESS: (Interpretation) There he is.

7 MR BOURGON: (Interpretation)

8 Q. The video is stopped at timestamp 2.56.14 or thereabouts, 2.56.14. Can you
9 describe the person you are referring to as Rafiki?

10 A. Mr Rafiki was the person in charge or the director, according to the structure, he
11 was the director for intelligence, general director for intelligence and immigration of
12 the UPC. He was close to Thomas Lubanga.

13 Q. My mistake. Maybe I didn't put my question properly. Can you describe
14 where you see him on the screen on the picture?

15 A. He is right next to the journalist Mike Arereng.

16 Q. Now, my first question on this video, Mr Witness, is the following: I put it to
17 you that the plane, the craft landed in Mongbwalu two days after Mongbwalu was
18 captured. Do you agree with that?

19 A. I have just received that information from you now.

20 Q. I put it to you that Kisémbó, whom you saw coming out of the plane, was
21 setting foot on Mongbwalu for the very first time within the framework of that
22 operation; do you agree with me?

23 A. I don't agree with you because Kisémbó came two days after; (Redacted)

24 (Redacted). This video shows Kisémbó coming

25 out of the plane. So I did not see the video showing him going into the plane after

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1 the two days.

2 Q. I put it to you, Mr Witness, that this plane took off from Bunia; do you agree
3 with me?

4 A. No, I do not agree with you because I am not in a position to confirm this plane.
5 Well, the plane I was talking about was not this single engine craft. I was talking
6 about the 410 plane.

7 Q. I put it to you that Kisembo, when he arrived in Mongbwalu, at that specific
8 time he went to the place where the UPC headquarters were set up in Mongbwalu,
9 where he had set up the UPC headquarters in Mongbwalu, and that place was known
10 as Appartements. Do you agree with me?

11 A. You are giving me that information here and now.

12 Q. I put it to you that Mr Rafiki and Mr Kisembo stayed in Mongbwalu much
13 longer than you did. Can you confirm that?

14 A. You are the one giving me that information.

15 Q. So you have no knowledge of the fact that Rafiki, (Redacted), was in Mongbwalu
16 two days after the fall of Mongbwalu?

17 A. Let me confirm that I saw Kisembo after Mongbwalu was captured and not
18 Rafiki. In any event, it was not very, very necessary for me to see everybody, to see
19 all the officers of the UPC in Mongbwalu. What happened is that I saw Kisembo two
20 days after Mongbwalu came under the control of the patriotic forces. I did not see
21 Rafiki.

22 Q. The place known as Appartements or the headquarters of the FPLC in
23 Mongbwalu, you do not know that place?

24 A. I do not know the place known as Appartements. (Redacted)
25 (Redacted)

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1 Q. I put it to you, Mr Witness, also that Bosco Ntaganda left two days after this
2 video was shot in Mongbwalu. Can you confirm that?

3 A. I am not in a position to confirm whether he left two days after. All I can
4 confirm is that I saw him (Redacted). He
5 went by, but I did not have any discussion with him. And this happened two days
6 after Mongbwalu was captured.

7 Q. So you don't know how Bosco Ntaganda left Mongbwalu?

8 A. No, I don't know.

9 Q. You don't know with whom Bosco Ntaganda left Mongbwalu?

10 A. No, I don't know.

11 Q. A few quick questions before I wrap up this line of questioning. Now,
12 according to your statement, the patriotic forces, the FPLC, alleged to have destroyed
13 the Mongbwalu prison during the attack. Can you confirm that?

14 A. Yes, I do.

15 Q. Mr Witness, I put it to you that at the time the patriotic forces were conducting
16 the military operation, there was no prison in Mongbwalu. Does that refresh your
17 memory?

18 A. No. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. I put it to you, Mr Witness, that Commander Salumu, brigade commander, had
23 set up a headquarters, the staff headquarters, as well as a disciplinary prison for
24 officers. Can you confirm that?

25 A. That's very strange for me that Salumu would have been the one to do that

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1 which you have just alleged in Mongbwalu. And I say so because, first of all,
2 Salumu was a commander of a brigade, but Kisémbó was present, he was the chief of
3 general staff. Bosco Ntaganda was the chief of staff in charge of operations. And
4 there were other commanders such as Tchaligonza as you can see on the pictures.
5 They had the same rank as Salumu, so I do not see how Salumu himself could have
6 been the author of the things that you have just mentioned, whereas his superiors, his
7 bosses were there on the ground.

8 Secondly, I do not understand how it is that in Bunia, you see, yesterday you told
9 me -- or maybe it was this morning, you mentioned, I don't remember, but you
10 mentioned that the UPC had the headquarters; and as far as I know the house which
11 was known as the headquarters was actually a house, a house in which Kisémbó used
12 to live at the time.

13 Now, when Kisémbó moved out of that house, it was occupied by Commander Ali,
14 who set up the military intelligence services there. So you cannot call that house the
15 headquarters given that Mr Bosco Ntaganda or Kisémbó, did they have any offices in
16 that place to refer to it as a headquarters? So I will be surprised that a headquarters
17 will be set up in Mongbwalu, whereas there was no such general staff headquarters in
18 the premises of the UPC, so to speak.

19 Q. Well, my question was rather brief, but I let you provide a full answer.

20 Now, my question is: You did not see any disciplinary barracks in which military
21 persons, officers were detained? You didn't see any such thing?

22 A. No, I didn't.

23 Q. I also say -- put it to you that there was a detention barracks for the rank and file
24 soldier. You never saw any such thing?

25 A. No, I never saw any such thing.

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1 Q. I even put it to you that in Salumu's brigade, there was a military police service
2 that had been set up or organised for that purpose of providing control within the city.
3 You didn't see that either, didn't you?

4 A. I'm really surprised. There was no such thing, even in Bunia.

5 Q. You have just said or you just mentioned one Ali, Ali. You didn't see him in
6 Mongbwalu, right?

7 A. No.

8 Q. You say that Ali took over the house which had been freed up when
9 Commander Kisémbó moved out; is that correct?

10 A. Yes.

11 Q. In your statement you are not very kind when it comes to Ali; is that correct?

12 A. Yes.

13 Q. What are your thoughts about Ali?

14 A. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. Maybe my question was incomplete, but did you know whether as Mr Ali went
5 about the town and as he patrolled the city, was he known to be going to bars and
6 drinking places?

7 A. I am not able to confirm that, but I know that he was always with businessmen
8 and traders.

9 Q. Now, let's continue with the issue of Mongbwalu. (Redacted)

10 (Redacted)

11 (Redacted)

12 A. Yes.

13 Q. In Kilo, and I refer here to your statement, at that time Kilo, according to your
14 testimony, was under the control of the patriotic forces; is that correct?

15 A. Yes.

16 Q. Now, let me read out part of your testimony to you. And I want you to
17 confirm, to confirm it. I'm referring to document DRC-OTP-2075-0712, page 0719
18 and I want to highlight lines 271 and following. Let us start at line 271:

19 Person interviewed, and that's you: "The Kilo operation, yes, it was in the month of
20 December, if I'm not mistaken. I believe it was ... I think ... I didn't write it down
21 here, but I remember it may have been in the month of December, in early December."

22 Person interviewing number 1: "Of what year?"

23 Person interviewed, and that's you: "Still in 2002. It was in the month of December,
24 if memory serves me correctly. Well, I -- it was -- it was in December, towards early
25 December."

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1 Was that -- is that your statement?

2 A. Yes.

3 Q. Now, this operation, as I understood, took place before (Redacted)

4 (Redacted); is that correct?

5 A. I think that my answers to the question raised a lot of doubt because I -- I was

6 hesitating, I did not have clarity when it -- at least in my mind when it came to

7 providing the exact period. You could have observed that yourself. I said end of

8 November, early December and so on and so forth, so I was hesitating even in my

9 answer because I didn't have any precise details to provide regarding the exact date

10 in relation to Kilo. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. (Redacted)

17 (Redacted)

18 (Redacted) I just want to confirm with you whether the Kilo

19 operation being mentioned here, and I'm not asking you for a specific date, did that

20 operation take place before your return?

21 A. Yes, just as you have understood it.

22 Q. Let me go further into the following lines and here we are looking at line 278 to

23 line 281, 281 -- or, rather, before we even go there, let us cross-check one other part of

24 your statement to confirm the last part of your answer.

25 And now I'm calling for another document, please, document (Redacted)

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1 (Redacted)

2 Now, Witness, let me know whether you are looking at it. Is it displayed before
3 you?

4 A. No, not yet.

5 Q. Witness, can you see the statement?

6 A. Yes.

7 Q. A moment ago we saw the previous paragraph where you said that you went
8 for two days and that -- or, rather, you went two days later and you stayed for seven
9 days and you went by motorbike because of the risks, there were Lendus along the
10 road. We already discussed that paragraph and you confirmed it.

11 I'd like to look at the next paragraph now.

12 Interviewer 1 says the following: "You say there were many Lendus along the
13 road?"

14 And you responded: "Because they were mounting, yes, well, you know that there
15 was the Kobu up to Kilo. It was -- well, they had already done the ratissage, the
16 sweeping, the sweeping up, so the UPC had already been through, but there were
17 uncontrolled Lendus in the bush when they saw that the soldiers of the UPC were not
18 there, they can or they could come out on to the road, and so I took the risk with my
19 motorcycle and (Redacted)

20 (Redacted)"

21 I would like to stop there and ask you whether you can confirm that on your way
22 back there were still Lendus but the area was under the control of the patriotic forces?

23 A. Yes, that's what I said.

24 Q. I'd like to go back to the previous paragraph that I asked for a moment ago. So
25 it's document (Redacted).

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1 Can you see the text?

2 A. What line?

3 Q. It's page 0719, line 277 to start with where the interviewer says "Mm-mm."

4 It's the follow-up to the passage we looked at a moment ago and then it says:

5 "Interviewed person: And I know that when the UPC came in in many villages, yes,
6 they attacked many villages, not just Kilo, but in Kilo, in fact they finished in Kilo, but
7 I know that they attacked Bambu. They attacked -- they started in Bambu, then they
8 went to Lipri, they went to Nyangarai and then they finished with Kilo. That's it."

9 That's what you said. You're familiar with this passage, aren't you?

10 A. Yes, I'm familiar with these comments.

11 Q. When you were asked whether you were aware of a military operation in Kilo,
12 Kobu, Bambu, Lipri this is the operation referred to; is that correct?

13 A. Yes, it's when I explained in detail. But here I'm responding in general, it's not
14 in an orderly fashion, so it's including, if you will.

15 Q. When you say that Bosco Ntaganda attacked Lipri personally, do you remember
16 that?

17 A. Yes, I remember that.

18 Q. It's the attack mentioned here on Lipri?

19 A. Yes, it's that Lipri. There's only one Lipri. There's not two.

20 Q. Witness, I'm coming to the end of this chapter of questioning on Mongbwalu
21 and I would like to submit to you the Defence's theory on the basis of your testimony.
22 And I would submit that you've never been to Mongbwalu because all of the
23 information you have given as regards the way you went on the way or on the way
24 back or what you saw or what you didn't see in Mongbwalu, all of that is completely
25 fabricated and I would submit to you that you never went to Mongbwalu. Do you

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1 agree with me?

2 A. No, I do not agree with you.

3 Q. I'd like to go on to another topic. The next topic refers to the following: You
4 mentioned an assassination, you referred to Terminator who assassinated a UN
5 observer. Do you remember that?

6 A. Yes, I remember.

7 Q. I would like to examine with you the content of your testimony. Let's begin
8 with what you said in your statement about that topic and ask you to confirm.

9 And I would like to ask that we put up on the screen the following document: It's

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. (Redacted)

8 Q. (Redacted)

9 (Redacted)

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. We're going to stop now.

17 MR BOURGON: Mr President, I suggest we stop for the day and we can resume

18 tomorrow morning with further questions on this issue. Unfortunately, I was not

19 able to conclude, but I will conclude in a short time tomorrow morning for that

20 particular incident.

21 PRESIDING JUDGE FREMR: How much time you will need to conclude this topic?

22 It would be within five, 10 minutes, or --

23 MR BOURGON: No, Mr President, I believe --

24 PRESIDING JUDGE FREMR: Okay.

25 MR BOURGON: -- it will be 15.

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1 PRESIDING JUDGE FREMR: Okay, okay. Thank you, Mr Bourgon.

2 Now we can excuse Mr Witness.

3 So, Mr Witness, before you leave, I would like to thank you that again you were very
4 cooperative today. And I have to highlight that you must not discuss your
5 testimony in the meantime before tomorrow with anybody else. But your duty
6 counsel, Mr Laucci, is the only person you can consult as concerns your testimony; do
7 you understand?

8 THE WITNESS: (No interpretation)

9 PRESIDING JUDGE FREMR: And the only thing I would like to emphasise, please
10 tomorrow testify in the same style but the only thing you should improve a bit to
11 keep those pauses because really it complicates job of our interpreters very much
12 because sometimes you immediately respond to the question even less than one
13 second after it has been put, so you should keep at least three seconds, three seconds
14 between the question and your answer. Please have it in mind tomorrow.
15 Otherwise, thank you very much and see you tomorrow.

16 So you can escort Mr Witness out of the courtroom.

17 (The witness stands down)

18 PRESIDING JUDGE FREMR: And then please let's move into open session.

19 (Open session at 4.32 p.m.)

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

21 PRESIDING JUDGE FREMR: And one additional question from my part to both
22 parties: For the sake of planning, because according our measuring, Defence still has
23 at its disposal 3 hours, 25 minutes and, in my view, but it's up to you obviously,
24 Mr Bourgon, you made big progress, you covered many areas, do you think you will
25 need full time 3.25.

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1 MR BOURGON: Yes, Mr President.

2 PRESIDING JUDGE FREMR: All right. And this is a bit premature Mr Iverson,

3 and I will give you a chance to amend this answer tomorrow, do you envisage at this

4 moment a need for re-examination?

5 MR IVERSON: I'm still considering whether or not there will be -- I'll ask for

6 re-examination, but if so, at this point, it would be minimal, it'd probably be, I

7 estimate around, 5 to 10 minutes.

8 PRESIDING JUDGE FREMR: All right. Because what we had in our mind that if

9 we would prolong the second session tomorrow to two hours it would allow us to

10 finish before the lunch break, but we for sure don't want to push Mr Bourgon, so

11 Mr Bourgon your 3 hours, 25 minutes are guaranteed.

12 Thank you very much and see you tomorrow 9.30.

13 THE COURT USHER: All rise.

14 (The hearing ends in open session at 4.34 p.m.)

15 RECLASSIFICATION REPORT

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

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