

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
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 3
8 Tuesday, 20 September 2016
9 (The hearing starts in open session at 9.35 a.m.)
10 THE COURT USHER: [9:35:09] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:35:33] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:35:37] Good morning.
16 The court is sitting in the case of The Prosecutor versus Mr Bosco Ntaganda.
17 PRESIDING JUDGE FREMR: [9:35:47] Thank you.
18 Appearances, starting with Prosecution.
19 MR IVERSON: [9:35:51] Good morning, your Honours. Appearing today for the
20 Prosecution are Claudine Umurungi, assistant legal officer; Selam Yirgou, case manager;
21 and myself, Eric Iverson, trial lawyer.
22 PRESIDING JUDGE FREMR: [9:36:04] Thank you, Mr Iverson.
23 Defence, please.
24 MR BOURGON: [9:36:09] (Interpretation) Good morning, your Honour. Good
25 morning, your Honours, as well as everybody else in the courtroom. For the Defence

1 this morning, Mr Jules Guillaumé, Isabelle Martineau and Stéphane Bourgon. Thank you,
2 your Honour.

3 PRESIDING JUDGE FREMR: [9:36:27] And I will add for the record that the situation
4 concerning Mr Ntaganda is the same like yesterday, so also like yesterday we will
5 continue in his absence under the same legal regime.

6 Legal Representatives of Victims now, please.

7 MS PELLET: [9:36:48] (Interpretation) Thank you, your Honour. The former child
8 soldiers are represented by Mohamed Abdou and by myself, Sarah Pellet, counsel with
9 Office of Public Counsel for Victims.

10 MR SUPRUN: [9:37:02] (Interpretation) Good morning, your Honour, your Honours.
11 The victims of the attacks are represented by the OPCV, Anne Grabowski, associate
12 lawyer and myself, Dmytro Suprun, counsel.

13 PRESIDING JUDGE FREMR: [9:37:16] Before we continue with testimony of our
14 witness, we were informed that Mr Bourgon would like to address us.

15 Mr Bourgon, I believe that it is something that couldn't be solved by email because you
16 know we would not like to make as a regular part of our hearing your morning
17 submissions, so I guess this is something that really is urgent and should be -- has to be
18 solved in this way; am I right?

19 MR BOURGON: [9:37:47] I believe so, Mr President.

20 PRESIDING JUDGE FREMR: [9:37:49] All right then.

21 MR BOURGON: [9:37:51] Mr President, of course I wish to entertain or to at least to
22 speak to the Chamber concerning the situation of Mr Ntaganda. I had a meeting this
23 morning with the Registrar and it is very likely, based on the conversation I had with the
24 Registrar, that Mrs Ntaganda would travel to The Hague tomorrow, arriving on Thursday
25 morning.

1 The Registrar, further to our discussions, informed me that he would need to meet with
2 the Chamber in order to ensure that the visit conditions fully meet the requirements of the
3 Chamber's decision on restrictions, but he was confident that this would be the case but he
4 wanted to make sure.

5 On my end, of course I need to meet with Mr Ntaganda in order to introduce to him these
6 conditions and the fact that his wife could be in The Hague very soon, that is on Thursday
7 morning.

8 Mr President, I'm confident that the efforts made by all will be sufficient to convince
9 Mr Ntaganda to start eating again and at a minimum, for the time being, to produce a
10 waiver authorising his Defence team to represent him in his absence until he's fit to come
11 back in the courtroom, which would be a matter of days.

12 An associated issue, Mr President, which is what I could not do by email, is the fact that
13 ever since we embarked on this situation we have not been able to obtain from
14 Mr Ntaganda any discussions on the -- or, instructions in relation to witnesses, and that
15 for us is a very important issue. Some of these witnesses we had already discussed with
16 him.

17 Now there's a witness coming up, which is P-0014, for whom we do require instructions.

18 The Chamber will recall its decision of the material admitted pursuant to the -- it intends
19 to admit pursuant to Rule 68(3), which is quite voluminous, and the fact that the
20 testimony of this witness at least appears for the Prosecution to be of a significant
21 importance.

22 So all this being said, Mr President, the -- what I wish to do this morning is to request
23 from the Chamber a change in the hearing schedule in the following way, to terminate the
24 cross-examination and the testimony of the present witness this morning and, if the
25 Chamber would be inclined to do so, I would like to have the rest of the day in order to

1 meet with Mr Ntaganda and meet with the Registry and to finalise the arrangements so
2 that the matter is sorted out and with a view to confirming to the Chamber that
3 Mr Ntaganda has -- or, will today start eating again.

4 This brings the issue of the next witness, P-14, which we would have to begin on
5 tomorrow, Wednesday, rather than today. I've had a conversation with my colleague
6 from the Prosecution. The issue for us is that of instructions, although I do understand
7 that we need to use all court time available. That is why we propose to begin the
8 testimony of P-14 tomorrow morning with the Prosecution's side of the testimony, and
9 then we would request respectfully, Mr President, time to meet with Mr Ntaganda
10 tomorrow after he has eaten again and we will start our -- we would start our
11 cross-examination on Thursday morning.

12 To us, we submit that it is in the interests of justice that we get the views of Mr Ntaganda
13 based on the preparation note and that we receive from the Prosecution concerning this
14 witness and that we do have the opportunity to discuss with him our strategy for
15 cross-examination.

16 If we do begin Witness P-14's cross-examination on Thursday morning, the time allotted
17 so far is 8 hours. I have told my colleague I'm not sure I would use all 8 hours, which
18 will allow us to begin the next witness, which is P-0127, on Friday.

19 Lastly, Mr President, I just take this opportunity to provide some information. This block
20 is quite heavy in terms of witnesses and we, at the beginning, made a kind of an estimate
21 as to where we should be every day based on the time estimates and that we have on both
22 sides, and our evaluation of the situation is that, as of today, we are two hours late, the
23 two hours that I will do this morning. According to the schedule that we had prepared,
24 we thought that we would be finished with P-105 yesterday, and we are not.

25 I think this is significant, Mr President, because everyone has been doing their best to try

1 and cut their time and to try to meet the schedule despite some quite unusual
2 circumstances.

3 So that's my request this morning, to finish the cross-examination of P-105, have the rest
4 of the day to finalise arrangements with the Registry and Mr Ntaganda, start the
5 examination-in-chief of P-14 tomorrow morning and start the cross-examination of P-14
6 on Thursday morning.

7 Those are my submissions and my request, Mr President. Thank you very much.

8 PRESIDING JUDGE FREMR: [9:44:53] Before I comment that I would like to listen to
9 Prosecution. Mr Iverson, your position?

10 MR IVERSON: [9:45:04] The Prosecution's position is as is -- was stated by Defence
11 counsel. We spoke before the hearing. Under the circumstances, we agree that it would
12 probably be best to start with the next witness tomorrow morning. I do want to
13 underline though that the lack of instructions appear to be voluntary on the part of the
14 accused, that it is a situation of his own making. But under the circumstances, we
15 wouldn't oppose the Defence request.

16 PRESIDING JUDGE FREMR: [9:45:41] All right then.

17 Two issues: First one, as concerns this meeting with Registry, you rightly, Mr Bourgon,
18 said that all made a big effort to solve the problem we all face here in order to get our
19 proceedings to the normal regime.

20 And I can't at this moment predict what will be the outcome of our meeting, but generally
21 the main issue is to find such a way of visit of Mrs Ntaganda that wouldn't spoil the
22 purpose of our restrictions which are still in force. But it's mainly a technical issue, so we
23 all, including the Chamber, believe that it would be feasible.

24 As to the possible change of our time schedule, it's true that we can afford maybe some
25 slight delay compared to our previous or original schedule, but to start with

1 cross-examination on Thursday morning seems to me that maybe it is useless, a long
2 delay. I am thinking, and I will discuss it with my colleagues, and with the coordinator
3 of the case during our break.

4 I am also thinking about another alternative because the main -- I see the main purpose is
5 to allow you, Mr Bourgon, which I can understand, to discuss or prepare for
6 cross-examination with Mr Ntaganda, including the possibility to read thoroughly this
7 material from Lubanga proceedings. So wouldn't be such an aim also met if we would
8 start this witness, but just direct today and then we would adjourn and give you some
9 time and, for example, start with cross-examination tomorrow afternoon, because I believe
10 that you would have enough time to -- both to read and to study those materials and
11 consult Mr Ntaganda either this afternoon or tomorrow morning. And if you would start
12 tomorrow, 2.30, it, for me, would not be such a big loss compared to your proposal.

13 What is your position?

14 MR BOURGON: [9:48:29] Mr President, I respectfully submit that I am -- I take the
15 view that this afternoon is critical in order of meeting with Mr Ntaganda to put this
16 behind us, hopefully, and I think it can be done and I'm confident that I can be successful.
17 Now, once that is back and then Mr Ntaganda, I -- we can give him back his computer
18 because, as you know, he has sent back his computer, which will allow him tonight to
19 have a meal, if he starts again - and I'm confident he will - look at the material tonight,
20 and then to meet. So we'll have time to prepare him, to discuss with him this material.
21 Now, this material is quite voluminous. We have discussed the material with him before,
22 it's not the first time. I'm not going to say that we never discussed this material before,
23 but in the circumstances, once he's had -- he has had a meal and once he has looked at the
24 material again, including the preparation session note, then getting his instructions is in
25 the interest of justice, it will make our cross-examination better, more focused, and it will

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1 allow the Chamber to benefit from I -- we believe, better evidence.

2 I think that the option that you proposed, Mr President, would not allow us any time,
3 although we would maybe meet with him, but will not allow -- meet the purposes of
4 getting the instructions in the proper conditions. Those are my submissions,
5 Mr President. Thank you.

6 PRESIDING JUDGE FREMR: [9:50:08] All right. I take this clarification and we will
7 consider it during the break and then we will inform you what is our decision.
8 Now, court officer, please bring witness in.

9 And in the meantime, Mr Iverson, even if it's a bit premature, do you envisage at this
10 moment any need for some extensive re-direct?

11 MR IVERSON: [9:50:41] No, Mr President. At the moment I don't have any questions
12 for re-direct.

13 PRESIDING JUDGE FREMR: [9:50:46] Thank you.

14 (The witness enters the courtroom)

15 PRESIDING JUDGE FREMR: [9:51:28] Good morning, Mr Witness. Can you hear me?

16 WITNESS: DRC-OTP-P-0105 (On former oath)

17 (The witness speaks Swahili)

18 THE WITNESS: [9:51:35] (Interpretation) I can hear you.

19 PRESIDING JUDGE FREMR: [9:51:40] Mr Witness, even if you are coughing, I hope
20 that you are able to finish your testimony because according my estimation it shouldn't
21 take more than two hours today?

22 THE WITNESS: [9:51:57] Ndiyo.

23 PRESIDING JUDGE FREMR: [9:52:02] All right, Mr Witness. Anyway, if you would
24 need some break in order to be okay, just let us know, otherwise we will continue and, in
25 fact, Mr Bourgon will finish or hopefully finish his cross-examination.

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1 And it's my duty again to remind you that you are still under oath, which means that you
2 have to speak the truth and nothing but the truth.
3 And again, I would like to remind you though practical -- this practical guidance to speak
4 clearly, to speak with necessary pauses and also please try to focus exactly on the question
5 because yesterday sometimes even if those information were interesting, as I highlighted,
6 both counsel are limited by the Chamber so they have to put all those questions in some
7 time, so please just to respond specifically on what you are asked.

8 Now, Mr Bourgon, you have the floor.

9 MR BOURGON: [9:53:17] Thank you, Mr President.

10 QUESTIONED BY MR BOURGON: (Continuing)

11 Q. [9:53:23] Good morning, Mr Witness.

12 A. [9:53:28] Good morning.

13 Q. [9:53:32] I will move to a different topic this morning and go straight into the
14 events of January and February of 2003.

15 I take it that you recall these two months; is that correct?

16 A. [9:53:58] Yes.

17 Q. [9:53:59] The issue I would like to address, of course, is the fighting between the
18 Lendu combatants and members of the UPC. And we've heard your testimony on this.
19 The first thing I'd like to talk about, of course, is the weapons used. I'd like you to
20 confirm that unlike what the situation was at the beginning of this conflict in 1999, by 2002,
21 at the end, in 2003, the Lendu combatants did have firearms; can you confirm this, sir?

22 A. [9:54:52] Yes, they did have firearms.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 PRESIDING JUDGE FREMR: [9:56:32] Sorry, Mr Bourgon, we are in open session. I
10 guess it was the reason why Mr Iverson's on his feet.

11 So first of all, let's move into private session, court officer.

12 (Private session at 9.56 a.m.) *(Reclassified partially in public)

13 THE COURT OFFICER: [9:57:07] We're in private session, your Honour.

14 PRESIDING JUDGE FREMR: [9:57:10] Thank you.

15 And I am also ordering to redact the beginning of Mr Bourgon's last question.

16 Now, Mr Bourgon, you may proceed.

17 MR BOURGON: [9:57:21] Thank you, Mr President. I apologise. And I thank my
18 colleague for intervening before anybody could hear in the public gallery.

19 Q. [9:57:33] Mr Witness, I will read that sentence again.

20 (Interpretation) (Redacted)

21 (Redacted) I was not among these militia."

22 Do you confirm this statement, sir?

23 A. [9:58:18] Since all this time, we have been working (Redacted) until

24 B. today and we didn't know anything about firearms.

25 Q. [9:58:39] I continue with the next sentence -- or maybe let me come back just to

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1 make sure -- to get clarification on your answer. The fact that you didn't know anything
2 about firearms is one thing, but the fact that you, yourself, based on your comment that
3 you are (Redacted), and I'm not sure what the word is in
4 English for "comme je suis peureux."

5 THE INTERPRETER: Fearful, "because I'm fearful."

6 MR BOURGON:

7 Q. So I take this to mean that if at all possible, you tried to stay away from anything
8 involving combat and firearms; would that be a fair statement?

9 A. [9:59:43] That's correct because every time that there was the war I fled.

10 Q. [9:59:53] I go on with the next sentence. I am also again in paragraph 23, where it
11 says:

12 (Interpretation) "The Lendu combatants used weapons that they captured in the fighting,
13 but according to what I know they never purchased weapons themselves."

14 (Speaks English) Is that -- do you confirm this information in your statement?

15 A. [10:00:29] Yes, that's correct. The firearms that they used were weapons that they
16 recovered when they went to fight.

17 Q. [10:00:41] Would I be right in saying that in addition to the weapons they
18 recovered during the fighting, the Lendu combatants also received weapons from the
19 APC?

20 A. [10:01:10] Well, it's difficult for me to answer that because I don't know.

21 Q. [10:01:16] That's perfectly fair. The next sentence goes as follows:

22 (Interpretation) "Most of the militia didn't wear uniform, but a minority did have some
23 such as Commander Kabuli."

24 (Speaks English) Do you confirm this information, sir?

25 A. [10:01:52] Yes, it's correct.

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1 Q. [10:01:54] Now, Kabuli was the commander of the Lendu combatants; is that
2 correct?

3 A. [10:02:07] Yes, that's correct. He was the person who was based in Lipri.

4 Q. [10:02:20] And all of the young people who volunteered would be part of the
5 (Interpretation) self-defence groups?

6 (Speaks English) Is that also correct?

7 A. [10:02:43] That's correct.

8 Q. [10:02:47] And the last sentence of this paragraph reads as follows:

9 (Interpretation) "These militia had arrows, machetes and rifles, but I don't know what
10 type they were."

11 (Speaks English) Do you confirm this information?

12 A. [10:03:16] Yes, that's true.

13 Q. [10:03:17] So even in 2003, despite the fact that the Lendu combatants did have
14 firearms, they nonetheless used also (Interpretation) bladed weapons?

15 A. [10:03:47] In 2003 they used arrows and other weapons they could get hold of.

16 Q. [10:04:01] How many Lendu combatants were there in Lipri?

17 A. [10:04:23] There were a lot of combatants. Where we were there were a lot of
18 people.

19 Q. [10:04:40] I refer now to paragraph 24 of your statement, and that is on page 0386,
20 where you say the following in French:

21 (Interpretation) "Lendu combatants" -- I'm sorry. "As I mentioned earlier, Lendu
22 combatants stationed at two -- some 2 kilometres from Lipri, that is midway between
23 Lipri and Ngongo, were monitoring the environment to pre-empt any UPC attacks."

24 A. [10:05:42] Yes, that was when they arrived and killed three people. It is then that
25 the combatants organised themselves militarily in order to mount the guard; that is,

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1 before getting to Lipri, they had launched an offensive.

2 Q. [10:06:25] Now, sir, you're familiar with the area where Lendu combatants are
3 stationed, and we just went through this, 2 kilometres from Lipri. I also take it that
4 you're familiar that there was a military camp close to Mwanga; is that correct?

5 A. [10:07:08] In Mwanga, there were also some Lendu combatants in Mwanga.
6 When the UPC arrived in Mwanga, the Lendu combatants left that area and went
7 elsewhere.

8 Q. [10:07:45] Did you ever see yourself this camp in Mwanga, sir?

9 A. [10:08:20] In Mwanga, they did not reside at a camp. They were stationed at a
10 location where there was no camp.

11 Q. [10:08:35] This location that you are talking about, would it -- would I be right in
12 saying that this is very close to the Shari bridge?

13 A. [10:09:04] No. The Lendu combatants didn't get to that place. It was rather at
14 the outskirts of -- rather, on our way to Mbara, they were located outside of the city on the
15 way to Mbara. They went towards the Shari bridge but they were stationed at Mwanga
16 instead, and I must say that they didn't build any camp at that location.

17 Q. [10:09:46] Sir, the distance between Mwanga and the Shari bridge, would I be right
18 in saying that this is about 3 kilometres?

19 A. [10:10:21] Yes, it must be within the range of 2 and a half to 3 kilometres --

20 Q. [10:10:30] And --

21 A. [10:10:32] -- from their location in Mwanga to the Shari bridge.

22 Q. [10:10:40] And starting from Mwanga going towards Tomali, that was the area
23 occupied in January 2003 by the Lendu combatants; is that correct?

24 A. [10:11:08] From the time the UPC troops settled in Mwanga, the Lendu combatants
25 left the area. I would also say that they also left Tomali when the UPC troops arrived in

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1 Mwanga. It is at that time that the combatants retreated and
2 instead - correction - instead went to Tomali. There was no agreement and so the
3 combatants retreated to Lipri. And that happened when the UPC troops had control
4 over the entire area.

5 Q. [10:12:19] Thank you, sir. In your testimony you referred already to the fact that
6 Lendu combatants would use weapons that they would capture during combat. Now,
7 one example you gave is one saba-saba. You recall testifying about this?

8 A. [10:13:00] Yes, I said so.

9 Q. [10:13:03] Based on the information that we had so far - I just want to make sure
10 that we have all the facts - this saba-saba was captured by the Lendu combatants during
11 the attack of 17 February; is that the case?

12 A. [10:13:24] Yes, that's correct.

13 Q. [10:13:29] And the attack of 17 February is the first time that the UPC tried to take
14 Lipri, but they were pushed away very quickly; is that correct?

15 A. [10:13:54] They were at the gates of Lipri and they had taken the saba-saba weapon,
16 *in the locality of Avetso, but part of that weapon remained in the hands of the UPC
17 troops, while the combatants took the other part.

18 Q. [10:14:34] So I'd like to make sure that -- because I understand that from your
19 statement that you actually saw this saba-saba on 17 February; is that correct?

20 A. [10:14:56] Yes, that is true. When they had left with the UPC troops having been
21 driven out, the Lendu combatants came to Lipri centre with the weapon and it is at that
22 time that I learnt that the name of the heavy weapon was saba-saba. And then I also
23 found out that all the parts of the weapon were not intact, and that is why they asked the
24 other combatants to bring the saba-saba weapon all the way to Buli.

25 Q. [10:15:40] Sir, the saba-saba you mention already in your testimony, I can give you

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1 the references if need be, but you said there was a tripod and there was a part with a long
2 barrel, or I think you used the word "fusil." Can you describe for us how does that look,
3 a saba-saba?

4 A. [10:16:11] Going by what they've said, the saba-saba weapon was usually mounted
5 on a tripod. It is that part of the weapon that had remained in the hands of the
6 combatant. The top part of the weapon was taken away by the UPC troops as they fled,
7 but the lower part of the weapon which was set on the tripod was taken to Buli by the
8 combatants. So the combatants did not know how to handle that weapon.

9 Q. [10:17:03] So I understand from your testimony that the tripod stayed behind and
10 the top part was taken away by the UPC; is that correct?

11 A. [10:17:21] Yes, that's correct.

12 Q. [10:17:25] And this is what was explained to you when you saw the actual
13 saba-saba; is that correct?

14 A. [10:17:40] Yes. The weapon was called saba-saba, and I haven't forgotten the
15 name since that day.

16 Q. [10:17:51] Did you see any ammunition with the tripod of the saba-saba?

17 A. [10:18:11] No, I did not see any ammunition for that weapon. All I saw was the
18 part of the weapon that was mounted on the tripod when it came, and that was after the
19 UPC troops had left. The combatants did not keep that weapon in the town for long,
20 they took it promptly back to Buli.

21 You see, I am not very familiar with weapons.

22 Q. [10:18:46] It appears to me now that we're -- I'm a bit confused with -- I think your
23 last answer is different from your previous one. I thought that the tripod had stayed
24 behind and the top part had been taken away by the UPC; is that the case or is it
25 something else?

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1 A. [10:19:22] What I've told you is the following: Part of the weapon mounted on the
2 tripod had remained, but the other part of the weapon, this higher part of the weapon,
3 was taken away by the UPC. So the lower part of the weapon had been recovered by the
4 combatants. That is what was explained to us; namely, that the lower part of the weapon
5 which was mounted on the tripod is what had been captured by the combatants. They
6 brought that part of the weapon to Buli. When they arrived it was quite prompt.
7 Immediately they captured that part of the weapon, they took it quickly to Buli.

8 Q. [10:20:26] Just so that we are on the same page, describe to us the physical
9 description of what you saw because I'd like to be sure of which part that stayed behind.
10 What did you see yourself in Lipri on that day? How did it look like?

11 A. [10:20:55] Part of the weapon was mounted on a tripod. That part of the weapon
12 was mounted on a tripod. Now, the upper part of the weapon was taken away by UPC
13 troops. And the name of that weapon was saba-saba. That is what I know or what I
14 learnt.

15 Q. [10:21:37] Sir, you mention that the saba-saba was taken to Buli. Who took the
16 weapon to Buli; do you recall?

17 A. [10:22:00] The weapon which was taken by the combatants to Buli was done
18 following orders from Kabuli. They took the weapon to Buli on foot.

19 Q. [10:22:31] Do you recall, sir, how big was the weapon and how many men were
20 necessary to carry the weapon?

21 A. [10:23:08] When they arrived with that weapon they were very happy, they were
22 very satisfied. It was a heavy weapon. And Kabuli ordered them to take the weapon to
23 Buli. So it is Kabuli who gave the order. The weapon was taken to Buli by a large
24 number of combatants.

25 Q. [10:23:54] Do I understand that you heard Kabuli give this order on 17 February?

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1 A. [10:24:19] Kabuli was the commander in chief of the combatants in Lipri.

2 Q. [10:24:31] Sir, my question is: Sir, did you hear him give the order, or you assume
3 that he gave the order because he's the commander?

4 A. [10:25:08] The combatants had brought the weapon to Kabuli and from Kabuli they
5 received orders for the weapon to be taken to Buli. He is the one who gave the order
6 because he was the military commander. No one else had the authority to give that
7 order. And it is only after the order was given that the combatants took the weapon to
8 Buli.

9 Q. [10:25:53] And the order issued by Kabuli, according to your testimony, was to
10 take the weapon to whom in Buli?

11 A. [10:26:23] You would have to excuse me because I do not know the structure of the
12 army. Soldiers, as you know, act according to their military structure, but what I know is
13 that there were many combatants in Buli. And even those who had come from
14 neighbouring villages were at the headquarters in Buli.

15 Q. [10:27:08] Sir, as the Presiding Judge at the beginning of your testimony, there's
16 nothing wrong in saying that you don't know something, so don't hesitate simply to say
17 that you don't know.

18 My next question goes to: Where in Buli was the weapons kept, if you know?

19 A. [10:27:35] I do not know where the weapon was kept. All I know is that the
20 weapon was taken all the way to Buli. But the specific location at which it was kept I do
21 not know.

22 Q. [10:27:54] Sir, we discussed previously (Redacted) and you mentioned to
23 us that you -- of course you know (Redacted). Now, we have information coming from
24 (Redacted) the saba-saba was transported to Yalala; does that refresh your
25 memory that maybe the weapon was not taken to Buli?

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1 A. [10:28:40] All I know is that the weapon was taken from Lipri to Buli by the
2 combatants. I do not know whether from Buli they took it elsewhere. I am not aware of
3 that.

4 Q. [10:28:57] And the distance, sir, from Yalala to Buli is more than 10 kilometres; is
5 that correct?

6 A. [10:29:22] The distance between Buli and Yalala -- by the way Yalala is in Bambu
7 and the distance between Bambu and Buli -- well, you know that we are dealing with a
8 mountainous area here and as the crow flies the distance could be -- well, let me start by
9 saying that Yalala is in Bambu and Buli is in the valley.

10 Q. [10:30:19] And, sir, if I say the name Nyarada is that different from Yalala?

11 A. [10:30:34] Yalala is located in Bambu. Nyalala (phon) is very far away. It is in
12 Tsili which is below Lipri, Lipri, Tsili, Tsili, Katho and then Nyalala. Yalala is located on
13 the road to Bambu and from Buli you go through there to get to Nyalala, which is near
14 Lipri and Tsili, or in the direction of Lipri and Tsili, if you go through the Barrière road
15 and then through the forest. That is the geographical layout of the area.

16 Q. [10:31:23] Sir, I have a yes or no question for you, I hope you will be able to answer
17 by yes or no. By the fact that Yalala or Nyarada you cannot confuse these two locations
18 with Buli; is that correct?

19 A. [10:31:53] Nyalala and Yalala are different locations.

20 Q. [10:32:03] And you cannot confuse these two locations with Buli; is that correct?

21 A. [10:32:13] No, not at all. You cannot confuse the two locations.

22 Q. [10:32:22] Now, sir, according to our information the saba-saba that you are talking
23 about was not captured on 17 February, but it was captured at the end of January and this
24 is when there was combat between some members of the UPC and the Lendu combatants.
25 And on this basis, sir, I suggest to you that you never saw this saba-saba; does that refresh

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1 your memory?

2 A. [10:33:17] No, that is not how it was. What I have told you is the truth.

3 Q. [10:33:25] Sir, do you recall that there was a skirmish between the Lendu
4 combatants and the members of the UPC on 23 January when the UPC troops were under
5 the command of Linganga? Do you recall this event, sir?

6 A. [10:34:20] The only thing I remember is that from the Centrale road I know that
7 UPC troops had come in through the Centrale road, and on that day they had killed three
8 persons. On that day they were not able to recover any weapon and they fled. The
9 saba-saba was captured on 17 February -- or, was taken on 17 February. On the first day
10 they didn't even find anybody in the area.

11 Q. [10:35:21] Sir, you can confirm that on 23 January, now we discussed earlier on
12 pacification meetings, but that on 23 January there were pacification meetings in Bunia; do
13 you recall this, sir?

14 A. [10:35:54] I don't remember because at the pacification meeting in Bunia -- I didn't
15 know this meeting.

16 Q. [10:36:11] Sir, I suggest to you that on 23 January the skirmish that took place
17 between the UPC and the Lendu combatants actually happened at night and it was an
18 incident when a patrol and -- combat patrol sent by the UPC actually encountered Lendu
19 combatants and there was some firing; do you recall this, sir?

20 A. [10:37:02] I don't have this degree of precision.

21 Q. [10:37:05] And, sir, I will add that this patrol had been sent by Linganga who was,
22 as a result, arrested and detained on the order of Lubanga and Bosco Ntaganda because
23 he was putting in peril the pacification meeting; do you have any knowledge of this?

24 A. [10:37:44] I don't have that information. I can say that I was under-informed.

25 Q. [10:38:02] And, sir, I will add that further to Lubanga's arrest and detention he was

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1 replaced by another commander, and this commander is Commander Bosco, but not
2 Bosco Ntaganda, and that he is the one who attacked without permission Lipri at the end
3 of January when he lost the saba-saba. Do you -- does that ring or refresh your memory
4 in any way, sir?

5 A. [10:38:54] No. That's what I just said to you, that's information that I don't have.
6 I don't have this information about the 17th and 18th.

7 Q. [10:39:10] And, sir, concerning the attack of the 18th, do you recall saying in your
8 statement that Linganga was commanding this operation?

9 A. [10:39:54] Uh-uh, the 18th the soldiers came from all the different roads. That's
10 what I know.

11 Q. [10:40:04] In your statement of 2013, for the record this is the document bearing the
12 number 2058-0002. I will quote from page 0011, and paragraph 53, where it says the
13 following:

14 (Interpretation) "I heard that Linganga had led the attacks of 18 February on Lipri."

15 (Speaks English) Do you recall providing this information, sir?

16 A. [10:41:06] This information concerning Linganga, well, this name was mentioned
17 (Redacted) and that's how I knew that this operation was led by Linganga because you
18 have soldiers who come from Centrale who were under his command, as far as I know,
19 now, (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 A. [10:42:15] Yes, because the person who directed from Centrale, when you have a
24 soldier who comes from there everybody knows it's him, he's the person who sends them.

25 Q. [10:42:35] And did you have any knowledge that Linganga was on 18 February

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1 detained in Mandro?

2 A. [10:42:55] Mmm-mm, no, I didn't have that information.

3 Q. [10:43:02] Sir, you will agree with me that whenever there are hostilities or combat
4 taking place that the first thing that happens is that civilians will flee to protect their lives;
5 is that a reality you are familiar with?

6 PRESIDING JUDGE FREMR: [10:43:31] Mr Iverson.

7 Mr Witness, hold on, please. Wait a second.

8 MR IVERSON: [10:43:40] I think the question calls for maybe opinion or speculation or
9 a bit of guesswork on the part of the witness. I don't think that the question itself is very
10 accurate or susceptible of being misunderstood or interpreted in quite a number of
11 different ways.

12 PRESIDING JUDGE FREMR: [10:44:01] Mr Bourgon, I really mean that it just calls for
13 opinion.

14 MR BOURGON: [10:44:06] Well, Mr President, I asked for reality, whether he, himself,
15 saw this. I asked him whether it's a reality that he's familiar with, so I think it's not a
16 question of opinion. I say did he, himself, experience and see that as soon as an attack is
17 launched or there is combat, the civilians flee, did you -- did he see that with his own eyes.

18 PRESIDING JUDGE FREMR: [10:44:37] It would make difference, but in my English
19 translation is: "Sir, you will agree with me that whenever there are hostilities or combat
20 taking place that the first thing that happens is that civilians will flee to protect their lives;
21 is that a reality you are familiar with?"

22 So could you at least rephrase a bit in order to --

23 THE WITNESS: [10:45:11] (Interpretation) This is something that I know. I
24 experienced it personally because myself I fled.

25 PRESIDING JUDGE FREMR: [10:45:20] All right. So just maybe to focus or highlight

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1 the last sentence of your question.

2 MR BOURGON: [10:45:28] Mr President, I just move on with the answer that the
3 witness just provided.

4 Q. [10:45:36] Now, my understanding, sir, is that you, yourself, when the events in
5 Lipri took place on the 18th, you - I'm just looking for the right English word - but you left
6 Lipri along with the other civilians; is that what happened?

7 A. [10:46:13] All the civilians, including us, we left, we fled, 18 February we left the
8 village.

9 Q. [10:46:31] So you, yourself, did not participate in the defence of Lipri yourself; is
10 that correct?

11 A. [10:46:57] No. The people who were fighting, these were combatants and they
12 could -- you could identify them. There were a lot of them. As civilians, we just fled.
13 We left the village.

14 Q. [10:47:31] Sir, I move on to information that -- sorry, I missed one question. You,
15 yourself, you went to (Redacted), right?

16 A. [10:47:59] Yes.

17 Q. [10:48:01] And (Redacted)
18 (Redacted) and Lipri?

19 A. [10:48:30] The distance? Well, I can only estimate that because there are hills
20 everywhere. It could be between (Redacted) kilometres. There are hills. You have to go
21 up and down. I could estimate it at (Redacted) kilometres, something like that because
22 there are hills. There are valleys as well. You have to go up the hills and down the
23 valleys.

24 Q. [10:49:11] Unfortunately, I do not have the -- the time to ask you some questions
25 about details of these hills, but you can confirm that, for example, Petsi is on a hill; can

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1 you confirm this, sir?

2 A. [10:49:40] The hill of Petsi and (Redacted) they're different. Petsi is (Redacted)
3 (Redacted). Petsi is on a hill, but a bit higher because from there you can see Petsi, just
4 like that.

5 Q. [10:50:07] I'll move to a different topic, which is that of the invitation that you say
6 was received by people in Buli to attempt a pacification meeting. So you know which
7 part of your testimony I'm referring to?

8 A. [10:50:41] Yes, I'm following you.

9 Q. [10:50:47] Now, according to our information, and let's begin by what you said in
10 your statement, and this is from the (Redacted) statement, and I would like to read you
11 this information.

12 MR BOURGON: [10:51:21] The number of the statement, of course, is -- ends with 0381
13 and I will be quoting from paragraph 33, and that is on page 0388. So it's on paragraph
14 35.

15 (Interpretation) "The spokesperson for the Lendu -- for the Lendu prominent people
16 from Buli" --

17 (Speaks English) No, sorry, I have the wrong paragraph. It's the (Redacted) statement,
18 and paragraph 33, and it reads as follows:

19 (Interpretation) "On the 25th February..."

20 THE INTERPRETER: 22nd February 2003, corrects the interpreter.

21 MR BOURGON: "...UPC Commander Salumu, based in Kobu, sent an invitation with a
22 view to promoting pacification. The meeting was meant to take place on the same day.
23 A Nyali combatant from Kilo who was one of the Lendu combatants had recently been
24 recruited by the UPC. He was the messenger sent by Salumu and to inform the Lendu
25 figures from Buli. This message was delivered orally. The prominent Lendu figures

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1 from Buli told him that they preferred a meeting on 25 February 2003 in the village of
2 Sangi."

3 (Speaks English) This is information that comes from your statement, sir. Do you
4 confirm this information?

5 A. [10:54:17] Yes, I confirm that.

6 Q. [10:54:24] Now, it says at the end of this paragraph:

7 (Interpretation) (Redacted)

8 (Speaks English) Do you confirm this, sir?

9 A. [10:54:53] Yes.

10 (Redacted)

11 (Redacted)

12 A. [10:55:17] Yes. We were in different bush areas and that's when this Nyali man
13 from the Nyali ethnic group, at a certain time, he was among the Lendu combatants, and
14 it was on that occasion that we found out that he had gone into the UPC ranks because,
15 before, he was a Lendu combatant and he knew that there were command -- who were in
16 Buli and that's when Commander Salumu, knowing that he was Nyali, he quickly
17 understood that he had to send him to Buli with a verbal message, an oral message, to
18 speak about this meeting, saying that this meeting had to take place on the 22nd. But
19 people in Buli, they reflected on that and they said, "No, today, no, it's not possible to do it
20 today." Because they, too, they had to call other people, from Gutsi, for example, Lipri
21 and those who were hidden in (Redacted), and that's the reason why they said no, this
22 meeting has to take place on the 25th, and that's the reason why we had this information
23 on the 23rd. It came from Buli. We didn't have any other news. All we knew was that
24 the meeting, the Sangi meeting with the UPC, was going to take place on the 25th. We
25 didn't have other information at that time.

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1 And from Buli they sent other information because when we got to Kobu it was difficult.
2 Leaving Buli, you had to go through the Camp Yalala and there's a road there which goes
3 through Gutsi

4 Q. [10:57:45] Sir, let me stop here because we have most of this information already
5 on the record and I want -- I would like to focus on precise issues.

6 PRESIDING JUDGE FREMR: [10:57:51] Mr Bourgon, sorry. Just for the sake of
7 planning, at the moment you are entitled for the next 15 minutes, so if you need all that
8 time we will break as regularly at 11 o'clock. There is also another alternative. If you
9 would be able to finish in 30 minutes, then I would prolong this session until 11.30 and we
10 break then. So it is up to you. I don't want to push you. If you need all that 15
11 minutes, we will break.

12 MR BOURGON: [10:58:18] I do, Mr President.

13 PRESIDING JUDGE FREMR: [10:58:19] All right. So just continue and we will break
14 at 11.

15 MR BOURGON: [10:58:26]

16 Q. [10:58:26] So, sir, my question is when you -- you say that (Redacted)
17 (Redacted). You confirm that you were not in Buli when this message arrived; is that
18 correct? Please answer yes or no.

19 A. [10:58:55] From Buli -- we got the message from Buli about the meeting of the 25th
20 in Sangi. Yes, we got this information.

21 Q. [10:59:07] Let me say my question again, sir: You were not in Buli when this
22 message was delivered by the Nyali combatant; is that correct?

23 A. [10:59:24] No, I wasn't in Buli. This was a message from Buli. The combatant
24 had come from Buli and people from Buli had sent this information to (Redacted), where
25 we were hidden. And that is how we found out that the meeting would take place on

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1 the 25th. I wasn't in Buli.

2 Q. [10:59:52] And, sir, how can you come up with such a precise date as 22 February
3 for this message to come to Buli?

4 A. [11:00:19] From Buli they sent a message, a message to (Redacted) to say that from
5 Kobu there was a Nyali combatant that the UPC had sent to speak about the meeting, and
6 they put the date back for the meeting so that it could take place on the 25th. It was
7 (Redacted) who was sent from Buli to us. So on the other side they had -- for Gutsi,
8 they'd sent a message for the people, for the people in Gutsi.

9 Q. [11:01:30] Sir, just before the break I would like to confirm the spelling of (Redacted).
10 Can you spell that name?

11 A. [11:01:57] The chief who was sent, he came with a message, an oral message from
12 Buli to say that the meeting was going to take place with the people from the UPC in
13 Sangi on the 25th.

14 Q. [11:02:19] Sir, my question is the spelling of Chief (Redacted)?

15 A. [11:02:51] No, (Redacted)
16 (Redacted) and that is how the message was sent to the chief who was based in
17 (Redacted). The message came from Buli, stating that the meeting would take place on the 25th.
18 Now, those from Gutsi, those people from Gutsi they sent (Redacted) is the one who went
19 to Gutsi --

20 PRESIDING JUDGE FREMR: [11:03:34] Mr Witness, I'm afraid that the question was
21 concerning another issue. Am I right, Mr Bourgon?

22 MR BOURGON: [11:03:42] Yes, indeed, Mr President. I think we will take a break,
23 with the Chamber's leave, and resume after the break.

24 PRESIDING JUDGE FREMR: [11:03:49] All right. So let's move into open session.

25 (Open session at 11.03 a.m.)

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1 THE COURT OFFICER: [11:04:10] We're in open session, your Honour.

2 PRESIDING JUDGE FREMR: [11:04:12] Thank you, court officer.

3 First of all, I would like to make a minor correction of the transcript, page 30, lines 20 and
4 24, I didn't say 15 minutes, 1-5, but 50, 5-0 minutes.

5 And the second issue, now we break and we will reconvene at 11.35.

6 And Mr Bourgon will be given opportunity to conclude his cross-examination, which, in
7 my view, should take a bit less than 50 minutes, 5-0.

8 THE COURT USHER: [11:04:52] All rise.

9 (Recess taken at 11.05 a.m.)

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

11 THE COURT USHER: [11:38:32] All rise.

12 Please be seated.

13 PRESIDING JUDGE FREMR: [11:38:59] Before we continue with cross-examination of
14 our witness, the Chamber will deliver its oral ruling on the Defence request for a short
15 postponement of Witness P-14's testimony. And we can make it in public session.

16 This morning the Defence requested to postpone the examination-in-chief of Witness P-14
17 until tomorrow morning and to then commence the cross-examination of Witness P-14
18 only on Thursday morning.

19 The Chamber reiterates its guidance of 1 August 2016 contained in email communication
20 at 16.51 to the parties and participants that scheduling arrangements and related
21 preparations should be done in a manner which ensures that the further witness will
22 always be ready to start immediately upon completion of the examination of the previous
23 witness in order to maximise the use of courtroom time.

24 It's further noted that notably such consultations with a client should occur outside of
25 court hours. Nonetheless, in the particular circumstances, the Chamber considers it

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1 appropriate for lead counsel to meet with Mr Ntaganda as soon as possible in order to
2 ensure that he's properly informed of relevant developments and receives the necessary
3 legal advice.

4 Noting also that the Prosecution does not oppose a brief postponement, the Chamber
5 indicates that Witness P-14 shall commence testifying tomorrow, on 21 September 2016, at
6 1 p.m.

7 The Chamber will sit in two sessions of one and a half hours each in order to complete the
8 examination-in-chief and any questions by the legal representative for former child
9 soldiers.

10 The cross-examination shall commence on Thursday morning.

11 That concludes the Chamber's ruling.

12 And allow me one caveat connected with this ruling: As soon we granted this request, it
13 means that we got some delay in our schedule for this block that has to be compensated.

14 So, there are several possibilities how it may be done. It's also in your hands; if you will
15 be shorter compared to your original estimation of time you will need, it also would be
16 helpful. We also -- the Chamber will also have to think about sitting in extended hours.

17 So we will see. But what is really firm, that we can't sit -- the last day of our block should
18 be 11 October. We simply have no, because of some further commitments, we simply
19 can't go further. So please have it in mind. And I believe that even so far this block
20 started in a very efficient way, so we also believe that we all can contribute to
21 compensation of this current delay.

22 Now we will continue with the rest of cross-examination of our witness. Mr Bourgon,
23 you still have a bit less than 50 minutes.

24 MR BOURGON: [11:43:13] Thank you, Mr President.

25 Q. [11:43:19] Welcome back, Mr Witness.

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1 A. [11:43:28] Thank you.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 PRESIDING JUDGE FREMR: [11:43:50] Sorry, again, let's move into private session.

6 (Private session at 11.43 a.m.) *(Reclassified partially in public)

7 THE COURT OFFICER: [11:44:21] We are in private session, your Honour.

8 PRESIDING JUDGE FREMR: [11:44:25] Thank you, court officer.

9 For the record, there is no one in the public gallery and was not at the moment of the
10 question had been put and then was ordered into redact this question from the broadcast
11 and transcript.

12 Now, Mr Bourgon, please proceed.

13 MR BOURGON: [11:44:51] Once again, I apologise, Mr President. I will be more
14 careful.

15 Q. [11:44:59] Sir, the information I'm interested in is how you got the information
16 from Buli about a meeting that would take place, and my first question is: You
17 mentioned that this information was first received in Buli on 22 February, so my first
18 question is how can you be so sure that you -- that this message was received in Buli on
19 22 February, how do you know that?

20 A. [11:46:02] Well, we had all fled to the bush on the 18th. Buli was not far away.
21 And four days after we received the message from Nyali -- to Nyali -- or, rather from
22 Nyali to Buli, and it is in Buli that we knew that there were many people. In fact, this is
23 what happened: There was a meeting on the same day, on the 21st. In Buli they had
24 had discussions and result that another message had to be sent and that people had to be
25 dispatched as well. There was a great assembly of people. And at that time we were in

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1 (Redacted). Then they sent some other people to Gutsi, and since we were not far away
2 from the people in (Redacted), they sent that message and it is at that time that the
3 meeting was postponed to the 25th.

4 One notable (Redacted) who brought the message to us.

5 Q. [11:48:07] That's, sir, what I was interested in. (Redacted), who brought the message
6 to you, did he -- is he the one who first stopped at the place of the chief in (Redacted)?

7 A. [11:48:42] We had not yet asked, and (Redacted) was not far away. People were able
8 to move about easily. It is the chief of (Redacted) who brought that message. Then (Redacted) left
9 from Buli, bearing the message about the meeting of the 25th. You see, had the meeting
10 taken place the same day, we would not have been informed.

11 Q. [11:49:23] Sir, I understand this. I'd like to know who gave you personally the
12 message that there was a meeting on the 25th.

13 A. [11:49:50] We had all gathered and then the chief of (Redacted)
14 (Redacted) came to deliver the information to us where we were. That is when we found
15 out that the meeting that had been scheduled for the 21st was no longer going to take
16 place and that it had been postponed to the 25th.

17 Q. [11:50:26] I understand from this answer that you were first informed of a meeting
18 scheduled to take place on the 21st and that this was changed to a meeting that would
19 take place on the 25th; is that what you are saying?

20 A. [11:50:56] The meeting had been scheduled for 22 February initially, then the
21 people from Buli postponed the meeting to 25 February. The notable came on the 23rd
22 and we learnt about this message in our area on 23 February.

23 Q. [11:51:33] What is the name of the chief of (Redacted) who provided you with this
24 information?

25 A. [11:51:57] I do not know the name of the chief of (Redacted), even today. I know

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1 the name of the chief of (Redacted) because we used to live together.

2 Q. [11:52:20] Sir, in your testimony you referred to information that was brought to
3 the attention of the Lendus in Buli that the 25 February meeting would be a trap. I only
4 have one question for this in this regard and that is what you said in your statement, and I
5 refer here to paragraph 32, and that is your statement (Redacted), the page is 0007, and the
6 paragraph is 32. And here is what it says here:

7 (Interpretation) "Concerning paragraph 35 of my current interview, let me further add
8 that I learnt that after the events which I referred to in paragraphs 34, 35 and 36."

9 (Speaks English) Do you recall making this correction that the information found in
10 these three paragraphs you obtained after the events?

11 A. [11:54:42] Maybe the problem is with the interpretation of the French language.

12 Q. [11:54:54] Sir, you testified about people in Buli receiving information about the
13 fact that the 25 February meeting would be a trap; do you recall saying this?

14 A. [11:55:19] Yes.

15 Q. [11:55:22] Based on the paragraph I just read from your statement I want you to
16 confirm that you did say to the investigation, the Prosecution, that you learned this
17 information about this meeting after the events; is that a fair statement, sir?

18 A. [11:55:56] Yes.

19 Q. [11:55:57] According to your testimony, sir, you travelled to Sangi directly to go to
20 this alleged meeting; is that correct?

21 A. [11:56:28] The meeting took place in Sangi. The meeting took place in Sangi.

22 Q. [11:56:46] I understand from your statement that when you went to Sangi,
23 according to your statement, you did not have the information that the meeting would be
24 a trap; is that correct?

25 A. [11:57:23] The people from Buli and Gutsi didn't come because they had received

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1 the information --

2 Q. Sir, let me stop you right here.

3 A. -- over the Motorola system --

4 Q. My question is very clear.

5 A. -- but we had not been informed.

6 Q. [11:57:35] Did you have this information when you went to Sangi yourself? It's a
7 very simple question.

8 A. [11:57:48] No.

9 Q. [11:57:50] We -- it's much easier if you just answer the questions, please.

10 In your statement you did say that you travelled to Buli on 25 February, did you not?

11 A. [11:58:20] We went to Sangi on 25 February. I did not go to Buli.

12 Q. [11:58:28] Do you recall saying in your statement that you did go to Buli on that
13 day?

14 A. [11:58:47] No, I did not go to Buli. We went to Buli with (Redacted), that is when
15 we went to Buli, with Dyikpanu. We went to (Redacted) initially, passing through
16 Ngabulo. (Redacted) had gone before us or ahead of us. We did not know that they
17 had already received the message in Buli, and that is why we went to Sangi. The people
18 from Gutsi are the ones who told us that they had heard the announcement.

19 Q. [11:59:44] Sir, my question again is very simple. I read from paragraph 34 of your
20 statement, this is your statement (Redacted), and the page is 0388, and this is what you
21 say here, I read in French:

22 (Interpretation) "Had asked for all the Lendu notables to meet in Buli before going to the
23 Sangi meeting with the UPC. I and (Redacted)
24 (Redacted). We went to Buli on 25 February in the morning."

25 This is what you said in your statement; is that correct, sir?

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1 A. [12:00:53] No. I corrected that version. In fact, that is what was planned.
2 Myself and (Redacted) were supposed to go to Buli; however, since (Redacted) had
3 already gone to Buli, I, Burombi and Dyikpanu, we went straight to -- that is what I said
4 before, this is what was written down before, but I made a correction. It's only (Redacted)
5 (Redacted) who went to Buli. Myself, Burombi and Dyikpanu, we went directly to the
6 venue of the meeting. We went and met up with (Redacted) at Ngabulo while (Redacted)
7 remained in Buli. He didn't come.

8 Q. [12:01:53] Now, sir, you did say that you went to Buli in (Redacted). I'd like you
9 to -- I'd like to provide you with an opportunity to explain why you gave this information
10 to the investigators in (Redacted).

11 A. [12:02:22] I believe that I probably expressed myself poorly in French. I spoke to
12 them in French. The arrangement was that (Redacted) and I would go to Buli and I
13 explained that, but (Redacted) suddenly left in the morning and I did not have the
14 opportunity to go with him. The plan had been that we would travel together; however, he
15 left before and I did not have time to travel with him. So Dyikpanu, myself and (Redacted),
16 we went directly to Ngabulo where we met up with (Redacted) in Ngabulo. (Redacted)
17 had already travelled to Ngabulo before us, and that is the correction that I made to the
18 statement.

19 Q. [12:03:17] Sir, we already covered the fact that you had an opportunity to read this
20 statement after you signed it in (Redacted), and I suggest to you that the correction you
21 made in (Redacted) is simply because you wanted to change your story because it did not
22 fit information you received; is that correct, sir?

23 A. [12:03:51] No. It was upon re-reading the statement that I made the correction.
24 The initial plan was for us to go with (Redacted) to that location, but because I didn't
25 travel with him, (Redacted)

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1 no longer travelled with us to Sangi.

2 Q. [12:04:28] Sir, do you know a man by the name of (Redacted)?

3 A. [12:04:55] Many days have gone by. A lot of time has gone by and I think I may
4 have forgotten this person.

5 Q. [12:05:07] Sir, according to what we know, you travelled to Sangi, that's your
6 testimony, and you arrived at 2 o'clock. That's from your 2005 statement at paragraph 38.
7 Do you agree with that?

8 A. [12:05:40] Yes, we arrived late; that is correct. We were late when we got there.

9 Q. [12:05:49] And according to the information we have at paragraph 42 of your
10 statement, you left or were allowed to leave Sangi at 3 o'clock. Can you confirm this? Is
11 that your statement, your testimony?

12 A. [12:06:24] We arrived late and they authorised me to leave the area around 3,
13 3 p.m. or shortly thereafter. Around 3 p.m. I was authorised to leave the area.

14 Q. [12:06:41] Sir, according to paragraph 38 of your statement - please answer yes or
15 no (Redacted) there; is that correct?

16 A. [12:07:03] Yes.

17 Q. [12:07:04] According to paragraph 34 of your statement, in (Redacted) you
18 mentioned that you saw (Redacted) name written on his chest; you confirm this?

19 A. [12:07:34] His name was written on his chest.

20 Q. [12:07:37] Sir, I suggest to you that at that time in 2003 members of UPC, including
21 (Redacted), did not have name tags and this is information that you obtained from
22 another source; do you agree with that?

23 A. [12:08:08] No, I saw that myself. I saw it. I saw his name written on his chest.
24 No one told me that.

25 Q. [12:08:22] Sir, in your (Redacted) statement, at paragraph 37, you address the issue

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1 of those who are with you at the meeting, and I'm referring to "les notables." According
2 to paragraph 37 there were, I will read here:

3 (Interpretation) "Burombi, the notable from Nyangarai; Dyikpanu from Mongbwalu;
4 (Redacted) from Mongbwalu; as well as other notables whom I did not know."

5 And then further on, "There were about 10 notables in attendance along with some
6 civilians."

7 (Speaks English) Do you confirm this, sir?

8 A. [12:09:32] Yes, that is correct.

9 Q. [12:09:34] In the same paragraph you say that you did not know these other
10 notables; is that your statement?

11 A. [12:09:56] Yes, that is my statement. Many of us were in attendance, including
12 some persons whose names I did not know.

13 Q. [12:10:08] Now, when you arrive, you mentioned a few moments ago that you
14 were late. Had the others already arrived or in what frequency or what order did people
15 arrive in Sangi?

16 A. [12:10:43] We did not have all the information. We were on the (Redacted) road which
17 took us to Ngabulo, where we found a roundabout. We had come through the (Redacted) road,
18 and the people from (Redacted) all met together in Ngabulo. But we were late. When we got
19 there (Redacted) had already arrived in Ngabulo and was waiting.

20 Then when we got there with Burombi and Dyikpanu, we met up with (Redacted) and
21 other persons who were already there. Then we all waited there together, waiting for
22 other people who were supposed to come from Buli, but they did not come. Then, from
23 there, why did they not come? Burombi and the others, without waiting for those who
24 were supposed to join us, and because we did not have information, we then continued
25 on our way to Sangi. And that is how we got to Sangi along with other members of the

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1 population.

2 When the members of the population saw us leave, they started to follow us and that is
3 how we went to that location.

4 Q. [12:12:29] Sir, during your testimony and questions posed to you by the
5 Prosecution, I refer to transcript 134 and that is at page 16, at lines 6 and 7, you say the
6 following:

7 (Redacted)

8 (Redacted)

9 You recall saying this, sir?

10 (Redacted)

11 (Redacted)

12 Q. [12:13:38] Sir, I suggest you never said this and provided this information in your
13 statement of (Redacted); would you agree with me?

14 A. [12:14:09] No. It was simply not recorded but I did say so. It is because of that
15 sentence that he made that we were frightened and that led us to leave the location.

16 Q. [12:14:31] Sir, you mention in your testimony that during the meeting (Redacted)
17 (Redacted) You recall this, I'm sure. And at transcript 134, page 18, line 21, to page 19,
18 line 5, you mention that perhaps what (Redacted)

19 (Redacted)

20 (Redacted)

21 Do you recall this, sir?

22 A. [12:15:23] Yes.

23 Q. [12:15:23] So it's your testimony that (Redacted)

24 (Redacted)

25 (Redacted) said, according to your testimony?

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1 A. [12:15:53] That's what he said.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE FREMR: [12:19:18] Excuse me. Mr Iverson, please.

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1 MR IVERSON: [12:19:22] Yes, I would just ask that Defence counsel specify the
2 information that he has from this person, if he can identify it so that I can -- I can follow
3 along. I'm not sure what he's referring to.

4 MR BOURGON: [12:19:43] Of course, Mr President. DRC-OTP-0104-0002,
5 information provided by the Prosecution. And it is on our list of items.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. [12:27:06] Sir, as you left Sangi, according to your testimony, you heard some
4 gunshots, but it's my understanding that you do not know who was shooting on who in
5 your back as you were fleeing Sangi; is that correct?

6 A. [12:27:41] Well, I heard gunfire behind me. I'd already left the place. I can't be
7 precise. I don't know who was firing at whom.

8 Q. [12:27:54] And in your testimony, sir, you said that the people who were in Sangi
9 were taken as prisoners, but you did not see this, did you?

10 A. [12:28:14] I didn't see that.

11 Q. [12:28:16] And you also said in your testimony that these people were taken to
12 Kobu, but you did not see this yourself, did you?

13 A. [12:28:30] I didn't see that. I didn't return.

14 Q. [12:28:34] And you mention that this was an event that had you feel very sorry and
15 that you actually (Redacted). Now, this is at transcript 134, page 22, lines 24 to page 23,
16 line 01. Do you recall saying this, sir?

17 A. [12:29:14] Yes, I said that.

18 Q. [12:29:17] Now, sir, I suggest to you that the information that you provided about
19 UPC troop movements on the 27th, this is at transcript page 124, lines 8 to 12, and
20 information heard on Radio Candip about a redeployment to Bunia, that's at transcript
21 134, page 25, lines 5 to 10, sir, I suggest to you that this is all information that you learned
22 from other sources long after the events; is that correct, sir?

23 A. [12:30:16] Where it concerns movements of soldiers, I had that information from
24 other people. I wasn't the one who saw that. There were other people who had seen
25 the movements of the soldiers and they told me.

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1 Q. [12:30:37] Sir, my suggestion is that you obtained this information much later than
2 these events took place; is that correct?

3 A. [12:30:51] No. These events took place on the 25th. On the 27th, i.e., two days
4 afterwards, we found out about these events. These troops spent the night in Buli and on
5 the 27th they started carrying out their movements. That happened two days
6 afterwards.

7 Q. [12:31:20] Sir, I --

8 PRESIDING JUDGE FREMR: [12:31:22] Mr Bourgon, just a gentle reminder you have
9 last five minutes.

10 MR BOURGON: [12:31:26] Thank you, Mr President.

11 Q. [12:31:28] Sir, I refer to paragraph 50 of your statement where you say that you
12 found the bodies aligned in -- well, I will read it:

13 (Interpretation) "The corpses were aligned in the banana field in three columns. There
14 *were two bodies -- slightly to the side."

15 (Speaks English) Is that what you said in paragraph 50 of your statement?

16 A. [12:32:08] That's not when we found the bodies that were exposed, that wasn't then
17 in my view. What I said was that when I arrived there, I found that there was another
18 group which had arrived before us and it was they who put the bodies in order --

19 Q. At paragraph 54 of your -- 50 of your statement --

20 A. -- so that members of the population who arrived would be able to better identify
21 their families.

22 Q. -- you say: (Interpretation) "I recognized all notables who were at the meeting
23 with Salumu, even if I didn't know their names. I think that the camp hadn't been -- I
24 think that the bodies hadn't been touched or moved and I found them in the position
25 where they had been left by the UPC."

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1 (Speaks English) Do you want to change your testimony that what you saw the bodies
2 aligned, this is later on?

3 A. [12:33:47] When we arrived there, there was already a group of villagers from
4 Kobu who had gone to identify the bodies because UPC troops, having executed the
5 people, had left the bodies without sorting them out when we arrived at that place. And
6 we found another group that had arrived before us and they had arranged the bodies.

7 Q. [12:34:18] So when you say, sir, at paragraph 50:

8 (Interpretation) "I found them in the position in which they had been left by the UPC
9 because the people didn't dare touch the bodies."

10 (Speaks English) Is this true or is your testimony not true? Which one?

11 A. [12:34:45] As I stated previously, we arrived from (Redacted) and before us there
12 was another group from Kobu and surrounding villages which had gone before us in
13 order to check the bodies the UPC troops -- and that members of the population who were
14 living in the villages in that surrounding area, they had already arrived there in order to
15 identify the bodies of their families. I learned that UPC troops had abandoned the bodies
16 in the banana field.

17 Q. [12:35:36] Sir, I only have two questions left. The first one deals with paragraph
18 43 of your statement where it says -- it's a change that you made, this is your (Redacted)
19 statement, and you say:

20 (Interpretation) "I add the following to paragraph 43 in my previous statement: I left
21 with (Redacted) in order to go to Kobu on 29 February 2003."

22 (Speaks English) This is information you added in (Redacted), is it not?

23 A. [12:36:25] We went with (Redacted)
24 (Redacted) stayed there because he was afraid.

25 Q. [12:36:40] And, sir, it is our case that you did not go to Kobu on that day and that

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1 you were convinced to testify that you did by (Redacted); do you agree with me, sir?

2 A. [12:37:17] I was with (Redacted) and he was the person who was helping us during
3 the interviews. This was somebody who really loved our country.

4 Q. [12:37:34] Sir, my last question has to do with paragraph 46 of your statement
5 of 2005, where you say the following:

6 (Interpretation) "I left (Redacted)."

7 (Speaks English) Sir, it is our submission that between the attack of Lipri and 7 March,
8 you were in (Redacted) or elsewhere and that your testimony concerning the meeting in
9 Sangi and seeing the bodies in Kobu is not true. That's our case, sir. Would you like to
10 elaborate?

11 A. [12:38:34] Please excuse me, I didn't understand your question.

12 Q. [12:38:39] I apologise, I will say it again. The -- you did say at paragraph 46 that
13 you left (Redacted). Do you recognize saying this at
14 paragraph 46 of your statement?

15 A. [12:39:07] Yes, I said that. And that's what happened.

16 Q. [12:39:13] And what I'm saying to you, sir, is that it is our case that you left Lipri
17 when it was attacked -- actually, before it was attacked, and that you (Redacted) and
18 that you did not either witness or attend the events you testified about. Do you agree
19 with me?

20 A. [12:39:48] No, when I left Lipri, that was on the 18th, during the war, to go to
21 (Redacted), even Sangi as well. And it was from the 29th that we left. After that, I
22 suffered from what I had seen, the bodies. I also had difficulties with the children.
23 That's why I stayed for a week in (Redacted). I brought the children so that they would
24 be treated. I didn't return to Lipri again because I had family difficulties. I had to
25 ensure that my (Redacted).

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1 So during this whole time I stayed in (Redacted), and from

2 (Redacted). I had difficulty overcoming what

3 I had experienced.

4 Q. [12:41:30] Thank you, sir. I have no further questions.

5 MR BOURGON: [12:41:32] Thank you, Mr President.

6 PRESIDING JUDGE FREMR: [12:41:34] All right.

7 Mr Iverson, any need for re-direct?

8 MR IVERSON: [12:41:38] No, thank you. I have no further questions, Mr President.

9 PRESIDING JUDGE FREMR: [12:41:42] Fine.

10 So court officer, let's move into open session.

11 (Open session at 12.41 p.m.)

12 THE COURT OFFICER: [12:42:13] We're in open session, your Honour.

13 PRESIDING JUDGE FREMR: [12:42:15] Thank you, court officer.

14 So, Mr Witness, your testimony, it's concluded. So, on behalf of the whole Chamber I
15 would like to thank you that you made such a long journey, that you patiently answered
16 all questions put to you. So thank you. I believe that your testimony will assist us in
17 our effort to find the truth in this case. And we also wish you a safe journey home.

18 THE WITNESS: [12:42:55] (Interpretation) Thank you very much as well.

19 PRESIDING JUDGE FREMR: [12:43:01] And now we will adjourn. And in
20 accordance with our decision granting some short postponement of the next testimony,
21 we will reconvene tomorrow, 1 o'clock, in order to have two sessions, 90 minutes each.
22 Mr Bourgon.

23 MR BOURGON: One quick issue: I wanted to inform the Trial Chamber that in light of
24 everything that we said, there's one issue that was not touched upon and that is the
25 medical information, which we are still not getting and that we insist on obtaining, and

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1 we either have already filed or will be filing an application to obtain this information.

2 Thank you, Mr President.

3 PRESIDING JUDGE FREMR: [12:43:53] Well noted.

4 Mr Iverson, I saw you on your feet.

5 MR IVERSON: [12:43:59] I thought we were rising, yes.

6 PRESIDING JUDGE FREMR: [12:44:02] We appreciate. So, again, adjourned and we
7 will reconvene tomorrow at 1 o'clock.

8 THE COURT USHER: [12:44:10] All rise.

9 (The hearing ends in open session at 12.45 p.m.)

10 RECLASSIFICATION REPORT

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

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