

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 3
7 Tuesday, 27 September 2016
8 (The hearing starts in open session at 1.32 p.m.)
9 THE COURT USHER: [13:32:51] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [13:33:13] Good afternoon, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [13:33:33] 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 We are in open session.
18 PRESIDING JUDGE FREMR: [13:33:48] Thank you. Otherwise this court was
19 required because of some technical circumstances. Otherwise, are there any changes
20 in appearances? I don't see now, no. Okay. So then we can
21 directly continue with the rest of cross-examination.
22 Mr Gosnell, you still have 38 minutes. And do you want to proceed in open or
23 private session?
24 MR GOSNELL: [13:34:15] I believe we have to proceed in private session,
25 Mr President.

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

- 1 PRESIDING JUDGE FREMR: [13:34:23] All right.
- 2 Court officer, let's move into private session.
- 3 (Private session at 1.34 p.m.) **(Reclassified partially in public)*
- 4 THE COURT OFFICER: [13:34:34] We're in private session, Mr President.
- 5 PRESIDING JUDGE FREMR: [13:34:40] Thank you.
- 6 Mr Gosnell, you have the floor.
- 7 MR GOSNELL: [13:34:45] May we have DRC-OTP-0065-0003, tab 4.
- 8 Q. [13:35:03] And Mr Witness, we're coming back to the document we were
- 9 discussing before the break, (Interpretation) (Redacted)
- 10 (Redacted)" (Speaks English) And I would like to turn to the second page of this
- 11 document, please ERN 0004.
- 12 Now, I'm going to pose a very specific question that can be answered yes or no.
- 13 There's a notation here above the letter that starts (Interpretation) (Redacted)
- 14 (Speaks English) And the notation reads (Redacted) (Interpretation)
- 15 (Redacted)
- 16 (Speaks English) Can I just confirm that that (Redacted)
- 17 (Redacted)
- 18 A. [13:36:20] Yes.
- 19 Q. [13:36:22] Now I'd like to move to the previous page, and down at the bottom
- 20 we see what you have described as the initial note of invitation by
- 21 Commander Salumu to the pacification meeting, and it again says (Interpretation)
- 22 (Redacted) (Speaks English) (Redacted)
- 23 (Redacted)
- 24 A. [13:37:23] Well, here when we see the date of 22 February 2003, that means
- 25 that this letter was written by Commander Salumu from Ngabulo, or in Ngabulo.

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

1 Q. [13:37:41] Does it make sense, given what you know about the events on 22
2 and 23 February, that Commander Salumu would have been writing from the same
3 town from which the Lendu notables were writing the next day, namely, in Ngabulo?

4 A. [13:38:16] Well, here, when we see the date of the 22nd where
5 Commander Salumu wrote the letter to the Lendu notables, the village is extended.
6 One part of it has already been occupied by Commander Salumu's troops. Another
7 part of it, slightly above Ngabulo -- or, rather, above Buli, there was this meeting and
8 it was from there that the Lendu wrote this letter by way of response to
9 Commander Salumu.

10 Q. [13:39:10] So you're saying that on 22 February Salumu's troops have occupied
11 one part of the town of Ngabulo and that the next day the Lendu notables are still
12 there, or have come back, and are writing the response to Salumu's letter from the
13 same town, albeit a different part of the town; is that your testimony?

14 A. [13:39:44] Well, whatever we said is that here we also have a problem with
15 regards to the concepts. When you talk about the town of Ngabulo, it is not strictly
16 speaking a town, it's a village. And the villages are quite big, I would say -- well,
17 when you speak about Lipri, for example, that's a village. Now, in several reports,
18 you'll see town, town, town of Lipri written. Now, for somebody who lives in Bunia,
19 when you speak about Lipri, it's understood as the region, including Tsili, and goes
20 further than that. It's not just limited to the little town centre, the business centre.
21 This town of Ngabulo, it's much bigger. So some part of it was occupied by the UPC
22 and a small part of it, just above Buli village, there were still Lendu there.

23 MR GOSNELL: [13:41:01] May we have the next page again, please.

24 Q. [13:41:10] And again I draw your attention to the response by the Lendu
25 notable, and at the bottom of this letter, (Redacted), it says, unless I'm

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

1 mistaken, (Interpretation) "Signed Ngabu Wele." (Speaks English) Now, you know
2 that Ngabu Wele did not sign the supposed response to the invitation to the
3 pacification meeting, don't you?

4 A. [13:42:03] Thanks for the question. (Redacted). They
5 can't have the signature of the signer -- please excuse me for getting that mixed up,
6 this tautology. (Redacted)
7 (Redacted)

8 Q. [13:42:40] Yes, that's understood, Mr Witness, and that wasn't my question.
9 My question was: You know, do you not, that Wele, Mr Ngabu Wele, did not sign
10 the supposed response to Mr Salumu's invitation? I didn't say that this was a
11 signature on your page. I'm asking you about what you know. And you know that
12 Mr Ngabu Wele didn't sign this response, don't you?

13 A. [13:43:12] Well, I cannot straight away confirm what you're saying. I also
14 can't deny it. There isn't a place where there is the direct signature of Ngabu Wele as
15 the president of the council of the wise, of course, the conseil des sages.

16 Q. [13:43:35] You testified earlier today at page 33, line 7, (Redacted)
17 (Redacted)
18 (Redacted)

19 Now, my question is, during the course of meeting with (Redacted)
20 (Redacted)
21 (Redacted)

22 A. [13:44:23] (Redacted)
23 (Redacted). Please don't confuse me. (Redacted)
24 (Redacted)
25 (Redacted) That's

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

1 how things happened. It wasn't a discussion about the signature of this letter. The
2 letter would be signed by Ngabu Wele as president of the conseil des sages.

3 Q. [13:45:18] I do stand corrected, and I apologise because I have misread and
4 misunderstood the transcript. Indeed, you were describing a conversation with
5 (Redacted). So I do apologise to you, Mr Witness, for that. But over the years, is it
6 correct that you have had conversations with (Redacted) about the invitation to the
7 pacification meeting and the response?

8 A. [13:45:54] Counsel, you will understand there is an exchange of lots of letters.
9 You will see sometimes at least confusion. So to tell me that I had exchanges with
10 (Redacted) with regards to this invitation letter from Commander Salumu Mulenda,
11 well, that's something I don't remember.

12 MR GOSNELL: [13:46:24] May we have a redacted version of a document which
13 we have provided to the Registry out of an abundance of caution. I think we could
14 have shown it in unredacted form, but it's good to be extra careful, and the document
15 is tab 3,4, DRC-OTP-0150-0287.

16 According to this information, there's a description of information (Redacted)
17 (Redacted), and then there is an indication of what (Redacted) thinks
18 about it, and he says, and I quote -- or he is recorded as having said, and I quote:
19 (Interpretation) (Redacted)

20 PRESIDING JUDGE FREMR: [13:47:41] Ms Samson.

21 MS SAMSON: [13:47:41] Thank you. May I make a submission, please with the
22 witness's headphone removed.

23 PRESIDING JUDGE FREMR: [13:47:53] Court usher, please assist. Now you may
24 proceed, Ms Samson.

25 MS SAMSON: [13:48:06] Thank you. Your Honour, I rise to make two points.

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

1 One is that the Defence counsel has put to the witness that Mr Ngabu Wele did not
2 sign the document, and the witness has said what he answered, which is maybe he
3 did, maybe he didn't. And now Defence counsel wants to put to the witness a
4 document that the witness didn't see before, (Redacted)
5 (Redacted)
6 (Redacted) And I can provide the reference for that. (Redacted)
7 (Redacted)
8 (Redacted). And I'm not sure
9 that it's appropriate to show the witness a document that has nothing to do with him.
10 Thank you.

11 PRESIDING JUDGE FREMR: [13:49:11] Mr Gosnell.

12 MR GOSNELL: [13:49:12] Well, the document clearly has to do with the witness.
13 His name is mentioned twice on the document. It's not a misleading question at all.
14 This is what the Prosecution had recorded at the initial meeting with this person as
15 having been said. And regardless of what is said later, it is fair and proper to put
16 this to the witness.

17 PRESIDING JUDGE FREMR: [13:49:38] Ms Samson, any reaction?

18 MS SAMSON: [13:49:40] Well, yes. The Defence is saying definitively that
19 (Redacted), and that is an
20 incorrect premise, particularly as -- (Redacted)
21 (Redacted). And this is the reason why in some courts showing investigation notes
22 that a witness doesn't review and approve as they do with a later signed statement is
23 considered inappropriate.

24 PRESIDING JUDGE FREMR: [13:50:16] Objection is overruled. As usually,
25 I think I highlighted several times, I think our Chamber's jurisprudence on admission

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

1 is probably generous because still we believe that if there are some problematic
2 aspects of the document used with the witness which even could have some
3 misleading consequences, we are professional Judges and we are able to take all those
4 possible affecting consequences into account. So the objection is overruled, and
5 Mr Gosnell, you may proceed.

6 MR GOSNELL: [13:50:59] Let me formulate the question like this.

7 Q. [13:51:06] Let me formulate the question like this: (Redacted)

8 (Redacted)

9 (Redacted)

10 A. [13:51:42] (Redacted)

11 (Redacted) Well, this answer to Mulenda's letter, in that regard, I don't remember.

12 I don't remember this meeting when he responded to that. But I'd just like to make a
13 comment here.

14 Q. [13:52:11] Mr Witness, I have a number of questions that I need to get through
15 in my limited time remaining.

16 MR GOSNELL: So, with your Honours' leave, I'd like to just proceed to my next
17 question.

18 PRESIDING JUDGE FREMR: [13:52:23] Yes, for sure.

19 MR GOSNELL: [13:52:25] Could we please have 2055-1046.

20 Q. [13:52:34] Now, Mr Witness, I'd like to come back again to (Redacted)

21 (Redacted) and what I would like to do with you, please, is just look at a number of
22 pages in sequence and then I will ask you a question at the end in respect of those
23 pages in sequence.

24 Now, if we could turn to the first page of the document which is 1347, and we're
25 familiar with this page, Mr Witness. At the top there's a date given, 26 January 2003,

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

1 and then if we go to page 1351, on the right-hand side of the page we see two dates,
2 one appears to be 17 February 2003 and another date of 15 February 2003. So far, so
3 good. The document is proceeding chronologically.

4 Now, could we turn to the next page. On the right-hand side we see a date of
5 9 February 2003, and then if we continue now, please, to page 1357 -- excuse me, 1354.
6 On the left-hand side, we see the date 17 February 2003. Have you followed me so
7 far, Mr Witness?

8 A. [13:54:46] I don't see where we are. 17 February?

9 Q. [13:54:50] We're not on the right page. It should be the next page, and this is
10 tab 6 for the record. You see there at the top left the date of 17 February 2003?

11 A. [13:55:13] Yes.

12 Q. [13:55:14] So what we see as we go through this notebook is the dates
13 26 January, 17 February, 9 February and then 17 February. Now, I suggest to you
14 that that shows that this document was in fact not written contemporaneously, it was
15 not written in sequence with the timing of events. Are you in any position, given
16 your knowledge of the document, to contradict that proposition?

17 A. [13:55:53] The person who would answer correctly your concern is (Redacted)
18 (Redacted), and secondly, when we look at the date of
19 17 February 2003 here, I'd like to draw the courtroom's attention to the fact that I said
20 that where the date was written here, (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. [13:56:56] And this information which is written in red, which you say was
24 written (Redacted), I'll start by just directing your attention to the fifth bullet
25 point down. Do you have any information as to where she obtained the information

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

1 that there were 6,000 UPC soldiers involved in this operation and where they were
2 located?

3 A. [13:57:30] You have to ask her that question. (Redacted).

4 Q. [13:57:45] You testified yesterday at page 43, line 18, that you saw a mass
5 grave in Kobu behind the Hotel Paradiso, whereas others were buried in their villages
6 of origin. How many people were buried in the mass grave, according to the
7 information given to you at the time of the visit to Kobu?

8 A. [13:58:27] Well, you're asking me a question as to how many people were buried
9 in the mass grave in Kobu. This is a question which can't be asked to me. (Redacted)
10 (Redacted), and it was the inhabitants of Kobu
11 who buried the bodies of the victims of this attack of the UPC in the region. They
12 told -- they said that there were people, there were victims who had been buried in
13 mass graves. Well, that was a certain date, a certain year. I don't immediately
14 recall how many people were buried in a mass grave or in another mass grave.
15 I don't remember that very well. You have to ask the inhabitants of Kobu. They
16 were the ones who told us that.

17 Q. [13:59:36] You saw the mass grave, correct, with your own eyes?

18 A. [13:59:49] Yes, we were at the location of the mass grave.

19 Q. [13:59:55] It was marked with crosses, correct?

20 A. [14:00:01] The day on which we went there or the day on which we arrived,
21 we did not see any crosses.

22 Q. [14:00:26] Then how were you able to identify the area of the mass grave that
23 you say you saw?

24 A. [14:00:43] It was the population, the inhabitants, who showed us the mass
25 grave. They said this is the mass grave. I have the impression that you're

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

1 requesting that there should have been crosses on the mass grave, but what I'm telling
2 you is that I did not see any.

3 Q. [14:01:01] Was the ground also visibly still upturned as if there had been a
4 significant area where there was a burial?

5 A. [14:01:25] Yes.

6 Q. [14:01:31] And approximately how large was this area of upturned soil?

7 A. [14:01:45] Well, I am really not able to answer that question.

8 Q. [14:01:59] And at paragraph 84 of your statement in 2013, you learned from a
9 person named (Redacted) that someone named (Redacted) had taken photographs of
10 the bodies that had been killed at this location; is that correct?

11 A. [14:02:33] (Redacted), yes, he's the one who told me that (Redacted) had taken
12 some photographs of the dead bodies of persons who had been killed there, but it
13 could also be, and this is the right of the Defence, it could also be that in one of my
14 statements *I spoke to someone called (Redacted), I think I mixed up a number of
15 names, (Redacted).

16 Q. [14:03:21] And am I correct that the full name of that person is (Redacted)
17 (Redacted)?

18 A. [14:03:37] I do not know his full name, his full names but I only know him by
19 the name (Redacted).

20 Q. [14:03:49] And when approximately did you see the photographs of the
21 supposed massacre at Kobu?

22 A. [14:04:12] These things happened many years ago and I do not have a clear
23 recollection.

24 Q. [14:04:17] And you said at line 14 of page 42 yesterday that people were killed
25 with bladed weapons. Were the people who were killed with bladed weapons

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

1 buried in the mass grave, according to the information that was told you by the
2 population that was present there?

3 A. [14:04:57] The people who were killed at Kobu by the UPC militia were killed
4 with bladed weapons and it is the very bodies that were buried in the mass graves in
5 Kobu.

6 Q. [14:05:22] Were you with (Redacted) when you saw this mass grave?

7 A. [14:05:34] Yes.

8 Q. [14:05:37] And when I say "with", was she actually physically present with you
9 looking at the mass grave?

10 A. [14:05:58] The population, the inhabitants were also there at the location of the
11 mass grave. They are the ones who explained things to us, and I say "us" because
12 (Redacted)

13 (Redacted)

14 Q. [14:06:23] Do you know someone named (Redacted)?

15 A. [14:06:40] (Redacted), yes, I remember him.

16 Q. [14:06:45] And what was his association, if any, with (Redacted)?

17 A. [14:06:57] I do not know much about that -- or, anything about that.

18 Q. [14:07:09] And (Redacted), would it be fair to say, (Redacted)

19 (Redacted)

20 (Redacted)

21 A. [14:07:50] (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [14:08:34] Is it correct that you went to meetings with other people that were

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

1 organised by (Redacted)?

2 A. [14:08:50] (Redacted)? Is that your question?

3 Q. [14:08:55] Correct.

4 A. [14:08:57] I have no such recollection.

5 Q. [14:09:01] Did you ever attend meetings with (Redacted) that had
6 anything to do with (Redacted)?

7 A. [14:09:15] What I have said is that there could have been a meeting with
8 (Redacted)
9 (Redacted)

10 PRESIDING JUDGE FREMR: [14:09:43] Mr Gosnell, a gentle reminder you have
11 last five minutes.

12 MR GOSNELL: [14:09:48] I've been receiving gentle reminders here on this side of
13 the screen as well, so I thank you for that though, Mr President.

14 Q. [14:09:58] Mr Witness, I just have one last set of questions for you and it
15 concerns again the (Redacted), so if we can go back now please to
16 DRC-OTP-0065-0003 and you told us earlier that indeed (Redacted)
17 (Redacted)

18 Do you confirm having said that earlier today?

19 A. [14:10:44] A few excerpts yes, relating for example to the letters between the
20 Lendus and Commander Salumu of the UPC.

21 Q. [14:10:54] Now let's go down to the bottom of this page. And this is the
22 initiating invitation by Mr Salumu, according to this document. This particular
23 document, or these words at least, (Redacted). Can you
24 tell us from where (Redacted)
25 (Redacted) as being the initial invitation from Mr Salumu?

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Private Session)

ICC-01/04-02/06

1 A. [14:11:45] If the content of this letter doesn't appear in (Redacted), well, I
2 cannot immediately recall (Redacted).

3 Q. [14:12:05] Thank you very much, Mr Witness.

4 MR GOSNELL: [14:12:07] Mr President, I have no further questions.

5 PRESIDING JUDGE FREMR: [14:12:10] All right. Now I'm repeating myself,
6 Ms Samson, any need for re-direct?

7 MS SAMSON: [14:12:16] No. Thank you, your Honour.

8 PRESIDING JUDGE FREMR: [14:12:19] Fine.

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

10 (Open session at 2.12 p.m.)

11 PRESIDING JUDGE FREMR: [14:12:49] Mr Gosnell.

12 THE COURT OFFICER: [14:12:51] We're in open session, Mr President.

13 PRESIDING JUDGE FREMR: [14:12:54] Mr Gosnell.

14 MR GOSNELL: [14:12:55] Mr President, there's the housekeeping matter
15 concerning the excerpts of the videos showed yesterday. We did send an email to
16 the Prosecution with the excerpts. We don't yet have a response. I could read them
17 out.

18 MS SAMSON: [14:13:06] We have no objection, your Honour, to the admission of
19 those excerpts.

20 PRESIDING JUDGE FREMR: [14:13:10] All right then, so I think we can just refer
21 to your yesterday's submissions, so those video excerpts yesterday specified by
22 Mr Gosnell are admitted into evidence as a further Defence exhibits.

23 MR GOSNELL: [14:13:23] Perhaps for the assistance of the Registry we'll provide a
24 hard copy of the email --

25 PRESIDING JUDGE FREMR: Court officer.

Trial Hearing
WITNESS: DRC-OTP-P-0127

(Open Session)

ICC-01/04-02/06

1 MR GOSNELL: -- which may make it easier for --

2 PRESIDING JUDGE FREMR: [14:13:32] Okay. Appreciate it. Thank you,

3 Mr Gosnell.

4 And now, Mr Witness, I would like to thank you on behalf of this Chamber because

5 we appreciate that you made such a long journey and that you patiently testified to

6 many questions put to you by counsel. So thank you very much for that. And we

7 believe that your testimony will assist us in our effort to find the truth in this case.

8 So we thank you and we wish you safe journey home.

9 And now, please, court usher, you may guide Mr Witness out of the courtroom.

10 (The witness is excused)

11 PRESIDING JUDGE FREMR: [14:14:35] And before we continue with the next

12 witness, we will give you chance to make changes if necessary. Do you think that

13 five minutes, which is required also by the Registry, would be enough for you to

14 make those changes, Prosecution?

15 MS SAMSON: [14:14:51] It should be, your Honour. If we could have 10 minutes

16 it may be better. And it allows me also to make a further submission about the

17 schedule for this week.

18 We will of course commence 245 immediately and continue with his testimony

19 presumably into tomorrow. As we've already indicated P-939 must testify Thursday

20 and Friday. So the question was if we have any extra time tomorrow, do we start

21 Witness P-668 and interrupt that testimony? But we've received an indication from

22 the Registry that the video link won't be ready until Friday. So I wanted to give that

23 information to the Chamber.

24 PRESIDING JUDGE FREMR: [14:15:36] Yes. Thank you for that. Our idea

25 would be ideally to start with the second witness also in the afternoon and maybe we

1 also had in mind possibility not to then to interrupt and wait until the end of this
2 testimony of the expert witness, or maybe combine both of them, at least allow this
3 video witness for example to testify two hours a day and then give chance to the
4 expert witness, but we will update you clearly tomorrow.

5 So now we break for 10 minutes.

6 THE COURT USHER: [14:16:18] All rise.

7 (Recess taken at 2.16 p.m.)

8 (Upon resuming in open session 2.27 p.m.)

9 THE COURT USHER: [14:27:57] All rise.

10 Please be seated.

11 PRESIDING JUDGE FREMR: [14:28:17] Since I see some obvious changes in
12 appearances I will ask you for an update. Prosecution first.

13 MS SOLANO: [14:28:26] Good afternoon, your Honours. The Prosecution is
14 currently represented by Ms Nicole Samson, senior trial lawyer; Kristy Sim, assistant
15 trial lawyer; Selam Yirgou, case manager; and I am Julieta Solano, trial lawyer.

16 PRESIDING JUDGE FREMR: [14:28:45] Thank you, Ms Solano.

17 Defence please.

18 MR BOURGON: [14:28:48] (Interpretation) Good afternoon, your Honour, your
19 Honours and to all those present in the courtroom. I'm representing
20 Bosco Ntaganda, who is absent, with the permission of the Chamber this afternoon.
21 Mademoiselle Margaux Portier; Mr Jules Guillaumé; and myself, Stéphane Bourgon.
22 Thank you, your Honour.

23 PRESIDING JUDGE FREMR: [14:29:10] And as concerns Legal Representatives I
24 note that there are no changes.

25 We are also told that Mr Bourgon would like address the Chamber. Is it the case,

Trial Hearing

(Open Session)

ICC-01/04-02/06

1 Mr Bourgon?

2 MR BOURGON: [14:29:24] Indeed, Mr President, I would like to address the
3 Chamber.

4 PRESIDING JUDGE FREMR: [14:29:28] So please, and briefly if you can.

5 MR BOURGON: [14:29:29] Thank you, Mr President. There are two quick issues
6 I wish to briefly address the Chamber on. One relates to the return date of
7 Mr Ntaganda. This was brought to my attention this morning. We're not sure
8 whether the document we filed included the 29th of --

9 PRESIDING JUDGE FREMR: [14:29:54] Mr Bourgon, I can cut you and clarify it
10 was included. So you can -- Mr Ntaganda is expected to come on Friday.

11 MR BOURGON: [14:30:03] He will be there. First issue solved, Mr President.
12 Thank you.

13 Second issue has to do with the way in which the preparation session was conducted
14 with the witness about to testify. I wish to bring your attention, Mr President, that
15 we received a list of items to be used or expected to be used by the Prosecution with
16 Witness P-0245 on Friday.

17 This, of course, included, in accordance with the decisions issued by the Chamber, a
18 number of documents that the witness had not seen before, but we were informed
19 that they would show him some documents. So that was not a problem.

20 However, we received the preparation session disclosure log, log or disclosure note
21 I believe it's called, yesterday afternoon, that is on 26 September.

22 When we looked at the preparation note, we learned for the first time that a number
23 of documents were shown to the witness during the preparation session and these
24 documents were not on the list that we received on Friday. And the problem with
25 this is twofold: First of all is the number of such documents. There were -- 26

1 documents were shown to the witness, which we were not informed of before.

2 These are, to the best of our knowledge, all documents that were disclosed previously,
3 it's just that we learned of the fact that these documents were shown to the witness
4 yesterday afternoon. We're talking about 26 documents and which come out to
5 some 490-some pages.

6 So that's the first issue.

7 The second issue, Mr President, is I would like to seek guidance from the Chamber.

8 We believe that the manner in which these documents were used with the witness
9 during the preparation session does not fulfil the requirements of the supplementary
10 decision on the conduct of proceedings.

11 The Chamber did confirm that the Prosecution could show to a witness a document
12 not on the list in order for him to ascertain whether he is in the position to testify or to
13 provide evidence on such a document. That is -- the Chamber's order is very clear.

14 However, the manner in which this was done we believe does not -- is not
15 appropriate. All the documents were placed into a binder, and my colleague can
16 correct me if that's not the case, but this is our understanding, all the documents were
17 placed into a binder and given to the witness for him to familiarise with the
18 documents. Of course the witness commented during questioning by the
19 Prosecution that many of these documents he was not aware or had limited
20 knowledge thereof. But the issue is we give to the witness documents and we put
21 him in a room for hours and hours to look at documents he is not familiar with and of
22 course these documents are likely to have a bearing on the testimony that he will
23 deliver before the Chamber.

24 Mr President, we feel that if the Prosecution is going to show a document never seen
25 by the witness during the preparation session, it should go document by document,

1 show the document, find out whether the document -- the witness is familiar with the
2 document or can offer evidence. If so, look at the document and maybe ask a few
3 questions. But to give the document and especially a number of documents in this
4 way is simply trying to basically give information to the witness so that he gets a
5 background to his testimony, and we feel that this is very likely to influence the
6 evidence he will deliver.

7 So at this point in time we are asking the Chamber to clarify the matter in terms of
8 whether this is an appropriate procedure and it is our submission that it is not an
9 appropriate procedure to be used when preparing a witness. Thank you,

10 Mr President.

11 PRESIDING JUDGE FREMR: [14:34:56] Thank you, Mr Bourgon.

12 Ms Solano.

13 MS SOLANO: [14:34:58] Your Honour, as to the number of documents and the fact
14 that, according to my counterpart's calculation, they add up to about 490 pages, what
15 I can say is that of course the Defence, like the Prosecution, are able to run electronic
16 searches through these documents to determine where the witness is mentioned, and
17 for the bulk of these material what such searches will reveal is that, you know,
18 perhaps at times there are long documents where the witness is mentioned once or
19 maybe twice so it's not particularly time consuming to review them.

20 In relation to the manner, we are of course open to your Honour's guidance as to how
21 the documents should be -- the potential exhibits should be shown to the witness
22 during witness prep. I note of course that for Prosecution lawyers to be present in
23 the room and show document by document to the witness is -- would prove to be an
24 extremely time-consuming task. It would consume a lot of resources, not only from
25 the lawyers in the team, but also from the interpreters when interpreters do need to

1 be ready. Witnesses read at their own pace and it's a little difficult to expect that the
2 Prosecution is there throughout.

3 If the Defence have a concrete problem with any of the documents that were shown in
4 this manner with this particular witness, I'm sure they will point it out in due course,
5 but for now I don't really see that there's any harm done.

6 PRESIDING JUDGE FREMR: [14:36:35] So at the moment I am not sure that is
7 clarification. First of all, I would like just to quote from para 11 of our supplemental
8 decision on matters related to the conduct of proceedings, which says:

9 "Potential exhibits may be shown to a witness during preparation regardless of
10 whether or not the witness has previously seen such materials to ascertain whether
11 the witness can usefully comment on them during testimony. However, the
12 Chamber emphasises that the scope of any questioning conducted in relation to the
13 materials must be narrowly tailored to the purpose."

14 It's true that we are not specifically dealing with the issue presented by Mr Bourgon,
15 but in my view in my interpretation the purpose behind this part of the protocol is
16 clear that those documents should be shown just to verify whether witness has some
17 knowledge that could be relevant for his testimony but not to give him chance to get
18 such knowledge through reading those materials.

19 So at the moment I can't go further because then probably we will have to evaluate
20 any objection on a case-by-case basis because it's possible that in a case of some
21 documents even such approach could be appropriate, but I also can imagine good
22 examples of cases when such approach would be really harmful and would mean
23 prejudice to the non-calling party.

24 So we will see as soon as we will get objection on that, we will decide, as I said, with
25 the knowledge of the concrete document involved.

1 So now before we invite our next witness, some usual introductory remark.

2 So the Chamber yesterday granted in-court protective measures for Witness P-245 in
3 the form of face and voice distortion and the use of a pseudonym. As per our usual
4 practice, any objections to use of material with this witness will be addressed if and
5 when they arise throughout the course of the examination.

6 With regard, however, to the Defence objections that no material relationships exist
7 between the witness and certain of the items the Prosecution intends to use the
8 Chamber recalls that documents may be shown to a witness whose testimony has a
9 connection with that item in order to have the witness comment on it. The Chamber
10 will therefore assess on a case-by-case basis whether the Prosecution has sufficiently
11 established relationship between the item concerned and the witness or his testimony
12 before allowing the Prosecution to use the item with the witness.

13 In terms of timing, the Chamber indicated last week that the examination-in-chief for
14 this witness is to be completed within three hours and that the Defence will have
15 equal time.

16 That's it and now we can turn to the scheduled testimony.

17 Mr Bourgon.

18 MR BOURGON: [14:40:17] Thank you, Mr President. Just to bring to the
19 Chamber's attention, we do maintain our objections on the list that we provided to the
20 Chamber, other than for four documents which we found out later that had been
21 provided to the Prosecution by the witness. So when we said there was no material
22 relationship, for four documents and these are items number -- there are four such
23 documents. But if the issue comes up, Mr President, we'll brief the Chamber, but I
24 wish to clarify that on four occasions a document was given to the Prosecution by the
25 witness, which of course changes our approach. Thank you.

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Open Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [14:40:59] Very well.

2 So now, please, court usher, bring Mr Witness into the courtroom.

3 And just mainly for Ms Solano because our schedule today is a bit different, so Ms

4 Solano, we will have to break at 3 o'clock this session.

5 (The witness enters the courtroom)

6 PRESIDING JUDGE FREMR: [14:42:11] Good afternoon, Mr Witness. Can you

7 hear me?

8 WITNESS: DRC-OTP-P-0245

9 (The witness speaks French)

10 THE WITNESS: [14:42:21] (Interpretation) I can hear you very well. Thank you,

11 your Honour.

12 PRESIDING JUDGE FREMR: [14:42:24] Good. In that case, Mr Witness, on behalf

13 of this Chamber I would like to welcome you to the courtroom.

14 Mr Witness, you are called to testify in the case against Mr Bosco Ntaganda and you

15 will be soon asked questions both by the Judges and lawyers in the courtroom. In

16 this connection I would like to guide you as follows:

17 Please listen carefully to those questions. If you do not understand, feel free to ask

18 for the question to be repeated. We want you to tell the truth and tell us what you

19 saw, heard and sensed yourself. If you didn't see or hear it yourself but you found

20 out some other way, then you should explain how. Please testify just on that which

21 you remember. Don't guess, don't make things up. There is nothing wrong in

22 saying "I don't know" or "I don't remember." Do you understand all this,

23 Mr Witness?

24 THE WITNESS: [14:43:34] (Interpretation) Yes, I've understood perfectly well.

25 Thank you.

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Open Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [14:43:39] Good. Mr Witness, protective measures
2 are put in place to ensure that your identity is not revealed to the public. It means
3 that the public cannot see your face and that your voice is being disguised so that the
4 public cannot recognize it. We will refer you only as "Mr Witness" and ensure that
5 your name and any other information that risks revealing who you are is not
6 broadcast to the public. Therefore, whenever you need to describe anything that
7 might reveal your identity we will do so in private session so that no one outside the
8 courtroom can hear your answer. Do you understand, Mr Witness?

9 THE WITNESS: [14:44:32] (Interpretation) Yes, I do, your Honour.

10 PRESIDING JUDGE FREMR: [14:44:34] Fine. Now, Mr Witness, you will be
11 provided with piece of paper with the solemn undertaking. So please now make
12 your solemn undertaking to tell the truth by reading out the declaration you have in
13 your hand.

14 THE WITNESS: [14:45:01] (Interpretation) Thank you. I solemnly declare that I
15 will tell the truth, the whole truth and nothing but the truth.

16 PRESIDING JUDGE FREMR: [14:45:10] Thank you, Mr Witness. It means that
17 now you are under oath and you also need to be aware that it's an offence within the
18 jurisdiction of this Court to give false testimony. Do you understand that?

19 THE WITNESS: [14:45:32] (Interpretation) Yes, I've understand.

20 THE INTERPRETER: [14:45:35] Your Honour, would you be so kind as to ask the
21 witness to speak a bit louder and closer to the microphone perhaps.

22 THE WITNESS: [14:45:46] (Interpretation) Yes, I did understand, your Honour.

23 PRESIDING JUDGE FREMR: [14:45:50] Very well. And finally, a few practical
24 matters you should have in mind. It's important to speak into the microphone, to
25 speak clearly and to speak at a slow pace to allow the interpreters to translate

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 everything. You should only start speaking when the person asking you the
2 question has finished. So when a question is asked, please do not respond
3 immediately but wait at least 3 seconds before you give your answer because it will
4 allow us to hear and record precisely what you are saying.
5 And if you have any questions during your testimony or if you feel that you need a
6 break, do not hesitate to let us know by raising your hand and we will then give you
7 the opportunity to speak. Have you understood all that, Mr Witness?
8 THE WITNESS: [14:46:52] (Interpretation) Your Honour, yes, I've understood
9 what you've just said.

10 PRESIDING JUDGE FREMR: [14:46:55] Very well, Mr Witness. Which means
11 that we can now start with your testimony which will be first conducted by
12 Prosecution.

13 Ms Solano, do you want to start in open or in private session?

14 MS SOLANO: [14:47:10] Private session, your Honour. Thank you.

15 PRESIDING JUDGE FREMR: [14:47:14] Understandable.

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

17 (Private session at 2.47 p.m.) **(Reclassified partially in public)*

18 THE COURT OFFICER: [14:47:24] We're in private session, Mr President.

19 PRESIDING JUDGE FREMR: [14:47:38] Thank you, court officer.

20 Ms Solano, you have the floor.

21 MS SOLANO: [14:47:42] Thank you, your Honour.

22 QUESTIONED BY MS SOLANO: [14:47:44]

23 Q. [14:47:46] Good afternoon, sir. Can you hear me well?

24 A. [14:47:50] Yes, I can hear you fine. Thank you.

25 Q. [14:47:53] Please state your name.

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

- 1 A. [14:47:59] My name is (Redacted).
- 2 Q. [14:48:13] Were you born on (Redacted)?
- 3 A. [14:48:22] Yes.
- 4 Q. [14:48:24] Were you born in (Redacted)
- 5 (Redacted)?
- 6 A. [14:48:41] Yes, that's correct.
- 7 Q. [14:48:43] What is your ethnicity?
- 8 A. [14:48:54] I belong to the Lendu ethnic group.
- 9 Q. [14:49:00] What is your mother tongue?
- 10 A. [14:49:15] Well, after my birth I grew up speaking Kilendu or Bahema.
- 11 Q. [14:49:28] Do you write this language?
- 12 A. [14:49:41] No.
- 13 Q. [14:49:45] Do you speak it and understand it?
- 14 A. [14:49:53] Yes, I speak it and I understand it.
- 15 Q. [14:49:57] And can you also read it? Are you also able to read Kilendu?
- 16 A. [14:50:21] Well, I can read it but with difficulty.
- 17 Q. [14:50:29] Do you speak, read and write Swahili, French and Lingala?
- 18 A. [14:50:44] Yes, I can read Kiswahili, I speak Kiswahili. I read -- I can read
- 19 Lingala and I speak it, I speak Lingala. I can read French and write it as well.
- 20 Q. [14:51:06] Did you do your primary studies in (Redacted) and did you (Redacted)
- 21 your (Redacted) in (Redacted) *in (Redacted) territory?
- 22 A. [14:51:41] I finished primary school in (Redacted). And then I began a
- 23 secondary school in (Redacted) and I spent (Redacted) years studying there. This is
- 24 the so-called orientation cycle and (Redacted). Then I
- 25 went to a different secondary school in (Redacted), that's where I got my

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 (Redacted) in the (Redacted).

2 Q. [14:52:30] Did you (Redacted) in an institution in (Redacted)
3 territory?

4 A. [14:52:43] Yes.

5 Q. [14:52:47] Did you (Redacted) at the (Redacted)?

6 A. [14:52:57] Yes. After my secondary studies I went to (Redacted)
7 where I (Redacted)

8 Q. [14:53:21] Between (Redacted) and (Redacted) what was your occupation?

9 A. [14:53:34] I beg your pardon. Could you repeat that question?

10 Q. [14:53:41] Yes. Between (Redacted) and (Redacted) what was your occupation? Where
11 were you employed?

12 A. [14:54:01] I worked at the (Redacted), and
13 I had (Redacted)

14 (Redacted). In other words, I was (Redacted)
15 (Redacted)

16 Q. [14:54:32] And who were (Redacted)
17 (Redacted) at that time?

18 A. [14:54:55] The (Redacted) was, (Redacted)
19 (Redacted). Then in (Redacted), that is (Redacted)
20 (Redacted).

21 Q. [14:55:41] What is (Redacted), sir?

22 A. [14:55:46] (Redacted)

23 Q. [14:55:53] Did you change jobs (Redacted)?

24 A. [14:56:12] I didn't change jobs, but since there were -- there was disorder in the
25 region, it was difficult for me to work regularly (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 Q. [14:56:40] What was the disorder in the region that you've just alluded to?

3 A. [14:56:58] There was an armed conflict in the region and when the so-called rebels, as
4 they were called at the time, when they arrived in *the region, on their way to Kinshasa there
5 was disorder in the region (Redacted)

6 Q. [14:57:38] Who were these rebels, sir?

7 A. [14:57:47] Well, it was the rebellion led by the late President Laurent Kabila.

8 Q. [14:58:08] (Redacted)

9 (Redacted)

10 A. [14:58:26] (Redacted)

11 Q. [14:58:29] (Redacted)

12 (Redacted)

13 A. [14:58:45] (Redacted)

14 (Redacted)

15 Q. [14:58:58] (Redacted)

16 A. [14:59:03] (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [14:59:38] (Redacted)

20 A. [14:59:58] (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. [15:00:30] (Redacted)

24 A. [15:00:50] (Redacted)

25 MS SOLANO: [15:01:07] Your Honour, I'm watching the clock. Would your

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Open Session)

ICC-01/04-02/06

1 Honours like us to break at this point.

2 PRESIDING JUDGE FREMR: [15:01:12] Yes, I think it was our plan. So let's move
3 into open session.

4 (Open session at 3.01 p.m.)

5 THE COURT OFFICER: [15:01:29] We're in open session, Mr President.

6 PRESIDING JUDGE FREMR: [15:01:37] Thank you, court officer.

7 So we will now break and we will resume at half past 3 for our last session today.

8 THE COURT USHER: [15:01:47] All rise.

9 (Recess taken at 3.01 p.m.)

10 (Upon resuming in open session at 3.35 p.m.)

11 THE COURT USHER: [15:35:43] All rise.

12 Please be seated.

13 PRESIDING JUDGE FREMR: [15:36:11] And before we continue with our testimony,
14 I would like to return back to a submission made by Ms Samson concerning our
15 further timing.

16 Since the expert Witness P-939, his testimony is just firmly fixed to Thursday and
17 Friday, but I also understood and now I got similar information from the Registry that
18 P-668, which is a video link witness, is only ready to start on Friday.

19 Am I right, Ms Samson?

20 MS SAMSON: [15:36:56] That's also the information that we've been provided by the
21 Registry today. And Witness 939 has two days available for her testimony,
22 Thursday and Friday. However, it's unlikely that we will require two full days for
23 that testimony. We expect it is likely to conclude in about one day, but because it
24 may spill over to Friday, the preference is to start P-939 on Thursday and then start
25 P-668 on Friday morning or as soon after on Friday as -- when 668 is completed.

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [15:37:44] Point taken, but the question was -- in our
2 consideration was whether it still makes any sense to sit in extended hours tomorrow
3 because it seems that if even if you would finish by the second session, obviously
4 there would be no witness available for the third session; am I right?

5 MS SAMSON: [15:38:02] That's right. In our submission, it's unlikely that we'll
6 need to sit in extended hours tomorrow.

7 PRESIDING JUDGE FREMR: [15:38:08] All right. So we even discuss it within
8 the Chamber, so it means that we now change our schedule. And tomorrow there is
9 obviously no reason to sit in extended hours, which means that we will tomorrow sit
10 in normal regime, starting with 9.30, having classical two 90-minute sessions and
11 third two-hour session, if necessary.

12 Now we can continue with the testimony of the witness. Ms Solano, in the time you
13 had to break, you conducted testimony in the regime of private session. Do you
14 want to proceed in the same regime?

15 MS SOLANO: [15:38:58] Yes, your Honour, I'm afraid I need to.

16 PRESIDING JUDGE FREMR: [15:39:02] You don't have to be afraid, it's -- if it is in
17 the interests of the protection of the witness, there is no need to apologise.
18 So now let's move into private session.

19 (Private session at 3.39 p.m.) **(Reclassified partially in public)*

20 THE COURT OFFICER: [15:39:29] We are in private session, Mr President.

21 PRESIDING JUDGE FREMR: [15:39:31] Thank you, court officer.

22 And Ms Solano, you have the floor.

23 MS SOLANO: [15:39:35] Thank you, your Honour.

24 Q. [15:39:38] (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 A. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [15:40:31] And was there a conflict among some of these communities?

7 A. No. The conflict was essentially between the two communities, between the
8 Lendu and the Hema.

9 Q. [15:41:05] (Redacted)

10 (Redacted)

11 A. (Redacted)

12 (Redacted)

13 Q. [15:41:48] (Redacted)

14 (Redacted)

15 A. (Redacted)

16 (Redacted)

17 Q. [15:42:06] (Redacted)

18 A. (Redacted)

19 Q. [15:42:39] (Redacted)

20 (Redacted)

21 A. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [15:43:43] (Redacted) you mentioned some of the other communities that

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 were also part of the reconciliation-pacification discussions. Can you tell the
2 Chamber whether these communities were allied or perceived as being allied to either
3 the Lendu or the Hema?

4 A. Some of these communities were considered as allied to the Hema; for example,
5 Mambisa, Ndo-Okebo and the Alur as well.

6 PRESIDING JUDGE FREMR: [15:44:42] Mr Bourgon.

7 MR BOURGON: [15:44:43] Thank you, Mr President. I would appreciate my
8 colleague just provide a time frame because it's quite a long period that is covered
9 during the beginning of the conflict and what time was this, these alliances in place?
10 Thank you.

11 PRESIDING JUDGE FREMR: [15:45:02] Ms Solano.

12 MS SOLANO: [15:45:03] I can do that, your Honour, of course.

13 Q. [15:45:08] (Redacted)

14 (Redacted)

15 A. (Redacted)

16 (Redacted)

17 Q. [15:45:59] In the year 2002 and the year 2003, were these communities still allied
18 with the Hema?

19 A. Well, I don't have any precise information to give there. (Redacted)

20 (Redacted) until 2002 these

21 communities were still allied or were with the Hema.

22 Q. [15:46:41] How about the Bira, were they allied or perceived as allied to either
23 the Hema or the Lendu?

24 A. The position of the Bira community was a position of neutrality or it appeared
25 to be a position of neutrality. It's difficult to say whether they were on the Hema

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 side or on the Lendu side.

2 Q. [15:47:25] (Redacted)

3 (Redacted)

4 A. (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. [15:48:28] (Redacted)

8 A. (Redacted)

9 Q. [15:48:43] (Redacted)

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [15:49:26] You've said that the talks aimed to stop the hostilities. Were the
14 Hema and the Lendu communities at that point, were they organising fighting forces?

15 A. It's difficult to say if the two parties were organised to fight each other, one
16 against the other. Nevertheless, the villages of one community often attacked the
17 inhabitants of another village and that's how the conflict developed.

18 Q. [15:50:25] (Redacted) in 1999 (Redacted)?

19 A. (Redacted) the hostilities continued. In town there
20 was a lull in fighting, whereas in the villages people were fighting. People were
21 destroying houses, destroying farm fields. (Redacted)

22 Q. [15:51:17] What do you mean when you saw "in town"? Which town are you
23 referring to?

24 A. There was still a conflict in Fataki locality. There was also in the chef-lieu de
25 territoire in Djugu. There was also conflict in the mining region of Bambu and Kobu;

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 also in the area around the chef-lieu of Walendu-Tatsi, Masumbuko, so there was still
2 conflict in these villages.

3 Q. [15:52:31] In what exact period did the conflict -- did the conflict in Bambu and
4 Kobu take place?

5 A. I don't remember exactly what period it took place.

6 Q. [15:53:01] Was it early on, (Redacted) in 1999, (Redacted)
7 (Redacted)

8 A. The conflict had affected almost all the region, starting with the northern part of
9 the territory of Djugu. It had then gone towards the southern part of the territory.
10 In one or two months almost all the territory of Djugu was affected.

11 So in Kobu, Bambu there was already hostilities in the region.

12 Q. [15:54:11] Sir, earlier you said that while there was fighting in the villages, there
13 was calm in town. Which town do you mean?

14 A. The town of Bunia.

15 Q. [15:54:42] (Redacted)
16 (Redacted)

17 A. (Redacted). When another rebel official arrived in the region, in the district of
18 Ituri, now a province, Mr Wamba Dia Wamba, that's what he was called, he set up a
19 government to try to bring people together so that together a solution could be found
20 to the problems that the district was undergoing at the time. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 Q. [15:56:49] (Redacted)

2 A. (Redacted) in 2000.

3 Q. [15:57:14] (Redacted)

4 A. (Redacted)

5 Q. [15:57:28] (Redacted)

6 A. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. [15:58:25] Sir, and were Mr Wamba Dia Wamba's efforts to solve Ituri's
11 problems successful?

12 A. I don't think there was success because Mr Wamba Dia Wamba was called back
13 by Uganda and another person responsible for the region was sent there.

14 Q. [15:59:15] And who was that?

15 A. Before that official arrived, Mr Mbusa Nyamwisi and Mr Tibasima were in place,
16 but finally it was Mr Jean-Pierre Bemba who ended up replacing Mr Wamba Dia
17 Wamba.

18 Q. [16:00:04] (Redacted)

19 (Redacted)

20 A. (Redacted)

21 Q. [16:00:25] (Redacted)

22 A. Yes. When Mr Bemba was in charge of the region at that time he wanted to
23 bring the communities together, (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [16:01:56] (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. [16:03:21] (Redacted)

11 (Redacted)

12 A. Generally, he was talking about putting an end to the hostilities and putting
13 down war or weapons of war so that people could stop fighting and return to work
14 and to farming and to trading, as well as fishing, and in so doing, return to the life
15 that obtained before; that is communities that used to live together.

16 PRESIDING JUDGE FREMR: [16:04:19] Excuse me, Ms Solano. I would like to put
17 one or two additional questions.

18 (Redacted)

19 (Redacted)

20 THE WITNESS: [16:04:36] (Interpretation) (Redacted)

21 PRESIDING JUDGE FREMR: [16:04:39] (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 PRESIDING JUDGE FREMR: [16:05:15] Thank you, Mr Witness.

3 MS SOLANO: [16:05:22]

4 Q. Sir, is there a concept in your community, the word "notable"? Does that word
5 mean anything to you?

6 A. The word "notable," as I understood it while I was growing up, referred to
7 persons of dignity and distinction who had responsibilities. It also related to
8 persons who were involved in the management of administrative units, as well as
9 sociocultural groups. However, I believe that, over time, the concept of notable
10 seems to have lost its meaning. Someone who belongs to the community and who
11 feels that they may be able to take the floor and speak during an assembly simply
12 introduces himself quite easily as a notable.

13 Q. [16:06:59] (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [16:09:09] And were Mr Bemba's efforts to pacify, to bring the communities

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 together, successful?

2 A. I do not think so, not really, because there was still ongoing friction and in some
3 areas, attacks, in some areas of the territory. That is why his initiative was not
4 entirely successful, although it achieved something somewhat, I would say.

5 Q. [16:10:12] How long did Mr Bemba remain responsible for Ituri?

6 A. Well, I really don't quite remember.

7 Q. [16:10:36] Do you remember whom he was replaced by?

8 A. I also do not quite remember that, although I did come to understand that some
9 problems developed between him and another leader from North Kivu who had also
10 been in the region before Bemba arrived, but I do not remember clearly who replaced
11 him.

12 Q. [16:11:20] (Redacted)

13 (Redacted)

14 (Redacted)

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 PRESIDING JUDGE FREMR: [16:16:45] Hold on, Mr Witness. Mr Bourgon.
- 24 MR BOURGON: [16:16:48] Thank you, Mr President. (Redacted)
- 25 (Redacted), I would appreciate if we could get a date (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 PRESIDING JUDGE FREMR: [16:17:01] Yes, I believe it would be helpful,

3 Ms Solano.

4 MS SOLANO: [16:17:04] I will see if that's possible, your Honour.

5 Q. [16:17:07] (Redacted)

6 (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 Q. [16:18:05] (Redacted)

11 (Redacted)

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [16:19:06] (Redacted)

17 (Redacted)

18 A. (Redacted)

19 Q. [16:19:49] (Redacted) in 2001. You said that the

20 conflict restarted in town. Which town was that?

21 A. Bunia. Bunia town.

22 Q. [16:20:07] And who was fighting in this conflict?

23 A. According to information available to me at that time it was being said that the

24 Lendus from the south had attacked Ugandan soldier positions at the Bunia airport

25 and that is what led to the conflict on that day.

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 Q. [16:20:50] (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. (Redacted) members of the community who were well known

9 (Redacted), and that day was 19 January. Their homes were

10 attacked and destroyed. Some of them were even killed. (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [16:22:41] Who were the well-known members of the community who were

14 killed on that day?

15 A. I do not remember, or I'm not able to remember the names. However, I can

16 provide one name only, and it was a teacher, a female teacher of the institute

17 supérieur pédagogique, higher teaching institution, her name was Dithama, Charlotte,

18 she was killed along with other members of the family, namely, her mother, her

19 mother's sister, the children, two children of her mother's sister, and the son of her

20 elder sister, that is, the elder sister of the late Charlotte. So many people were killed,

21 but I no longer remember their names.

22 Q. [16:24:27] For the transcript, can you please repeat Charlotte's other name, her

23 family name?

24 A. Dithama, D-I-T-H-A-M-A, Dithama.

25 Q. [16:25:00] Who killed this lady and her family?

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 A. I have no details to provide in that regard, because a crowd of people had risen
2 up in the area where she used to live, and people had been killed in the area where
3 she used to live, (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted), in the evening, around 6 p.m., the youth or the
7 young people came to our area *and surrounded the house.

8 Q. [16:26:20] (Redacted)

9 THE INTERPRETER: Correction from the interpreters, to surround the house.

10 MS SOLANO: [16:26:28]

11 Q. [16:26:30] (Redacted)

12 A. (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. [16:27:21] (Redacted)

18 A. (Redacted)

19 Q. [16:27:35] (Redacted)

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [16:28:43] (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 A. Well, I believe that it was in the month of August, but I don't have the exact date.

2 However, it was in early August, around the 6th or 8 August.

3 Q. [16:29:34] Of what year?

4 A. 2002.

5 Q. [16:29:50] (Redacted)

6 (Redacted)

7 Are you familiar with an agreement reached in Sun City, South Africa, in the year

8 2002?

9 A. An agreement reached in South Africa in 2002? Well, the terms of that
10 agreement are not present in my mind. However, the Congolese politicians agreed
11 to return to the country to organise a government while waiting for the elections to be
12 organised subsequently. So the idea was to put a halt to the fighting and to form a
13 new government which, by the way, would have, I believe, five presidents, one
14 president and four vice presidents.

15 Q. [16:31:39] And do you remember whether that agreement was reached before or
16 after August 2002?

17 A. I beg your pardon, could you repeat the question?

18 Q. [16:32:06] (Redacted)

19 (Redacted) in August 2002. Did this agreement in Sun City, was it reached before
20 that or after that?

21 A. I believe the Sun City agreement took place before. The Congolese
22 representatives went to Sun City in February, I believe, (Redacted)
23 (Redacted)

24 Q. [16:33:09] Was Ituri represented in the Sun City discussions?

25 A. Well, represented? I wouldn't put it that way. I can't really say. (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. I don't really remember very well. I wouldn't like to say something that's

13 incorrect. I think the R is Rassemblement Congolais pour la Démocratie, that's the

14 RCD. The K -- K/ML, I think the K was when the party moved to Kisangani, which

15 is a city to the east. So that's when they added the letter K for Kisangani. Now, as

16 for the ML, that means Mouvement de Libération.

17 Q. [16:36:22] And at the time of the Sun City agreement, who was the leader of this
18 political party, political group?

19 A. It was Mr Mbusa Nyamwisi.

20 Q. [16:36:46] (Redacted)

21 A. (Redacted)

22 Q. [16:37:01] (Redacted)

23 A. I (Redacted)

24 Q. [16:37:19] (Redacted)

25 A. (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 Q. [16:37:55] (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted) in early August

5 2002.

6 Who was in control of Bunia before this incident took place?

7 A. Well, the person who was recognised as being in charge was the governor, it
8 was Lompondo.

9 Q. [16:39:11] And where was Mr Lompondo based in Bunia?

10 A. He was in the neighbourhood that I referred to as the residential neighbourhood,
11 (Redacted)

12 PRESIDING JUDGE FREMR: [16:39:41] Ms Solano, during this part of your
13 examination do you think there is still need to remain in private?

14 MS SOLANO: [16:39:48] Yes, your Honour.

15 PRESIDING JUDGE FREMR: [16:39:51] All right.

16 MS SOLANO: [16:40:03]

17 Q. [16:40:03] (Redacted)

18 (Redacted)

19 A. (Redacted) I was talking to people who had fled the town and who came to
20 tell me that where they lived, there was no longer any security. They had been
21 chased out. Their property had been looted. Some people had even been killed,
22 and therefore, they preferred to leave their homes, (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [16:41:07] Who were these people (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 A. Well, there were a lot of people, a few members of my own community; that is,
2 Lendus. But there were Bira people, there were Nandes and others, there were
3 many people. (Redacted)

4 (Redacted)

5 Q. [16:41:50] And in speaking with them, did you learn who had chased them?

6 A. Well, they said that they had been chased out of town by the UPC militia, with
7 the support of the UPDF; in other words, the Ugandan forces.

8 Q. [16:42:29] And you said that -- you mentioned pillage. Can you explain what
9 you meant?

10 A. Well, this means that when someone leaves his or her house and sometimes
11 even before, his property is taken by other individuals who take these things away.

12 Q. [16:43:08] In the case of the people (Redacted), did they tell you
13 who had taken their things away?

14 A. No. They were fleeing. It was difficult to identify exactly who was doing the
15 looting, who was taking their property.

16 Q. [16:43:44] And you mentioned that some people were killed. Who was killed
17 in these events?

18 A. I am not able to tell you precisely. The people (Redacted)
19 (Redacted), told us that they had seen people who had been killed from where they
20 had left.

21 Q. [16:44:26] Sir, what happened with Governor Lompondo at this time?

22 A. Around 1 o'clock in the afternoon, (Redacted)
23 (Redacted) And strangely enough -- or, rather, fortunately, an hour later we heard
24 gunshots *in the house vicinity and we were afraid and we all went home. We went
25 inside. The fighting took place

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 around the governor's residence. (Redacted)
2 (Redacted) you could hear the sounds of gunshots coming from the plot of land in
3 front of the governor's residence. And he -- his men fled and he went with them at
4 some point during the afternoon, around 3 o'clock.

5 Q. [16:46:10] (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. [16:47:03] (Redacted) How did you live

12 through this incident?

13 A. (Redacted).

14 You could hear gunshots throughout the night. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

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

Page redacted – Private session

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. [16:55:14] And do you know what ethnic groups these people in front of

13 Lompondo's residence belonged to?

14 A. [16:55:26] I already said, there were people from various different communities.

15 There were Biras, there were Lendus, there were Alurs, there were Nandes, and there

16 were people from other communities who are not from Ituri but who felt that they

17 were not safe in town and so they fled (Redacted)

18 Q. [16:55:58] Were there any Hema there?

19 A. [16:56:04] No. No, no, it was excluded that the Hemas come that way.

20 Q. [16:56:16] And why do you say that?

21 A. [16:56:21] Because there was a coalition between the UPC, essentially Hemas,

22 and the UPDF, who organised the attack on Governor Lompondo's position. One of

23 the officers told me that morning that they preferred to be in the forefront of the

24 fighting because they knew that there were people from other communities who were

25 still near, who were still around Lompondo's residence, and that if the men of the

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 UPC were to come first, they would have massacred those people. And that's
2 why -- (Redacted), that's why they told the UPC men to stay
3 at the rear when the Ugandans decided to attack Lompondo's position, to chase them
4 out, to rout them out. So, naturally, the Hema, who were for the most part members
5 of the UPC, could not have been amongst the group of people (Redacted).

6 Q. [16:58:19] (Redacted)

7 A. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. [16:59:13] (Redacted)

12 (Redacted)

13 A. [16:59:30] (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [17:00:29] Sir, at the end of the fighting, who was in control of Bunia?

20 A. [17:00:54] There again I really cannot provide an answer because when the
21 UPDF troops succeeded to unseat the governor, Governor Lompondo, at that time the
22 UPC officials, as well as the UPDF officials, were simultaneously, so to speak, in
23 charge of the city.

24 Q. [17:01:35] And who were the leaders of the UPC at this time?

25 A. [17:01:47] I do not remember clearly who was the leader of the UPC and who

Trial Hearing
WITNESS: DRC-OTP-P-0245

(Private Session)

ICC-01/04-02/06

1 was present at that time.

2 Q. [17:02:04] Do you remember who was responsible for the UPC overall at this
3 time?

4 A. [17:02:16] The number one of the UPC was Mr Thomas Lubanga.

5 Q. [17:02:33] And who were at that time Mr Lubanga's subordinates?

6 A. [17:02:46] I do not know because I did not have much contact with them.

7 MS SOLANO: [17:02:59] Your Honour, I'm looking at the clock. I could stop here if
8 it suits the Chamber.

9 PRESIDING JUDGE FREMR: [17:03:05] Yes, we are not intending to sit in extended
10 hours today so I think it's a convenient point to break.

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

12 (Open session at 5.03 p.m.)

13 THE COURT OFFICER: [17:03:33] We are in open session, Mr President.

14 PRESIDING JUDGE FREMR: [17:03:35] Thank you, court officer. So, first update
15 on timing. Ms Solano, you so far, 1 hour 38 minutes, which means that she still has
16 at her disposal for tomorrow 1 hour 22 minutes.

17 Mr Witness, I would like to thank you for your today testimony. We will continue
18 tomorrow, 9.30. And it's also my duty to remind you that in the meantime till
19 tomorrow, you must not discuss your testimony with anybody else. Do you
20 understand that?

21 THE WITNESS: [17:04:13] (Interpretation) I have fully understood you,
22 Mr President.

23 PRESIDING JUDGE FREMR: [17:04:19] Very well, Mr Witness. If there are no
24 further requests for the floor, we will adjourn. And we will resume tomorrow, 9.30.

25 THE COURT USHER: [17:04:35] All rise.

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0245

- 1 (The hearing ends at 5.04 p.m.)
- 2 RECLASSIFICATION REPORT
- 3 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
- 4 the public reclassified and lesser redacted version of this transcript is filed in the case.