

Trial Hearing
WITNESS: DRC-OTP-P-0898

(Open Session)

ICC-01/04-02/06

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 Wednesday, 9 November 2016
8 (The hearing starts in open session at 9.32 a.m.)
9 THE COURT USHER: [9:32:56] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:33:20] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:33:37] 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: [9:33:52] Thank you, court officer.
19 Now appearances and please limit just on changes, if any.
20 Prosecution.
21 MR IVERSON: [9:34:02] Good morning, your Honours. Appearing today for the
22 Prosecution are the same persons who were present at the last session with the
23 exception of Julieta Solano.
24 PRESIDING JUDGE FREMR: [9:34:13] Thank you, Mr Iverson.
25 Defence, please.

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1 MR BOURGON: [9:34:17] (Interpretation) Good morning, your Honour. No
2 change on the side of the Defence.

3 PRESIDING JUDGE FREMR: [9:34:23] Thank you, Mr Bourgon.
4 Legal Representatives of Victims.

5 MS PELLET: [9:34:28] (Interpretation) Thank you, your Honour. No change for
6 the child soldiers.

7 MR SUPRUN: [9:34:36] (Interpretation) Good morning, your Honour, your
8 Honours. The victims of the attacks are represented by the Office of Public Counsel
9 for Victims Anne Grabowski; associate lawyer, Marine Corhay, intern; and myself,
10 Dmytro Suprun, counsel.

11 PRESIDING JUDGE FREMR: [9:34:50] Thank you, Ms Pellet. Thank you,
12 Mr Suprun.

13 Mr Witness, good morning. Are you feeling okay to testify, to finish your testimony
14 today?

15 Mr Witness, could you hear me? Anyway, I have to correct myself because I said
16 that whether you are okay, it's the first question. And I also said that whether you
17 are okay to finish your testimony today, which probably will not be the case.

18 So now, Mr Witness, can you hear me, first of all?

19 WITNESS: DRC-OTP-P-0898 (On former oath)
20 (The witness speaks Swahili)

21 THE WITNESS: [9:35:38] (Interpretation) Yes, I can hear you.

22 PRESIDING JUDGE FREMR: [9:35:41] And I believe you are okay to continue your
23 testimony.

24 THE WITNESS: [9:35:48] (Interpretation) Yes.

25 PRESIDING JUDGE FREMR: [9:35:49] Very well. So it's my duty to remind you

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1 that you are still under oath, which means that you have to speak truth and nothing
2 but the truth. Do you understand?

3 THE WITNESS: [9:36:05] (Interpretation) Yes, I understand.

4 PRESIDING JUDGE FREMR: [9:36:08] Very well. Which means that we will now
5 hand floor over to Mr Iverson.

6 Mr Iverson, you still have almost two hours remaining from time allotted to you.

7 Please proceed. And do you want to proceed in open or in private session?

8 MR IVERSON: [9:36:26] I would ask that we proceed in private session,
9 Mr President.

10 PRESIDING JUDGE FREMR: [9:36:31] All right.

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

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

13 THE COURT OFFICER: [9:36:43] We're in private session, Mr President.

14 PRESIDING JUDGE FREMR: [9:36:48] Thank you, court officer.

15 Mr Iverson, please proceed.

16 MR IVERSON: [9:36:55] Thank you, Mr President.

17 QUESTIONED BY MR IVERSON: (Continuing)

18 Q. [9:37:03] Good morning, sir. How are you doing this morning?

19 A. [9:37:06] I'm very well.

20 Q. [9:37:07] So I'd like to pick up where we left off yesterday afternoon. The last
21 answer that you gave yesterday afternoon, there was a name you mentioned and it's
22 unclear in the transcript, so I'd like to ask you about that first.

23 So I had asked you a question, and this is on page 97, lines 18 to page 98, line 5, and

24 I'd asked you about the training that you underwent at Mandro training camp and I

25 asked you what time you would wake up in the morning or be awoken, and you said:

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1 "We were woken up between 3 or 4 a.m. for jogging and thereafter we would sing ...
2 Morale, whose name was," and it's unclear, "then we would sing and proceed to the
3 training. We often started with push-ups and then other exercises, and then we
4 would be taught how to march and how to salute the officers. And then the
5 exercises would change gradually, depending on how long one had been at the
6 centre."

7 Who was that that you mentioned? You mentioned a name. Do you recall?

8 (Redacted)

9 Q. [9:39:05] All right. Thank you, for that clarification, sir. Then I also have a
10 question related to your testimony yesterday on page --

11 PRESIDING JUDGE FREMR: [9:39:13] Sorry, Mr Iverson. I see Mr Bourgon on
12 his feet.

13 Mr Bourgon.

14 MR BOURGON: [9:39:18] Thank you, Mr President. I thank my colleague for
15 making this correction, or at least this clarification on the transcript, but the reason I
16 went to see my colleague this morning about this correction is that on this side we
17 heard the name Saikpa mentioned in this response when talking about the training
18 camp in Mandro. I'd like to verify with the witness whether he did mention the
19 name Saikpa. It was not captured in the transcript.

20 PRESIDING JUDGE FREMR: [9:39:51] Mr Iverson, this time will not be counted on
21 your account, so please clarify.

22 MR IVERSON: [9:39:58] All right.

23 Q. [9:40:00] So did you mention the name Saikpa in that answer yesterday, or
24 (Redacted) as you just clarified?

25 A. [9:40:17] I didn't say the name of Saikpa yesterday. Perhaps you

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1 misunderstood me.

2 Q. [9:40:30] All right. Thank you. I believe that clarifies the question. Thank
3 you.

4 And yesterday at page 73, lines 10 to 21 you had mentioned seeing Mr Ntaganda and
5 his bodyguards. So I would ask you could you describe for the Chamber his
6 bodyguards that you saw.

7 A. [9:41:02] At that time when they arrived in Mandro, is that it?

8 Q. [9:41:08] Yes, I believe the occasion that you were referring to was in Mandro.
9 Could you describe the -- Bosco Ntaganda's bodyguards when you saw them in
10 Mandro.

11 A. [9:41:35] Yes. When he moved around, he was accompanied by bodyguards.
12 There were 12 of them, a section. Among the bodyguards, as I said, (Redacted)
13 (Redacted) There was also a kadogo called (Redacted) he
14 was also with him. There was another one called (Redacted)

15 Q. [9:42:27] What were the ages of the bodyguards, if you know?

16 A. [9:42:45] Some of them were older than me, but (Redacted) the kadogo, and
17 (Redacted) I think that they were my age.

18 Q. [9:43:10] And --

19 PRESIDING JUDGE FREMR: [9:43:14] Mr Bourgon.

20 MR BOURGON: [9:43:16] Thank you, Mr President. I did get the names of
21 (Redacted) but the first one I think I heard (Redacted) but I don't have
22 the spelling of that name, please, Mr President.

23 PRESIDING JUDGE FREMR: [9:43:32] Mr Iverson, please.

24 MR IVERSON: [9:43:39]

25 Q. [9:43:40] All right. Could I ask you to spell (Redacted) And I think

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1 we can spell (Redacted) but if I could have you just spell the names that you
2 had mentioned.

3 A. [9:43:53] Very well. (Redacted)
4 (Redacted)

5 Q. [9:44:32] And how did you know that (Redacted) were around the
6 same age as you?

7 A. [9:45:00] Yes, that was because of their size.

8 Q. [9:45:10] And is there anything else that you knew about these two people,
9 (Redacted)

10 A. [9:45:32] Yes, they followed the training before us, they were already soldiers.

11 Q. [9:45:40] Do you know their full names?

12 A. [9:45:59] What names would you like to know?

13 Q. [9:46:01] Sorry, did you know the full names of (Redacted)

14 A. [9:46:24] I only knew the name of (Redacted) but I didn't know the family name.
15 Where it concerns (Redacted) I only knew the name of (Redacted) the first name.

16 Q. [9:46:36] And did you know where either (Redacted) was from, what
17 region or village they hailed from?

18 A. [9:46:57] I just knew that they were from the Gegere ethnic group.

19 Q. [9:47:07] At Mandro could you spell the Chamber whether you had any
20 training involving weapons, military weapons?

21 A. [9:47:34] Yes.

22 Q. [9:47:35] And what training was that, could you describe the training with
23 military weapons you received?

24 A. [9:47:49] Yes. We were taught how to use SMGs. After that, we were taught
25 how to fire at a target. We were also taught combat tactics in the bush.

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1 Q. [9:48:22] And could you describe what combat tactics in the bush you were
2 taught?

3 A. [9:48:56] They taught us in these tactics how to behave during battle when you
4 were at the front, how you should conduct yourself, how to follow the orders that are
5 given by commanders. If, for example, he says you must advance, you should do
6 that. If you say that you have to stay there or you have to go on your knees, these
7 sorts of things.

8 Q. [9:49:31] And could I ask you to tell the Chamber whether you were aware of
9 any recruit at Mandro trying to escape or trying to desert the training?

10 A. [9:50:07] Yes. There were recruits, they weren't able to follow the instruction,
11 and they were called deserters. There were some who deserted, and when they were
12 caught in the villages, they were returned to the centre. It was said that they had
13 eaten rations and they couldn't desert the service.

14 Q. [9:50:42] And what consequence, if any, did these deserters suffer?

15 A. [9:51:09] They were flogged. If, for example, you were caught in a village
16 and people saw that you were a deserter, then you were going to be flogged. There
17 was even a young man of my age called (Redacted) he had been caught and when he
18 was taken, he was whipped. When a deserter was caught, he would be whipped.

19 Q. [9:51:48] Could I ask you to spell that name that you just mentioned,
20 (Redacted)

21 A. [9:52:01] (Redacted)

22 Q. [9:52:37] And do you recall what, if any, role did the accused in this case have,
23 Bosco Ntaganda, in dealing with desertion?

24 A. [9:53:13] In the beginning what I learnt, before we arrived in Mandro, it was
25 the same person who gave the training to -- there was training given to the recruits

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1 preceding us, but then he came, as I said. He would come just to visit, and during
2 the visit, (Redacted)

3 Q. [9:53:53] And do you know whether he had any other role in dealing with the
4 issue of desertion within the UPC?

5 A. [9:54:18] In that regard I don't know what to tell you. He was a high-ranking
6 officer. However, there were soldiers that were sent to the schools to go and get
7 recruits who had deserted the military service. These soldiers said that they had
8 permission from Bosco to carry out such searches. These soldiers went to different
9 schools in order to find deserters. One of them was called (Redacted)
10 (Redacted) and there was another one called (Redacted) a young man, and we used to
11 (Redacted)

12 Q. [9:55:38] After you completed training at Mandro training camp, could you tell
13 the Chamber whether you were personally involved in any combat operations or
14 attacks or battles?

15 A. [9:56:03] Yes.

16 Q. [9:56:04] And could I just have you list the place names, the locations, the
17 towns, villages or cities where those battles or attacks took place?

18 A. [9:56:24] Yes. When we finished our training, there were problems on the
19 Bunia-Komanda road, there were troubles there. The enemy would come via that
20 and our group was sent there in order to provide support to the group that was
21 fighting on that road from Irumu to Komanda. And after that, there was another
22 operation in which I participated, the operation to re-establish supply lines with
23 Ngongo because at that time we didn't have water (Redacted)

24 (Redacted) And afterwards I
25 participated in the Mongbwalu operation.

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1 Q. [9:58:10] All right. And I'd like to ask you a number of questions about the
2 operations in Mongbwalu, but first I just want to circle back on the last question, to
3 make sure we have an exhaustive list. Were there any battles or attacks or
4 operations that you participated in?

5 A. [9:58:48] What I was telling you, I was preparing for the Bunia-Komanda road
6 operation and on that road there were lots of villages where there had been fighting
7 from time to time.

8 Q. [9:59:10] All right. I'll come back to that. But first I'd like to ask you what
9 battle or attack or operations were you involved in in Mongbwalu?

10 A. [9:59:54] Where it concerns the UPC, the movement was fighting in
11 Mongbwalu for the first time, when it fought for the second time, and then it fought
12 for the third time. In the three attacks, I took part in the first and the second attack.

13 Q. [10:00:23] All right. Well, I'd like to ask about the first and second attack in
14 Mongbwalu in sequence, so in chronological order. So what you have stated was the
15 first attack in Mongbwalu. Could you tell the Chamber when that happened or
16 approximately when that happened?

17 A. [10:00:55] Yes. The first attack took place. We entered into the town and we
18 spent two days, and afterwards the Lendu drove us out. We withdrew, and after a
19 week and a half, we attacked Mongbwalu once again, and during the second attack
20 we were victorious, and the UPC stayed longer in Mongbwalu after the second attack.

21 Q. [10:01:41] All right, and that's helpful to understand the sequence of events.
22 But could you place the first attack in time, so perhaps a month and a year, if you're
23 able to do so, approximately when did this first attack in Mongbwalu occur?

24 A. [10:02:14] I believe that this attack occurred in the month of October or the
25 month of September. I really do not have a specific date to provide you with.

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1 Q. [10:02:40] All right. So for the first attack, could you describe how the attack
2 unfolded? What happened, where were you in the -- in this attack that occurred in
3 Mongbwalu?

4 A. [10:03:14] Yes. We left Bunia and we went to -- well, we went in vehicles.

5 (Redacted)

6 (Redacted)

7 (Redacted) We went via Iga-Barrière and that is where other troops were located who
8 were also advancing towards the location of the attack. We went via Dala, Mabanga,
9 Dala and then we went through various small villages whose names I do not know.
10 And we went as far as the old Mongbwalu airport and that is where we launched the
11 attack from.

12 Q. [10:04:25] Who was the overall commander in charge of the attack?

13 A. [10:04:37] The commander heading up the attack was the same one, that was
14 Bosco who led the attack. He was wearing APC fatigues, a pair of trousers and a
15 T-shirt. And I can still see the image in my mind. He was the one who headed up
16 that operation on that day.

17 Q. [10:05:14] And just to circle back on the timing of the attack, you said October,
18 maybe September, you don't necessarily recall specifically, but do you recall what
19 year this attack occurred in?

20 A. [10:05:43] Yes. I know that it was in -- well, it was before December 2002.

21 Q. [10:05:57] All right. And in this first attack on Mongbwalu, what were your
22 orders? What were you expected to do?

23 A. [10:06:27] Yes. We went there and we heard that we were going to be
24 liberating the town, the town of Mongbwalu. And anybody that we would find
25 there would be considered as the enemy because all our relatives had already left that

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1 town. There were civilian combatants who went there en masse and their objective
2 was to return to that town in order to lead the gold panning activities. They also had
3 looting in mind.

4 Q. [10:07:23] And you say everyone there was considered to be an enemy. What
5 were you expected to do with the enemy?

6 A. [10:07:58] At that moment in time we were extremely angry when we found
7 ourselves faced with the enemy. There was nothing else to do but kill them.

8 Q. [10:08:14] And who were the -- who constituted the enemy? Who was the
9 enemy that was found in Mongbwalu that you had to kill?

10 A. [10:08:34] Well, with regard to the enemy, we had been told that the APC was
11 our enemy, and all the Lendus were our enemies and everybody who was
12 cooperating with the Lendu were our enemies.

13 Q. [10:09:16] All right. So I have an understanding of what your orders were
14 and what you were expected to do. What actually happened? Did you actually
15 execute those orders along with others in the UPC at Mongbwalu in the first attack?

16 A. [10:09:45] As I said earlier, on the occasion of the first attack we arrived and
17 we did not meet much of a resistance. It was as if the Lendu and the APC had been
18 playing tricks on us. They had made out or made us believe that they were
19 abandoning the town. And on the second day when we had set up shop, they
20 returned, they returned and fought against us and we fled.

21 Q. [10:10:28] During that first attack in Mongbwalu, did you or any other
22 member of the UPC actually engage with what you call the enemy and kill the enemy
23 as you were ordered to do?

24 A. [10:11:03] As I said, during the war nobody is able to count the number of
25 enemy that they have killed because you're being fired at and you fire at the enemy.

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1 And it is only subsequently that you see the corpses. You can't ascertain how many
2 enemies you've killed.

3 Q. [10:11:34] And are you aware of whether any non-combatants, civilians were
4 killed by the UPC in the -- in Mongbwalu during the first attack?

5 A. [10:11:59] At such a moment in time it is very difficult to ascertain whether a
6 corpse is that of a civilian or a combatant. You know, in their midst, the Lendu had
7 women and children, they were a mixed group, and it was very difficult to know
8 whether the corpses were that of combatants or civilians because the Lendus were
9 fighting with women and children in their ranks.

10 Q. [10:12:50] Okay. I'd like to now move to what you had called the second
11 attack on Mongbwalu. And again, I'd ask you to describe how that second attack
12 unfolded. You had mentioned it was -- it happened shortly after the first attack,
13 I believe it was a week and a half or so, could you describe that second attack, please.

14 A. [10:13:37] Very well. On the occasion of the second attack, on our side, we
15 had deployed a great number of troops, we had called in backup. And we went
16 along the same road towards the airport. And from the airport, we then went into
17 the countryside. And then there were explosions, explosions that we could hear
18 from the road coming from Pluto. And there was also gunfire coming from Poipo.
19 And on that day, the Lendu had tried to put up a resistance but in vain. And we
20 beat them. They left and some of our soldiers pursued them until a location called
21 Sayo, because, on the first occasion, when we had to withdraw to Sayo some of us had
22 had to pursue the enemy to Sayo. And that is in brief how the second operation on
23 Mongbwalu unfolded.

24 Q. [10:15:48] And who commanded that operation?

25 A. [10:16:04] It was old Bosco who was heading up the operations. (Redacted)

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1 (Redacted) And he was the one who was
2 heading up the operations. And on our side in the UPC that is what we were aware
3 of. But there were other people who were saying that there were other officers who
4 had also been commanding officers, such as Jérôme and Commander Salumu, but I
5 knew that the chief was Commander Bosco.

6 Q. [10:17:05] And during the second attack what were your orders? What was
7 expected of you?

8 A. [10:17:24] On that occasion we were truly determined, we wanted to beat the
9 enemy at all costs. There were other civilians who were saying that we should
10 relieve them of their possessions because these were possessions that belonged to the
11 enemy. And the civilians had been looting the kiosks and shops belonging to the
12 Nande tradespeople. And they killed other Lendu civilians. And when we came
13 up against women who were part of the Lendu population, they were also killed
14 during the looting operations and the rounding-up operations.

15 Q. [10:18:34] And who killed these Lendu women?

16 A. [10:18:45] I didn't really understand. Could you please repeat your question?

17 Q. [10:18:53] You mentioned that in the second attack on Mongbwalu that Lendu
18 women were killed during the looting operations. So I'm asking you who killed
19 these Lendu women?

20 A. [10:19:20] These were civilian combatants who were killing. They were very
21 badly organised and disorderly.

22 Q. [10:19:45] And who was, who was in charge of these civilian combatants that
23 you're referring to?

24 A. [10:20:00] Well, it was very difficult to ascertain who their leader was, because
25 I didn't know how they were organised. But the person that they followed the most

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1 was a gentleman by the name of Roy Gangi, Roy Ndim Christ. He was the
2 gentleman who at the time was coordinating the civilian combatants.

3 Q. [10:20:43] And did members of the UPC ever stop the civilian combatants from
4 doing these things?

5 A. [10:21:05] On the first, second and third days they had not been stopped, but
6 subsequently, after the arrival of the chief of general staff in Mongbwalu, I'm talking
7 here about Kisémbu, he had arrived in Mongbwalu, and after the meeting, after the
8 meeting with Bosco and the other commanders, it was subsequent to that that they
9 asked the civilians to stop the killings and they asked the civilians to stop killing and
10 looting.

11 Q. [10:21:56] And according to you, did the killing and looting then stop?

12 A. [10:22:15] I'm not in a position to know, but at the centre of Mongbwalu it had
13 been forbidden to kill. But other people went out of the centre, and they were the
14 people who knew Mongbwalu very well, (Redacted)

15 (Redacted) it was difficult to know what was going on
16 elsewhere.

17 Q. [10:22:54] And what was the ethnicity of these civilian combatants, if you
18 know?

19 A. [10:23:11] Most of them spoke Gegere.

20 Q. [10:23:25] And is that to say that they were of Gegere ethnicity?

21 A. [10:23:43] Are you talking about those combatants? Well, yes, most of them
22 were Gegere, but there were others who were Lulus.

23 Q. [10:24:10] And are you familiar with a person by the name of Commander
24 Américain?

25 A. [10:24:26] Yes, yes.

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1 Q. [10:24:28] Could you tell the Chamber was Commander Américain at
2 Mongbwalu during the second attack?

3 A. [10:24:45] Yes, the American commander was there, and there was another one,
4 Commander David who was there. And as I said, the Américain, Commander
5 Américain was there. He was the one who was in charge of the security of the town.
6 He was the one who was *coordinating Bureau number 2 --

7 THE INTERPRETER: [10:25:18] Incomprehensible.

8 MR IVERSON: [10:25:22]

9 Q. [10:25:22] I'm sorry, he was -- Commander Américain was coordinating what?
10 The interpreter didn't catch the last thing that you had stated.

11 A. [10:25:34] He was the one who was coordinating the security in the town of
12 Mongbwalu and very often he was in charge of the intelligence bureau *that we called
13 bureau number 2 whilst we were in that location.

14 MR IVERSON: [10:26:07] Mr President, I believe that we can go safely into open
15 session for many of these questions, so I would like to request to do so.

16 PRESIDING JUDGE FREMR: [10:26:17] It was just my point. All right.
17 Court officer, let's move into open session.

18 (Open session at 10.26 a.m.)

19 THE COURT OFFICER: [10:26:30] We're in open session, Mr President.

20 PRESIDING JUDGE FREMR: [10:26:36] Thank you, court officer.

21 Mr Iverson, please proceed.

22 MR IVERSON: [10:26:40]

23 Q. [10:26:43] And so did Commander Américain do anything to stop the acts of
24 the civilian combatants that you've described?

25 A. [10:27:14] Yes, because he gave the order to the military police to take away all

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1 the looted possessions, the possessions that had been looted by the civilians.

2 MR IVERSON: [10:27:41] Mr President, I would like just a moment, if I could, just
3 to co-ordinate an issue.

4 PRESIDING JUDGE FREMR: [10:27:47] All right.

5 (Counsel confers)

6 MR IVERSON: [10:28:24]

7 Q. [10:28:30] And what, if any, information did you hear or observe personally
8 about having -- pertaining to sexual violence in the second attack in Mongbwalu?

9 A. [10:28:59] Yes, on the occasion of the second attack, as I said, we had remained
10 in that location where our staff headquarters was. However, all around I had heard
11 that the civilians, especially the civilian combatants were raping women, especially
12 Lendu women or women who're cooperating with the Lendu. And if these women
13 had not managed to escape, they were being raped, especially the young girls, the
14 young Nyali girls, and there were certain places where they burnt down houses with
15 people inside them.

16 But as to actually seeing a soldier raping a woman or a girl, this I did not see
17 personally, but we did hear that rapes were taking place.

18 Q. [10:30:19] And are you aware of any UPC soldier or commander taking any of
19 these women, Lendu women or other ethnicity in the second attack on Mongbwalu as
20 what you had previously called wives? So are you aware of whether any wives,
21 so-called wives were taken by any UPC combatants?

22 A. [10:31:05] As I said, we heard such things being said, but I did not see it with
23 my very own eyes because we were told that if we did not want to be killed or injured,
24 we should not loot or take women. Personally I respected that rule to the letter.
25 However, we did hear that there were rapes taking place and that there were people

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1 taking women.

2 Q. [10:31:50] Do you remember these events as clearly now as you remembered
3 them when you gave your statement to Prosecution investigators?

4 A. [10:32:40] Yes, yes.

5 Q. [10:32:43] That is to say do you remember -- did you remember better when
6 you gave your statement to Prosecution investigators or do you remember the events
7 better now in court?

8 A. [10:33:16] You know, I'm trying to tell you what I saw with my own eyes and
9 what my friends have told me because you can be in the same place and not see
10 anything.

11 Q. [10:33:49] And that's fair and I understand that, but that's -- that's not really
12 what I'm asking. I'm asking whether you remember -- remembered the events
13 you're describing better when you spoke to Prosecution investigators when you gave
14 your statement or whether you remember better -- the events better now while you're
15 testifying in court.

16 A. [10:34:19] Yes, I'm trying to remember because these are events that happened
17 a long time ago. I'm trying to remember this and put everything in the right order.

18 Q. [10:34:48] Okay. So I just want to ask this one more time. Did you
19 accurately remember these events when you spoke to OTP investigators when you
20 gave them your statement?

21 A. [10:35:19] Yes.

22 Q. [10:35:23] And did you remember the events better when you gave your
23 statement than you remember the events now during your testimony?

24 A. [10:35:43] What, for example?

25 PRESIDING JUDGE FREMR: [10:35:56] Mr Iverson, asked and answered. He

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1 said that he's trying, trying to remember, and so I think in fact it was clear, if not
2 maybe clear as you would wish, but it was just respond to your question.

3 MR IVERSON: [10:36:13] All right, I'll move on. I do see though that the answer
4 is not responsive at all to the questions that I've been asking, but I don't know if it's a
5 misunderstanding or what the issue --

6 PRESIDING JUDGE FREMR: [10:36:27] Please, please move on.

7 MR IVERSON: [10:36:28] I'll move on.

8 Q. [10:36:36] Do you know whether there were any women, Lendu women, who
9 were taken as wives who stayed at any camps?

10 A. [10:36:57] Yes. It was said that there were women who cooperated "AS",
11 Lendu, and they were responsible for giving information and they were imprisoned,
12 yes.

13 Q. [10:37:30] So -- and I'm confused by the answer because were these Lendu
14 women prisoners or were they taken as so-called wives?

15 A. [10:38:01] Well, the idea was to put them in prison in Mongbwalu village.
16 Well, there wasn't a prison in Mongbwalu village. They were taken to a house that
17 was an apartment in Camp Goli. That's where these women were questioned.

18 Q. [10:38:46] All right. And to your knowledge, during the second attack in
19 Mongbwalu did the UPC take any other prisoners during that operation?

20 A. [10:39:10] Yes, there were prisoners who were captured and they were
21 interrogated. Yes, there were some.

22 Q. [10:39:27] And could you tell the Chamber if you know what happened with
23 these prisoners, whether they were ultimately released or otherwise?

24 A. [10:39:57] Some of them weren't freed, they were killed. Others could be
25 freed.

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1 Q. [10:40:12] And what was the ethnicity of these prisoners, if you know?

2 A. [10:40:34] Most of them were Lendu, Nyali. There were Lulu prisoners as
3 well. But in most cases the Lendu never came back. There was even a Lendu priest,
4 he didn't come back.

5 MR IVERSON: [10:41:04] Could I ask that we go briefly into private session.

6 Thank you.

7 PRESIDING JUDGE FREMR: [10:41:08] Certainly.

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

9 (Private session at 10.41 a.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: [10:41:19] We're in private session, Mr President.

11 PRESIDING JUDGE FREMR: [10:41:25] Thank you.

12 Mr Iverson, please proceed.

13 MR IVERSON: [10:41:30] Thank you, Mr President.

14 Q. [10:41:36] Could you tell the Chamber how it is you know this information
15 about the prisoners?

16 A. [10:41:52] Often I would see how people were taken to the HQ.

17 Q. [10:42:13] And why is that? Where were you physically in relation to the HQ,
18 the headquarters?

19 A. [10:42:36] As I said, the HQ was at Camp Goli, at Appartement. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. [10:43:23] And you also mentioned the Appartement. Could you explain to
24 the Chamber what those were or what that was?

25 A. [10:43:41] Appartement? Those were old houses of people who lived in

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1 Kilo-Moto. It was a neighbourhood where people who worked for the company, the
2 gold mining company, lived, Kilo-Moto. So they were apartments that belonged to
3 that Kilo-Moto company.

4 Q. [10:44:19] And these Lendu prisoners and others that you had mentioned,
5 where were they kept?

6 A. [10:44:39] They were kept in a small room at Appartement and this small room
7 was called Mabushu (phon).

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [10:45:46] And how do you know that there were prisoners who were killed?

15 A. [10:46:02] When you were from the Mulendu ethnic group, 80 percent -- there
16 was a 90 percent chance that you'd be killed. There were no lawyers.

17 Q. [10:46:28] Killed by whom?

18 A. [10:46:47] There were some of our soldiers who targeted them. Sometimes it
19 was the civilian combatants who targeted them.

20 Q. [10:47:04] All right. And I'm interested in the times when your -- what you
21 referred to as your soldiers targeted the Mulendu ethnic group. Could you tell the
22 Chamber any occasion when you personally witnessed the UPC soldiers targeting the
23 Mulendu ethnic group or individuals from that group?

24 A. [10:47:42] Yes. We heard gunfire coming from behind the camp.

25 (Redacted)

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1 (Redacted)

2 Q. [10:48:54] And what did you take that to mean, that they were shooting guns
3 and saying (Redacted)

4 A. [10:49:11] Well, (Redacted) what does that mean? That means that
5 people from the Lendu -- of the Lendu ethnicity, they are the (Redacted) There was a
6 slogan which says that (Redacted) That's to say that you had to
7 exterminate these people and that's the reason why they said that they (Redacted)

8 Q. [10:49:50] I'm sorry, could I ask you to repeat what that slogan was that you
9 mentioned?

10 A. [10:50:11] Which slogan? You said the slogan.

11 Q. [10:50:14] Well, in my English interpretation here, let me just read it back to
12 you because I'd like to clarify this.

13 THE INTERPRETER: [10:50:20] The English interpreter would like to make a
14 correction, it was in fact: (Redacted)

15 MR IVERSON: [10:50:28] All right. So I just got a new interpretation. I
16 understand that the slogan was (Redacted) Is that right?

17 A. [10:50:43] Yes.

18 Q. [10:50:45] And who would say this slogan?

19 A. [10:51:01] It was the combatants, the soldiers who had this slogan. Among
20 the Lendu it was the same thing. (Redacted)
21 (Redacted)

22 Q. [10:51:59] During the first attack you mentioned that there was looting within
23 Mongbwalu. Could you tell the Chamber whether there was any looting during the
24 second attack at Mongbwalu?

25 A. [10:52:26] Yes, there was pillaging.

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1 Q. [10:52:28] And who was pillaging in Mongbwalu during the second attack?

2 A. [10:52:40] It was the civilian combatants. Yes, the civilian combatants.

3 Q. [10:52:57] And do you recall ever seeing Bosco Ntaganda at Mongbwalu
4 during the second attack?

5 A. [10:53:12] Yes, yes.

6 Q. [10:53:15] All right. Could you explain to the Chamber when you saw
7 Bosco Ntaganda at Mongbwalu during the second attack?

8 (Redacted)

9 (Redacted)

10 (Redacted) He was in the advance team. When the chief of
11 general staff Kisembo arrived, it was Bosco who went to receive him at the airport,

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [10:55:00] And where were you when you saw Bosco Ntaganda? Could you
17 clarify that?

18 A. [10:55:17] When they went to receive the chief of general staff.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [10:56:16] And when you saw Bosco Ntaganda, did you have an opportunity

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1 to also see his bodyguards?

2 A. [10:56:32] Yes. The bodyguard I recognized was (Red.) and there was another
3 called (Redacted) Another was called -- well, I've forgotten his name, but he lived in
4 Bunia. (Redacted) Those are the bodyguards that I was able to
5 recognize. There was also (Redacted) who was behind him, they were his close
6 bodyguard.

7 Q. [10:57:18] Could I ask you to spell the name (Red.) And then the last name
8 that you mentioned, if you could state that again and spell it, please.

9 A. [10:57:40] (Redacted)

10 Q. [10:57:52] And could you explain to the Chamber whether there were any
11 what you refer to as kadogos in Bosco Ntaganda's bodyguard on this occasion?

12 A. [10:58:10] Yes. Are you speaking about Mongbwalu, or Bunia as well?

13 Q. [10:58:23] No, I'm just asking about the occasion you were describing in
14 Mongbwalu when you say you saw the bodyguards of Mr Ntaganda.

15 A. [10:58:40] Yes. There was even a kadogo called (Redacted) who was
16 behind him, and (Redacted)

17 Q. [10:58:59] Could I have you spell the name of (Redacted) please?

18 A. [10:59:05] (Redacted) was the person who
19 kept the Bosco -- Commander Bosco's cows.

20 Q. [10:59:37] And how did you know that (Red.) -- or do you know what (Red.) age
21 was?

22 A. [10:59:57] We had approximately the same age, apparently we had the same
23 age. He was a bit smaller than I was.

24 Q. [11:00:07] All right. I'll come back to that after the break.

25 MR IVERSON: [11:00:11] Mr President, I see that it's time.

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1 PRESIDING JUDGE FREMR: [11:00:15] All right. So we break now and we will
2 resume half past 11.

3 THE COURT USHER: [11:00:27] All rise.

4 (Recess taken at 11 a.m.)

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

6 THE COURT USHER: [11:31:04] All rise.

7 Please be seated.

8 PRESIDING JUDGE FREMR: [11:31:20] So we will continue directly with the rest of
9 examination-in-chief of our witness, and now I got update on timing. So, Mr Iverson,
10 you still have 36 minutes at your disposal. Please proceed.

11 MR IVERSON: [11:31:59] Thank you, Mr President. Just a slight change in
12 Prosecution composition: All persons who were present in the last session are once
13 again present, with the exception of Rens van der Werf.

14 PRESIDING JUDGE FREMR: [11:32:10] Thank you, Mr Iverson.

15 MR IVERSON: [11:32:13]

16 Q. [11:32:14] Sir, welcome back.

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

18 PRESIDING JUDGE FREMR: [11:32:27] All right. Court officer, let's move into
19 private session.

20 (Private session at 11.32 a.m.) *(Reclassified partially in public)

21 THE COURT OFFICER: [11:32:37] We're in private session, Mr President.

22 PRESIDING JUDGE FREMR: [11:32:39] Thank you, court officer.

23 Mr Iverson, the floor is yours.

24 MR IVERSON: [11:32:48]

25 Q. [11:32:48] Sir, during the attack in Mongbwalu, could you tell the Chamber

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1 whether you personally carried a weapon, whether you were armed?

2 A. [11:32:58] Yes, I did have a weapon.

3 Q. [11:33:03] And do you recall whether you fired that weapon, whether you used
4 it?

5 A. [11:33:14] Yes.

6 Q. [11:33:25] And how did you use your weapon?

7 A. [11:33:28] I would use my rifle as I always did.

8 Q. [11:33:51] And at whom or what did you fire at?

9 A. [11:34:02] We would use our rifle in order to fight the enemy and kill the enemy.

10 Q. [11:34:26] Now, more broadly speaking, not just confined to the second attack in
11 Mongbwalu but within your service in the UPC, did you have any other job or task or
12 role or function?

13 A. [11:34:47] What function are you talking about, for example?

14 Q. [11:35:09] Well, just for example, you had mentioned there are soldiers, you had
15 mentioned there are bodyguards, you had mentioned there are people who operated
16 heavy weapons, you had mentioned at least a few various functions within the UPC.
17 And asking about your own personal experience, did you fulfil any specific role or
18 function or task or job?

19 A. [11:35:38] (Redacted)

20 (Redacted) and I as a soldier, in the context of gathering information, on occasion I
21 would help with gathering information and I would accompany the commander
22 (Redacted) He would request that I serve as his escort.

23 Q. [11:36:45] And what was the name of this commander for whom you served as
24 an escort?

25 A. [11:36:54] The commander's name was (Redacted) and his call

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1 sign (Redacted)

2 Q. [11:37:20] And do you know what the call sign of Bosco Ntaganda was?

3 A. [11:37:27] We would refer to him, generally speaking, as Tango Romeo.

4 Q. [11:37:52] All right. So I'd like to go back briefly to the second attack at
5 Mongbwalu and that time period. Do you recall whether the UPC forces were ever
6 in a place called Sayo?

7 A. [11:38:19] Yes. And they pursued the enemy. They fought the enemy.

8 Q. [11:38:44] And could you tell the Chamber whether you personally were at
9 Sayo?

10 A. [11:38:52] Yes. After we had taken Sayo, there was a search operation that took
11 place, and part of the troops were due to go and take up the weapons or pick up the
12 weapons that the enemy had abandoned, and I was part of that group that went to
13 retrieve those rifles.

14 Q. [11:39:40] And could you tell the Chamber what you observed when you went
15 to Sayo to fulfil that task?

16 A. [11:39:49] Yes. I saw many corpses, and there were houses that had been burnt
17 down. Also, there was a house that looked a little bit like a church that had been
18 entirely burnt down. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 Q. [11:42:17] All right. And just briefly going back to some of your duties, you
3 had mentioned that you were an escort. You also mentioned that you would help
4 with gathering information. Could you explain what that means to the Chamber?
5 How did you gather information and what did you use the information for?

6 A. [11:42:40] You know, I met other young people who were my friends. And
7 whenever I was privy to a certain piece of information I would give that to them and
8 vice versa, and we would then give that information to our superiors.

9 Q. [11:43:23] Now, because of the limited time we have, I'm not going to go into
10 detail and ask you questions about other operations, attacks or battles that you were
11 involved in. But to the extent that you know, do you know who was in charge
12 during the operations on the what you referred to as the Bunia-Komanda road in
13 Irumu?

14 A. [11:44:13] The commanders who began to set up that front or the commander
15 was called Tchaligonza.

16 Q. [11:44:37] And are you familiar with a place name or a village by the name of
17 Songolo?

18 A. [11:44:44] Yes, Songolo is located on the Bunia road in the direction of Marabo,
19 Nyankunde and Komanda. Songolo is close to Nyankunde.

20 Q. [11:45:20] Okay. And what, if any, UPC operations or attacks or battles
21 occurred at or near Songolo, if you know?

22 A. [11:45:34] As I just said, after having taken Bunia, the UPC troops pursued the
23 enemy towards the south because most of them were fleeing in the direction of Beni.
24 These were the APC troops, because they wanted to open up the way or the road in
25 that direction. The UPC wanted for that road to be opened, and that is why they

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1 went to fight in that locality as well.

2 Q. [11:46:46] Sir, now I'd like to turn to another topic, and for that purpose I would
3 like to play a video excerpt and ask you a series of questions about that video excerpt.

4 MR IVERSON: And the ERN number is (Redacted) and that would be
5 at -- that's mentioned at tab six of the Prosecution list. And I would ask that that
6 video excerpt be played from minute mark (Redacted) and we'll pause briefly at the
7 different segments. (Redacted)

8 (Redacted)

9 PRESIDING JUDGE FREMR: [11:47:51] Please for the record always indicate the
10 time of stops.

11 MR IVERSON: [11:47:58] I'll do so. I'll be very clear about that, Mr President.

12 PRESIDING JUDGE FREMR: [11:48:04] Mr Bourgon.

13 MR BOURGON: [11:48:06] Thank you, Mr President. I understand that from what
14 my colleague is saying he would like to use the video which is (Redacted) Mr President,
15 we have not fulfilled the test adopted by the Chamber for the use of video exhibit,
16 which is that the witness must have personal knowledge of the making of the
17 recording or of its contents. I have other argument depending on what the position
18 adopted by my colleague. Thank you.

19 PRESIDING JUDGE FREMR: [11:48:34] I think it's proper comment.

20 Mr Iverson.

21 MR IVERSON: [11:48:43] Well, in order to establish the witness's connection with
22 the video, that evidence comes from the witness after seeing the images in the video,
23 so it becomes clear to the Chamber.

24 I can ask a very general question to establish very generally that the witness has a
25 connection with this video, but the specific questions about the images in the video, it

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1 will require the witness to actually see the images to provide any kind of clarity to the
2 Chamber.

3 PRESIDING JUDGE FREMR: [11:49:25] But again, I fully share view expressed by
4 Mr Bourgon that first you should prove this relationship between the video and Mr
5 Witness. So maybe for that reason just start with the excerpt that will prove the
6 conditions we set up.

7 MR IVERSON: [11:49:40] All right.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted) This

14 was the time when the UPDF troops left Bunia and the FNI troops took over control
15 of the town. General Kisémbu, who was in charge of the operation requested that
16 we take the town, which we did, and he told us, he told the kadogos that they should
17 leave the army because Save the Children had just made that request. And during
18 that week there was a surprise attack on the part of the Lendu combatants who
19 surrounded us. We had virtually got out, but then we had to remain behind in order
20 to fight the Lendu. This was opposite the headquarters of MONUC.

21 MR IVERSON: [11:52:12] All right, Mr President, I believe that that satisfies the
22 requisite foundation to show this witness the video excerpt that we would like to
23 play.

24 PRESIDING JUDGE FREMR: [11:52:22] Mr Bourgon.

25 MR BOURGON: [11:52:24] Well, Mr President, we have a context that is being

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1 established, and I know and I can believe safely say this in front of the witness that
2 this is a video that (Redacted) however, the test is the making of
3 the recording. He gives us a context and then he also gives us the fact that he
4 (Redacted)
5 (Redacted)
6 Furthermore, the events in the video are not events that he is privy to. If my
7 colleague wants to play some screenshots and ask him to identify things, we have no
8 problems with that, but we have a problem with the fact of playing a video with
9 sound, as was done during the preparation session, in order to provide information
10 and ask questions to the witness. That's our difficulty, Mr President.
11 So if my colleague wants him to identify screenshots, we have no problem. And he
12 can say it comes from such a video. (Redacted)
13 (Redacted)
14 (Redacted) and in this respect he should only be asked to identify
15 events or issues without looking at the video itself. Thank you.
16 PRESIDING JUDGE FREMR: [11:54:01] Mr Iverson.
17 MR IVERSON: [11:54:07] (Redacted) There is really no information
18 that can be gleaned from the (Redacted) by anybody without pausing on those still
19 images exactly as Defence counsel is proposing. That's what I intend to do. It's just
20 because it's a video, in order to get to the actual second where I want to pause and
21 then ask questions, it either requires that we take a screenshot, which reduces the
22 quality, or we play to the point in the video where we want to stop and then ask the
23 questions.
24 And any notion that this information in any way was meant to influence the witness
25 during preparation I take strong issue against. Defence counsel states it as if it's

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1 plain fact. That is simply not the case. And I think that will become very clear to
2 the Chamber as you see the video.

3 So I don't appreciate that coming from Defence counsel.

4 PRESIDING JUDGE FREMR: [11:55:09] All right. In my view the conditions were
5 met. Objection is overruled. You may proceed.

6 MR IVERSON: [11:55:16]

7 Q. [11:55:17] So, sir, what I would like to do now is play a portion of a video, and
8 then I'll stop and ask questions about particular images.

9 (Redacted)

10 (Redacted)

11 THE COURT OFFICER: [11:55:38] The video will be played on the evidence 2
12 channel.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. Sir, do you recognize the image in front of you?

17 A. [11:56:03] Yes.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

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6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. [12:05:54] All right. I'd like to ask you a follow-up question involving the
11 person named Roy who you said was in charge of the civilian combatants in
12 Mongbwalu. Do you recall that in today's transcript page 16, line 23?

13 A. [12:06:15] Yes.

14 Q. [12:06:20] And do you recall ever seeing this Roy with Bosco Ntaganda and/or
15 any other UPC commanders?

16 A. [12:06:30] Yes.

17 Q. [12:06:43] And in what context did you see -- or, first of all, who did you see Roy
18 with, could you specify, among the UPC commanders?

19 A. [12:06:51] Yes. I saw him on several occasions, even during the attack on
20 Mongbwalu. (Redacted) They

21 were together. There were other officers there whose names I do not recall.

22 PRESIDING JUDGE FREMR: [12:07:37] Mr Iverson, kind caveat, last five minutes.

23 MR IVERSON: [12:07:44] Thank you very much, Mr President.

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 Q. [12:08:09] And are you aware whether this Roy would participate in UPC
3 meetings, if you know?

4 A. [12:08:43] What meetings are you talking about?

5 Q. [12:08:45] Well, I'm not sure whether you would know or not, but I'm asking if
6 you are aware whether he participated in any meetings. If not, I'll move on.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 A. [12:09:38] Yes.

12 Q. [12:09:49] And do you know who this Roy was subordinate to? Who did he
13 report to, if you know?

14 A. [12:10:03] Well, when it comes to sending information, I think his immediate
15 boss was Bosco.

16 Q. [12:10:25] And what told you that, that his immediate boss was Bosco
17 Ntaganda?

18 A. [12:10:36] Well, because Bosco Ntaganda was the chief of operations. He was
19 the direct chief of all the troops during the Mongbwalu operation.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. [12:11:26] And, do you know, did this Roy have a call sign that was used to refer
24 to him?

25 A. [12:11:34] I don't remember his call sign.

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1 Q. [12:11:55] Do you recall whether this Roy had any communication devices,
2 radios or anything like that?

3 A. [12:12:06] Yes. He had a Motorola radio, and his bodyguards always had them,
4 had it on themselves.

5 Q. [12:12:31] And do you recall ever hearing any radio communications between
6 Roy and other UPC commanders?

7 A. [12:12:44] Well, he was someone I wasn't very used to, and so I think that even if
8 he spoke over the radio, I probably would not have recognized his voice. And by
9 the way, the Motorola radio was quite noisy, and it is only the person who has it in
10 hand who makes the necessary effort to decipher the messages that are transmitted
11 over the Motorola set.

12 Q. [12:13:30] All right. Thank you very much, sir.

13 MR IVERSON: I don't have any more questions but, Mr President, I would like to
14 submit those three time stamps that we viewed with the witness from exhibit

15 (Redacted)

16 (Redacted)

17 Q. Thank you very much, sir.

18 PRESIDING JUDGE FREMR: [12:14:08] Mr Bourgon, any objection?

19 MR BOURGON: [12:14:10] None, Mr President.

20 PRESIDING JUDGE FREMR: [12:14:12] So those three time stamps specified by Mr
21 Iverson, those are admitted into evidence as a further Prosecution exhibits.

22 Now let's move into open session.

23 (Open session at 12.14 p.m.)

24 THE COURT OFFICER: [12:14:44] We're in open session, Mr President.

25 PRESIDING JUDGE FREMR: [12:14:52] And my question goes now to Ms Pellet.

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1 Ms Pellet, you addressed the Chamber with your request to question this witness on
2 five topics. You specified, in my view, almost all of them have been, to some extent,
3 covered by Mr Iverson. Do you think that you will still find some questions that
4 wouldn't be repetitive?

5 MS PELLET: [12:15:23] (Interpretation) Mr President, no. Mindful of the
6 examination by Prosecutor and the answers provided by the witness, I will not be
7 needing that.

8 PRESIDING JUDGE FREMR: [12:15:40] Thank you, Ms Pellet. And I appreciate
9 your reasonable approach.

10 So now it's time for Defence to start cross-examination of the witness. Take your
11 time, Mr Bourgon. We are not in a hurry.

12 And in the meantime, Mr Witness, allow me to remind you that this Court is
13 governed by principle of fair proceedings, fair trial which, among other things, means
14 that both parties are treated equally, and that also concerns you. It means, in
15 practice, that you should respond all questions put to you by the Defence in the same
16 way how you did it as concerns questions put to you by Prosecution.

17 Do you understand?

18 THE WITNESS: [12:16:52] (Interpretation) Yes, I have understood you very well.

19 PRESIDING JUDGE FREMR: [12:17:05] All right. And we still can wait and give
20 Mr Bourgon chance to prepare himself properly for cross-examination.

21 Ms Pellet, should be blamed that she surprised you. Are you ready, Mr Bourgon?

22 MR BOURGON: (No interpretation).

23 PRESIDING JUDGE FREMR: Very well. Mr Bourgon, just for your information,
24 Mr Iverson used 5 hours 1 minute, so you are expected to make your
25 cross-examination in equal time. Please proceed.

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1 MR BOURGON: [12:18:13] Thank you, Mr President.

2 QUESTIONED BY MR BOURGON:

3 Q. [12:18:20] Good morning, sir.

4 A. [12:18:22] Good afternoon.

5 Q. [12:18:34] We did not have the opportunity to meet before, so allow me to
6 introduce myself. My name is Stéphane Bourgon, I'm a lawyer from Canada and,
7 together with my colleagues, I represent the accused in this case, Bosco Ntaganda.
8 Do you understand this?

9 A. [12:18:54] Yes, I understand.

10 Q. [12:19:06] Now, sir, it's my understanding that you have been in The Hague.

11 MR BOURGON: Well, I believe, Mr President, we should move immediately into
12 private session.

13 PRESIDING JUDGE FREMR: [12:19:17] Certainly.

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

15 (Private session at 12.19 p.m.) *(Reclassified partially in public)

16 THE COURT OFFICER: [12:19:34] We're in private session, Mr President.

17 PRESIDING JUDGE FREMR: [12:19:36] Thank you, court officer.

18 Mr Bourgon, please proceed.

19 MR BOURGON: [12:19:41] Thank you, Mr President.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 A. [12:20:27] Yes.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [12:21:51] Now, since the beginning of this case, not a single accused refused to
10 meet the Defence for a courtesy meeting just to say hello, but you did. So I'd like to
11 know why?

12 PRESIDING JUDGE FREMR: [12:22:09] Just a correction, Mr Bourgon, you said
13 single accused, you meant single witness, am I right?

14 MR BOURGON: [12:22:15] Indeed, Mr President. I see things opposite at times.

15 Q. [12:22:24] So, sir, I'll repeat my question. Not a single witness since the
16 beginning of this case refused to meet with the Defence for the courtesy meeting just
17 to say hello, but you did, and I'd like to know why.

18 A. [12:22:46] Well, because I was very tired.

19 Q. [12:22:53] So you did not ask to postpone this meeting?

20 A. [12:23:00] Well, I didn't know that it was possible for the meeting to be
21 postponed.

22 Q. [12:23:24] Now, during your examination-in-chief, Prosecution covered with
23 you a number of areas, one of which was your report cards for your years of
24 schooling (Redacted)

Do you recall

25 this, sir?

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1 A. [12:23:44] (No interpretation).

2 Q. [12:23:53] Now, what I'm interested in --

3 A. Yes.

4 Q. I'm just being reminded that we have to really take a pause before answering.

5 So I'm the guilty one. I will slow down and always count three seconds after your
6 answers. So I apologise.

7 What I'm interested in at this time are not the years you spent in (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 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [12:28:00] I will really have to slow down. I apologise. (Redacted)

10 (Redacted) you know (Redacted) the importance of telling the truth for a
11 witness; is that correct?

12 A. [12:28:34] Yes, that is correct.

13 Q. [12:28:35] And, sir, it is my understanding that you are also well aware of the
14 consequences should it be established that you did not tell the truth in your testimony;
15 is that correct?

16 A. [12:28:49] Yes.

17 Q. [12:29:03] Let's take your testimony from the top, just to clarify in general if I
18 understand correctly what I've heard during the last two days. Let's begin by the
19 year. If I understand you correctly, yesterday and today you testified about your
20 own experience during the year 2002 and 2003; is that correct?

21 A. [12:29:33] Yes, that is correct.

22 Q. [12:29:43] And based on the age or your date of birth pursuant to your
23 testimony, since you say you were born on (Redacted) it means that at the time in
24 2002 you were some 13 years old; that's your testimony, correct?

25 A. [12:30:06] I was 13 and a half years old or 14.

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1 Q. [12:30:22] Now, your testimony, to summarise, is that you joined UPC at the age
2 of 13 years old and you were first trained (Redacted) and then at the
3 Mandro training camp; is that a good summary of the initial part of your testimony?

4 A. [12:30:49] Yes.

5 Q. [12:30:59] And if I understand correctly, after the Mandro training camp, you
6 were called or you had to participate in various combat operations, and we're going
7 to get into the details of these operations later, right up until (Redacted) when you
8 decided to go back to school. That is your testimony, correct?

9 A. [12:31:29] Yes.

10 Q. [12:31:45] And at some point, having returned to school (Redacted) you again
11 joined UPC to take part in some operations; is that correct?

12 A. [12:32:01] Yes, that's correct.

13 Q. [12:32:10] And then you returned to school again?

14 A. [12:32:14] Yes.

15 Q. [12:32:17] And you obtained of course, you did obtain a passing grade for the
16 year 2002-2003 and you moved on to the next schooling next; that's correct?

17 A. [12:32:42] Yes, correct.

18 Q. [12:32:43] Now we're going to look at those issues of report cards later. For
19 now my interest is the following. It's you testified over the last two days about a
20 number of events, and my question is the following: Did you testify about what you
21 saw and learned at that time when age 13 years old, or did you testify about events
22 you learned about later?

23 A. [12:33:26] Well, as you heard me say, I said that there were some things that I
24 saw personally, and there are things that I was told about, and there are other things
25 that I came to hear about (Redacted) I think I was clear on

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1 the matter.

2 Q. [12:34:10] Well, sir, this is exactly the area I would like to explore with you, is
3 the basis for your testimony over the past two days.

4 Let's begin with your knowledge of the International Criminal Court. I understand
5 from the material that I have, which was provided to me by the Prosecution, that you
6 have a fairly good knowledge of this Court; is that correct?

7 A. [12:34:47] Well, as to whether I know the ICC better or not, what do you mean?

8 Q. [12:35:06] My understanding on what I read about you in the material is that
9 you have a good understanding of the workings of the International Criminal Court.
10 Do you agree with this?

11 A. [12:35:24] It may be that your question is not clear. That's why I asked you the
12 question as to whether I knew the ICC better or not.

13 Q. [12:35:50] Sir --

14 PRESIDING JUDGE FREMR: [12:35:58] Mr Iverson.

15 MR IVERSON: [12:36:05] And I think that the witness makes a good point, what
16 constitutes a good understanding of the inner workings of the ICC is a pretty
17 subjective question. So if Defence counsel could be asked to specify what he's
18 getting at.

19 PRESIDING JUDGE FREMR: [12:36:17] Mr Bourgon, I would agree, because what is
20 even my knowledge of the ICC is good or bad, you know. So please be more specific,
21 then he can verify what is the knowledge of Mr Witness.

22 MR BOURGON: [12:36:28] Absolutely, Mr President. Thank you very much.

23 Q. [12:36:31] Sir, how long have you known about the ICC, the existence of the ICC?
24 How long have you known?

25 A. [12:36:37] I would say that I am aware of the existence of the ICC since 2007.

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1 Q. [12:37:10] And, sir, I suggest to you that you are highly interested by the
2 proceedings before the ICC; is that correct?

3 A. [12:37:17] Well, how can I be interested in the work of the ICC?

4 Q. [12:37:49] Let's be more specific, sir. You follow the proceedings before the
5 ICC on a regular basis; is that correct?

6 PRESIDING JUDGE FREMR: [12:37:59] Mr Iverson.

7 MR IVERSON: [12:38:01] I doubt that Defence counsel has a good-faith basis for
8 asking a leading question on that. If he's asking about it he should be required to
9 ask how often he asks -- or he follows the proceedings. In all fairness to the witness,
10 I don't believe that Mr Bourgon has information about this.

11 PRESIDING JUDGE FREMR: [12:38:23] Mr Bourgon.

12 MR BOURGON: [12:38:25] One, I do have information and I will put it to the
13 witness. Second, the witness should be able to answer how frequently he looks at
14 the proceedings or he takes knowledge of what's going on before this Court.

15 PRESIDING JUDGE FREMR: [12:38:38] Objection overruled. Mr Bourgon, please
16 repeat the question.

17 MR BOURGON: [12:38:50]

18 Q. [12:38:50] Sir, how often do you watch or take knowledge of the proceedings,
19 the trials before this Court?

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [12:39:55] Thank you, sir. Let's not play games here. Are you aware of the
25 trials that take place before the ICC?

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1 A. [12:40:02] Well, it's very difficult for me to be in the know with regard to all the
2 trials ongoing before the ICC, because I do not work for the ICC.

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 (Redacted)

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1 Katanga Germain, of his first name, and Ngudjolo Mathieu, of his first name, before
2 the ICC; is that correct?

3 A. [12:44:27] That is correct.

4 Q. [12:44:41] Sir, are you aware of other trials taking place before the ICC?

5 A. [12:44:48] Any other trials before the ICC? Well, I sometimes listen to the news
6 on the radio about the ICC.

7 Q. [12:45:13] That wasn't exactly my question. Do you know of any other trials
8 going on at the ICC?

9 A. [12:45:25] Yes, on an informative basis.

10 Q. [12:45:52] Which one?

11 A. [12:45:54] The Laurent Gbagbo case, for example, and the person tried in the
12 case about the town of Timbuktu that was destroyed, and also the Bemba case. And
13 apart from that, I don't know.

14 Q. [12:46:29] Sir, how well is your knowledge or how detailed is your knowledge
15 about the Gbagbo case?

16 PRESIDING JUDGE FREMR: [12:46:48] Mr Iverson.

17 MR IVERSON: [12:46:51] I would object. The question itself is ambiguous.

18 PRESIDING JUDGE FREMR: [12:46:54] Not maybe ambiguous, but I am -- I have
19 some doubt about the relevance of this, you know, mister -- do you have some
20 specific reason for --

21 MR BOURGON: [12:47:04] I do, Mr President.

22 PRESIDING JUDGE FREMR: [12:47:06] Okay, then please proceed.

23 MR BOURGON: [12:47:07] And the witness can answer very little, much, not much.

24 Q. [12:47:13] Sir, how well is your knowledge of the Gbagbo case?

25 A. [12:47:42] I know very little about that trial.

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1 Q. [12:47:45] So would I be right in saying that you're only keeping abreast of the
2 Gbagbo trial for informative purposes; would that be correct?

3 A. [12:48:00] Yes, it is just with a view to keeping myself informed that I follow the
4 trial over the radio. It's just curiosity on my part.

5 Q. [12:48:27] Sir, do you recall discussing the Gbagbo case with the investigators
6 from the Prosecution during one of your interviews?

7 A. [12:48:34] Talking about the Gbagbo case? What do you mean? Could you
8 shed light on the matter?

9 Q. [12:49:01] Well, my first question, sir, is do you recall this and, if not, I will tell
10 you where. First I want to know if you recall this.

11 A. [12:49:10] That's why I'm asking that conversation. Discussing things with
12 them, in what context? That's why I asked you to shed light on the matter.

13 MR BOURGON: [12:49:42] If I can have on the screen, please, document (Redacted)
14 and I would like to have page (Redacted)

15 Q. Sir, while this is being displayed, I'd like you to confirm that you recall meeting
16 with the investigators from the Office of the Prosecution on (Redacted)

17 (Redacted) do you recall this, sir?

18 A. [12:50:21] Yes, I do.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 A. [12:51:01] Yes, yes, I do remember.

24 Q. [12:51:15] So you are familiar with the fact that in the Gbagbo case there was a
25 problem with information that was inadvertently disclosed during a trial; is that

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1 correct?

2 A. [12:51:29] Yes, yes.

3 Q. [12:51:42] Now, sir, you did not learn about this through the media, did you?

4 A. [12:51:46] I heard about it over the radio.

5 (Redacted)

6 Do you recall that last week during, your preparation session with the

7 Prosecution -- first of all, do you recall meeting with the Prosecution (Redacted)

8 A. [12:52:27] Yes.

9 Q. [12:52:44] Now, do you recall that when you -- the Prosecution was asking you
10 to make corrections or even for additional question, that on many different occasions
11 you said that you did not want -- that, sorry, that you wanted this information to be
12 elicited in private session as it was identifying? Do you recall saying this, sir?

13 A. [12:53:17] Yes, I do remember.

14 Q. [12:53:29] Would I be correct in saying, because I have the document before me,
15 and you actually mentioned this 19 times during your preparation session; is that a
16 fair number?

17 A. [12:53:43] Yes, I do remember.

18 Q. [12:54:00] And you recall that the lawyer you met during this preparation
19 session even had to tell you: (Redacted) we know our job and we know what has
20 to be private and what not has to be private. Do you recall something like this?

21 A. [12:54:32] Yes, I do recall.

22 Q. [12:54:33] Where did you learn the protective measure system to the point of
23 knowing what information should be elicited in private session and what should not
24 be elicited in private session? Where did you get this from?

25 A. [12:54:47] I was informed of that.

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1 Q. [12:55:19] And who informed you of this?

2 A. [12:55:24] It was somebody who was working at the Court who, (Redacted)
3 (Redacted) showed me a CD that spoke about your Court, and that was how I was
4 informed.

5 Q. [12:55:54] When did this take place, sir?

6 PRESIDING JUDGE FREMR: [12:55:57] Mr Iverson.

7 MR IVERSON: [12:56:08] I would object to the relevance of this line of questioning
8 about knowing about protective measures. It's a routine thing that witnesses are
9 informed of, so I don't see why any time should be wasted on it at all, and it's not
10 relevant.

11 PRESIDING JUDGE FREMR: [12:56:21] Mr Bourgon, do you have any explanation
12 for it? Because I also have some doubts, I have to admit.

13 MR BOURGON: [12:56:26] Yes, Mr President, it is relevant as to his level of
14 knowledge of the ICC and where he got it from. And now we have a CD that was
15 shown to him. And I'd like to know what's on the CD and who showed it to him.

16 PRESIDING JUDGE FREMR: [12:56:39] All right. Objection overruled.

17 MR BOURGON: [12:56:46]

18 Q. [12:56:47] Do you recall who showed you that CD and what was on that CD?

19 A. [12:56:52] The title of the CD was "Understanding the ICC," and I was shown
20 how people made the journey to go to the Court, how testimony is given, how the
21 witness then makes the journey home, all of those details.

22 Q. [12:57:34] Thank you, sir.

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 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [13:00:04] So I repeat my question then: Based on this information that you see,
15 how well do you know about the functioning of the Court?

16 PRESIDING JUDGE FREMR: [13:00:17] Mr Iverson.

17 MR IVERSON: [13:00:19] Again I mean this question is so general it could be
18 interpreted in any way. We would ask that the Defence actually specify what they're
19 driving at.

20 PRESIDING JUDGE FREMR: [13:00:28] Objection sustained.

21 Mr Bourgon, it's not up to the witness to evaluate his knowledge. Frankly thinking,
22 now you proved that his knowledge is obviously higher than knowledge of the
23 average witness here. So I think if -- use your aim. You can move on.

24 MR BOURGON: [13:00:46] Thank you, Mr President. I'll move on.

25 (Redacted)

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ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

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7 (Redacted)

8 (Redacted)

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10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 But, Mr Bourgon, I think we should respect the fact that we all, including you,

17 deserve a lunch break, or if you just want to put the last question, but I would like to

18 break now.

19 MR BOURGON: [13:03:45] Well, I'll put one last question with your leave,

20 Mr President.

21 PRESIDING JUDGE FREMR: [13:03:49] Fine.

22 MR BOURGON: [13:03:50]

23 Q. [13:03:50] Sir, I will quote from your statement -- no, I will keep the question for

24 after lunch because I have two different sources for the question, Mr President.

25 Thank you.

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- 1 PRESIDING JUDGE FREMR: [13:04:07] Very well.
- 2 Now let's move into open session, court officer, please.
- 3 (Open session at 1.04 p.m.)
- 4 THE COURT OFFICER: [13:04:20] We're in open session, Mr President.
- 5 PRESIDING JUDGE FREMR: [13:04:28] (Microphone not activated)
- 6 THE INTERPRETER: [13:04:32] Microphone, please, Mr President.
- 7 PRESIDING JUDGE FREMR: [13:04:36] Thank you. So we will break now. We
- 8 will resume at half past 2.
- 9 And information for public, since this witness is a protected one, he was given
- 10 guarantee that his identity will not be revealed, so that is why most of his testimony
- 11 was conducted and probably even after break will be conducted in private session.
- 12 Now we break and we will resume half past 2.
- 13 THE COURT USHER: [13:05:07] All rise.
- 14 (Recess taken at 1.05 p.m.)
- 15 (Upon resuming in open session at 2.31 p.m.)
- 16 THE COURT USHER: [14:31:41] All rise.
- 17 Please be seated.
- 18 PRESIDING JUDGE FREMR: [14:32:13] Good afternoon, everybody.
- 19 We can directly continue with cross-examination of our witness.
- 20 Mr Suprun.
- 21 MR SUPRUN: [14:32:22] (No interpretation)
- 22 THE INTERPRETER: [14:32:28] Overlapping speakers, Mr President. We didn't
- 23 hear the first part of Mr Suprun's statement.
- 24 PRESIDING JUDGE FREMR: [14:32:34] Mr Suprun, may I ask you to repeat
- 25 because there was some overlapping and it was not captured by the interpreters.

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- 1 MR SUPRUN: [14:32:42] (Interpretation) Mr President, Marine Corhay is not
2 with us this afternoon. Thank you.
- 3 PRESIDING JUDGE FREMR: [14:32:49] Thank you, Mr Suprun. Well noted.
4 Now, Mr Bourgon, you may proceed with your cross-examination. Do you want to
5 proceed in open or private session?
- 6 MR BOURGON: [14:33:00] In private session, Mr President.
- 7 PRESIDING JUDGE FREMR: [14:33:02] Certainly.
8 Court officer, let's move into private session now.
9 (Private session at 2.33 p.m.) *(Reclassified partially in public)
- 10 THE COURT OFFICER: [14:33:08] We are in private session, Mr President.
- 11 PRESIDING JUDGE FREMR: [14:33:19] Thank you, court officer.
12 Mr Bourgon, please proceed.
- 13 MR BOURGON: [14:33:24] Thank you, Mr President.
- 14 Q. [14:33:25] Welcome back, Mr Witness.
- 15 A. [14:33:32] Ndiyo.
- 16 Q. [14:33:33] I'd like to begin by --
- 17 A. [14:33:36] Thank you.
- 18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
- 22 THE INTERPRETER: [14:34:17] The first half of Mr Bourgon's statement was not
23 captured by the interpreters, Mr President.
- 24 MR BOURGON: I will read again the title. It is in French. I will wait a few
25 seconds.

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12 Q. [14:36:25] In terms of identifying the main actors who were involved in the

13 Ituri conflict, (Redacted) I would like you to confirm, you did discuss UPDF; is that

14 correct?

15 A. [14:36:52] Yes.

16 Q. [14:36:52] You also identified FNI; is that correct?

17 A. [14:37:11] Yes.

18 Q. [14:37:13] And you also identified UPC, fair enough?

19 A. [14:37:23] Yes.

20 Q. [14:37:26] Now, you also identified other actors involved in the Ituri conflict,

21 right?

22 A. [14:37:45] Yes.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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3 Q. [14:42:52] Now, other examples that you include concerning crimes that would
4 have been committed during the conflict in Ituri concern the UPC; you agree with this,
5 sir?

6 A. [14:43:18] Yes.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

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21 (Redacted)
22 (Redacted)
23 (Redacted)

24 Q. [15:08:19] Sir, on the basis of the -- (Redacted) and the
25 answers we've been provided so far, I suggest to you that your testimony about your

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1 participation in UPC operations comes from (Redacted) and information you
2 obtained from others and not from your personal experience; do you agree with me?

3 A. [15:09:04] As I stated right at the start, there are operations in which I
4 participated in the UPC and others in which I didn't participate. I think that's
5 something that I stated right at the very start. With regard to what you are asking
6 me as questions, you know that we spoke about Mongbwalu. Having been a
7 member of the -- having been in the UPC doesn't mean that you took part in all
8 operations. You also say that I wasn't a member of the UPC.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. [15:10:20] Well, sir, we will leave that to the review of the Judges in this case.

13 MR BOURGON: And I will ask, Mr President, that the (Redacted)

14 document number (Redacted) be admitted for the purposes of -- purpose of
15 impeachment.

16 PRESIDING JUDGE FREMR: [15:10:42] Mr Iverson.

17 MR IVERSON: [15:10:47] No objection to the admissibility of the document.

18 PRESIDING JUDGE FREMR: [15:10:50] So this document is admitted for the
19 purpose mentioned as a further Defence exhibit.

20 MR BOURGON: [15:11:02]

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. [15:11:56] Is the person named (Redacted) you referred to during your testimony
2 one of the persons you consulted (Redacted)
3 (Redacted)

4 A. [15:12:31] (Redacted) I didn't contact him with regard to his
5 testimony; I contacted, rather, other people.

6 Q. [15:12:55] I will make my question more precise: Did you speak to (Redacted) or
7 obtain any information from him for the purposes of (Redacted)

8 A. [15:13:24] I asked him questions about the beginning of the UPC, the way in
9 which the movement was founded. I didn't put in a lot of details as regards what he
10 told me. (Redacted)
11 (Redacted)

12 Q. [15:14:04] For the purpose of your (Redacted) did you ask any questions
13 to (Redacted) about any of the operations conducted by the UPC?

14 A. [15:14:32] Yes, I asked questions about the Lipri and the Bambu operations
15 because he participated in those operations.

16 Q. [15:14:47] Did you ask him questions about any other operations, if you recall?

17 A. [15:15:09] As regards the operations, I didn't just ask him questions, I asked
18 other people, I asked other people questions about other operations.

19 Q. [15:15:28] Well, we know that you asked other people, but I want to know if
20 you asked him, (Redacted) about other operations?

21 A. [15:15:49] Counsel, I think I answered that question.

22 Q. [15:15:57] Sir, my question was operations, you said that you did ask some
23 questions to him about, to quote your exact words, "about the beginning of the UPC,"
24 page 77, line 7, "in which the movement was founded." And later on you ask about,
25 if I get, you mentioned Lipri, but I'm looking the exact reference, and I asked you if

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1 you asked him about other operations, and that is my question.

2 A. [15:16:49] Other operations? Which operations?

3 Q. [15:16:55] Sir, my question is very clear. You mentioned Lipri. Any other
4 UPC operations in which you were or were not involved, did you ask any questions
5 to (Redacted) It's a very clear question, sir.

6 A. [15:17:23] I didn't ask questions about operations in which I participated. He
7 wasn't the only person who participated in operations, in all operations. I asked him
8 questions about the operations in which he had participated. I asked other people
9 questions similar, I asked other people similar questions. As regards (Redacted) I don't
10 have any more details to give you. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [15:18:30] Sir, the meaning of friend is very general. You -- let's take it from
15 the top. You know that (Redacted) lives in the (Redacted) right?

16 A. [15:18:46] Yes, he lives in (Redacted) And we often meet. After we were in the
17 UPC (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. [15:19:30] And when is the last time that you saw (Redacted)

22 A. [15:19:46] This year.

23 Q. [15:19:49] Be more precise. When?

24 A. [15:19:57] Recently. Well, that's why I asked whether you wanted to know if
25 it was somebody -- if I'd met him recently.

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1 Q. [15:20:21] Well, that's my question, how recent?

2 A. [15:20:33] Well, that's the reason why I ask. We're talking about in the last
3 years or a long time before that? If it's in the recent years, well, we met (Redacted)
4 (Redacted) and I participated.

5 And afterwards I continued with my life and he continued with his life.

6 Q. [15:21:18] Sir, you said "we meet often." When is the last time you met with
7 him?

8 (Redacted)

9 (Redacted)

10 Q. And when was that, sir?

11 A. One and a half months ago I would say.

12 Q. [15:22:04] And when is the last time you spoke to (Redacted)

13 A. [15:22:21] The last time that I spoke to (Redacted)

14 Q. [15:22:35] Sir, you provided the name of (Redacted) to the Prosecution; is that
15 correct?

16 A. [15:22:53] Gave them? How?

17 Q. [15:22:57] You suggested to the Prosecution to contact (Redacted) in the course of
18 their investigations; is that correct?

19 A. [15:23:15] That depends on the way in which they have investigated. I gave
20 my testimony to them, but I don't know if they contacted him thereafter.

21 Q. [15:23:38] I'll come back to this topic, sir, because based on the information I
22 have, I don't have the reference, you actually contacted (Redacted) while you were with
23 the investigators. Does that ring any bell to you, this information?

24 A. [15:24:02] Given them information? With regards to what?

25 Q. [15:24:11] Sir, did you suggest to the Prosecution to contact (Redacted) Yes or

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1 no?

2 A. [15:24:36] As I'd replied previously, the OTP has its investigative policy. You
3 should ask them the question as to whether they contacted (Redacted) or not.

4 Q. [15:24:52] Well, sir, we're not talking about the Prosecution, but I can share
5 with you that they did tell me that you gave them the name of (Redacted) and I want you
6 to confirm yes or no.

7 A. [15:25:16] I've just said the following: I spoke about (Redacted) during my
8 testimony; however, I don't know if the Prosecution team, with whom I spoke,
9 contacted (Redacted) or not.

10 Q. [15:25:42] Do you exchange any correspondence with (Redacted) sir?

11 A. [15:25:58] If I exchange correspondence? With regard to what?
12 Communicate? We send each other letters, emails?

13 Q. [15:26:16] Do you exchange emails or any electronic correspondence with
14 (Redacted)

15 A. [15:26:40] No.

16 Q. [15:26:43] Sir, you have a Facebook page, right?

17 A. [15:26:53] Yes.

18 Q. [15:26:56] And (Redacted) is one of your friends on the Facebook page, right?

19 A. [15:27:13] Yes.

20 Q. [15:27:13] So are you telling me that he's a friend on your Facebook page and
21 that you never exchange any correspondence with him?

22 A. [15:27:31] You have discovered that we are Facebook friends, so you can check
23 if we exchange messages on that platform.

24 Q. [15:27:50] We will certainly do, sir, but I'm giving you a chance to say yourself
25 what is your correspondence with (Redacted) How often and when do you write to

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1 (Redacted) in the past year?

2 A. [15:28:23] As I said, (Redacted) and I never communicated on Facebook.

3 Q. [15:28:37] Sir, according to your Facebook page, you have (Red.) friends; is that
4 correct?

5 A. [15:29:02] That's information that you're giving to me. I never paid attention
6 to the number of friends that I had. That shows me that you're following my private
7 life closely.

8 Q. [15:29:25] Do you or do you not have a very large number of Facebook
9 friends?

10 A. [15:29:44] Yes, I've got friends. I don't deny that. And to this day I've never
11 counted the number of friends I have, but I have noted that you have this information,
12 and that's why I tell you that you're well-placed because you are following my private
13 life.

14 Q. [15:30:11] And, sir, to how many of these (Red.) names or persons or Facebook
15 friends have you told that you were ever a member of the UPC?

16 A. [15:30:47] Counsel, having been a member of the UPC isn't an honour. If you
17 find somebody who says it openly, it's not an honour. That's something I've never
18 done, I've never told my friends that I was a member of the UPC, apart from those
19 who know it. I don't inform the others of the fact that I was a member of the UPC,
20 no, I've never done that.

21 Q. [15:31:21] Sir, my question is who amongst your friends can confirm to me that
22 you were ever a member of the UPC?

23 A. [15:31:43] Among my friends? Do you want me to give you the names of my
24 friends who know, who are aware of this information?

25 Q. [15:31:56] That is correct, sir.

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1 A. [15:32:10] Well, I -- I would like to know what you have referred -- are you
2 referring to my Facebook friends, or are you talking about my friends with whom I
3 grew up, or are you talking about colleagues or schoolmates? Given that you started
4 off by saying I have many friends on Facebook.

5 Q. [15:32:35] Sir, we moved on from Facebook. I'm asking you for names of
6 persons I can meet, who can confirm to me that you were a member of the UPC at any
7 given time.

8 A. [15:33:05] Okay. I can mention (Redacted) for example, (Redacted)
9 (Redacted)

10 Q. [15:33:32] Let's begin with (Redacted) (phon).

11 A. [15:33:35] Ndiyo.

12 Q. [15:33:37] What's his full name?

13 A. [15:33:45] The name is (Redacted) He has another name, a family name
14 which I do not know, but I can look that up and provide it to you at some point.

15 Q. [15:34:05] And where is he now?

16 A. [15:34:22] Do you want to know his address?

17 Q. [15:34:26] If you have it, yes.

18 A. [15:34:35] (Redacted)

19 Q. [15:34:44] And what's his full name?

20 A. [15:34:56] I have already told you that if you want me to provide you with all
21 those names and information, I can look them up, but I cannot provide them to you
22 off the cuff, that is, from memory.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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11 (Redacted)

12 Q. [15:37:27] What about your mother, sir, she knows you were a member of
13 the UPC?

14 A. [15:37:39] Yes.

15 Q. [15:37:53] Where is your mother today?

16 A. [15:37:55] Why are you asking that question?

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. [15:38:51] That's a fair beginning, but before you were here, when did you last
24 speak to your mother?

25 PRESIDING JUDGE FREMR: [15:38:59] Mr Iverson.

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1 MR IVERSON: [15:39:01] I don't know what the possible relevance or probative
2 value of such a question could be since it's very common for all of us, probably, to
3 speak to our mothers quite frequently - some of us less so, maybe - but I don't know
4 what the possible probative value of this line of questioning could be.

5 PRESIDING JUDGE FREMR: [15:39:22] Neither do I, but Mr Bourgon, I guess that
6 you have some plan behind that?

7 MR BOURGON: [15:39:29] Well, Mr President, I'm surprised by -- I'm not
8 surprised by my colleague, but I am surprised by the Chamber. (Redacted)

9 (Redacted) He is a witness that he's not supposed
10 to discuss his case with anyone, and I'd like to know when he last spoke to his mother.
11 I think it is relevant, Mr President, and it is very important for the purpose of
12 cross-examination.

13 PRESIDING JUDGE FREMR: [15:39:57] All right. Then please proceed.
14 Mister -- it is fine with me.

15 MR IVERSON: [15:40:04] I would like to object to "when was the last time you
16 spoke to your mother," if he could provide some additional information to get to the
17 point where he's trying to get because that's such a general question. About what,
18 what does it pertain to?

19 PRESIDING JUDGE FREMR: [15:40:17] Objection overruled in the light of
20 Mr Bourgon's answer.

21 So Mr Witness, please, I think it is such not a big deal. Could you remember when
22 was the last time you met your mother?

23 THE WITNESS: [15:40:37] (Interpretation) I spoke with my mother for the last
24 time (Redacted)

25 PRESIDING JUDGE FREMR: [15:40:47] Thank you, Mr Witness.

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11 (Redacted)

12 (Redacted)

13 Q. [15:42:24] Sir, is your mother aware of your dealings with the International
14 Criminal Court?

15 A. [15:42:41] I -- I do not think so.

16 Q. [15:42:46] Sir, I change to a different topic. And we go to the reason why,
17 according to your testimony, you joined the UPC. And if I understand you correctly,
18 the reason you join is (Redacted) is that correct?

19 A. [15:43:28] Yes.

20 Q. [15:43:28] If I also understand correctly, the date of this attack was on (Red.)
21 (Redacted) is that correct?

22 A. [15:44:08] What did you say?

23 Q. [15:44:11] Sir, according to the information we have and that -- from your
24 statement -- I can read it if you want but I'm trying to move along, (Redacted)

25 (Redacted)

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1 A. [15:44:42] Yes.

2 Q. [15:44:42] At the time this attack took place you (Redacted) is
3 that correct?

4 A. [15:44:56] Yes.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [15:47:18] Sir, my understanding then is that your mother fled (Redacted)

17 (Redacted) that's correct?

18 A. [15:47:47] Yes.

19 Q. [15:47:47] So my understanding is what did you do when your mother fled?

20 A. [15:48:05] Let me attempt to explain things to you. This is how they unfolded.

21 Do you want me to explain things to you.

22 Q. [15:48:31] Sir, my question is very simple, when your mother fled what did
23 you do?

24 A. [15:48:52] Okay. Yes, Counsel. I'm not saying that your question is difficult.

25 My question to you is whether you want me to give you full explanations. I'm not

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1 saying your question is difficult. Do you want me to explain everything to you or do
2 you want me to summarise what happened on that day?

3 Q. [15:49:16] What I'm interested in, sir, and I think it's quite clear, you saw your
4 mother flee (Redacted) What did you do at that very moment?

5 A. [15:49:45] Okay. My mother fled (Redacted) when trouble broke out (Redacted)
6 (Redacted)

7 (Redacted) Now, from there myself and some
8 youth we fled. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Now, we already heard you in your testimony in-chief, so I don't want to go into too
14 many details, but you did say that there was a conflict in Ituri, (Redacted)

15 and that there was the Hema were pitted against the Lendu. All this you already
16 said. Do you remember that, sir?

17 A. [15:51:07] Yes.

18 Q. [15:51:08] Now, you mentioned that the Lendus at that time were teaming up
19 with the RCD-K/ML of Mbusa. Do you remember saying that?

20 A. [15:51:27] Yes.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

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13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [16:02:32] Now, sir, at that time I suggest to you that you knew that other

17 teenagers (Redacted) were already training in Mandro. Would that be a fair

18 statement?

19 A. [16:03:02] What you say is true because at that time other youth had already

20 gone to Mandro, but those young people did not go there officially, they went there in

21 hiding in order to avoid any reprisals. It is true that some people (Redacted)

22 had already gone to Mandro and others were receiving training.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. [16:03:59] Now, Toms, would I be right in saying that those were the people
2 who were training in Mandro?

3 A. [16:04:17] Correct.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

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13 (Redacted)

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15 (Redacted)

16 (Redacted)

17 Q. [16:09:31] Yesterday, during your testimony, you mentioned that on that day
18 you spoke to the soldiers and they told you that if you wanted to become a soldier,
19 you had to train, and if you agree, you would go to a training centre and after the
20 training you would become a soldier. That's the information you got on that day?

21 A. [16:10:06] With regards to the information about my wish, you're asking about
22 information about my wish to become a soldier; is that correct?

23 Q. [16:10:21] That is correct.

24 A. [16:10:27] Before there were rumours according to which people were going to
25 the training. And as I said, this isn't something that was done officially. And it's

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1 true that on that day I wasn't the only person, by the way, who asked questions to the
2 soldiers to ask them to become a soldier. (Redacted)

3 (Redacted). That were soldiers who had come and so we asked them a
4 question to see if we could become soldiers and they told us, "If you want to become
5 soldiers, you have to be able to follow training."

6 Q. [16:11:12] Now, when you decided to go, according to you testimony, to one of
7 the training centres, you did not tell your parents (Redacted) is that
8 correct?

9 A. [16:11:40] I said nothing.

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 PRESIDING JUDGE FREMR: [16:29:13] Mr Iverson.

3 MR IVERSON: [16:29:15] I'd like to object, but I need to do so outside of the
4 presence of the witness.

5 PRESIDING JUDGE FREMR: [16:29:20] All right.

6 So court usher, please take Mr Witness out of the courtroom.

7 Mr Witness, I would like to ask you just to leave the courtroom for a -- just for a
8 minute. It will be short.

9 (The witness stands down)

10 PRESIDING JUDGE FREMR: [16:29:55] And then we will have anyway to
11 conclude.

12 Mr Iverson.

13 MR IVERSON: [16:30:03] What I understand Defence counsel to be doing is
14 putting a statement of another witness to this witness and thereby disclosing or
15 possibly disclosing someone else's cooperation. In order to do so he would first have
16 to ask for your leave and, as far as I know, he failed to do so. So, you know, those
17 issues could be covered in an entirely different way with the same effect without
18 having to resort to exposing people unnecessarily. And so I ask that Defence counsel
19 refrain from doing that and tread very carefully when he refers to other witnesses.

20 PRESIDING JUDGE FREMR: [16:30:45] Mr Bourgon.

21 MR BOURGON: [16:30:46] Mr President, I thought we went over this earlier. The
22 Trial Chamber guided the parties that there were two ways to do this: Either you
23 mention the information and you do not say that the person is a witness, or you do
24 mention that the person is a witness and you ask permission and you quote from the
25 record. But, no, the second way was something different, but what I did is not in

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1 contravention of either the order in the conduct of proceedings, or does it reveal in
2 any way that (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 PRESIDING JUDGE FREMR: [16:31:54] Yeah, Mr Iverson, because I also believe

11 that if Mr Bourgon wants to confront Mr Witness with information they

12 allegedly -- the Defence allegedly had at their disposal, he also should or may

13 use -- mention the source in order to be more specific. (Redacted)

14 (Redacted)

15 MR IVERSON: [16:32:26] No, but I don't know, your Honour, but I don't think that

16 it takes too much to figure out or raise questions in the mind of the witness and cause

17 problems. And that's what I think the ruling is intended to prevent. There is no

18 reason why the information can't be asked about or presented or inquired into

19 without mentioning the source of the information, especially considering that (Red.) will

20 be testifying, those same questions I expect Defence counsel will be asking the (Redacted)

21 So I don't see why that information has to be -- why put witnesses at risk and expose

22 them unnecessarily.

23 PRESIDING JUDGE FREMR: [16:33:07] But I'm afraid that in this context it

24 really -- the issue under cross-examination concerns (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 So I think in this case we can proceed in this manner.

5 So, but anyway, Mr Bourgon, please try to wrap up in five minutes maximum,

6 because we are over our time so we have to adjourn.

7 So we will just finish this issue and then we will adjourn.

8 Please bring Mr Witness back into the courtroom.

9 (The witness enters the courtroom)

10 PRESIDING JUDGE FREMR: [16:34:35] So, sorry for the inconvenience,

11 Mr Witness, but it was necessary for some procedural reasons.

12 Mr Bourgon, please.

13 MR BOURGON: [16:34:46] Thank you, Mr President.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

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1 (Redacted)

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7 MR BOURGON: [16:37:05] That's it, Mr President. So we can take it in the
8 morning.

9 PRESIDING JUDGE FREMR: [16:37:08] All right.

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

11 (Open session at 4.37 p.m.)

12 THE COURT OFFICER: [16:37:13] We are in open session, Mr President.

13 PRESIDING JUDGE FREMR: [16:37:30] Thank you, court officer.

14 Mr Witness, I would like to thank you because it was a pretty long day and you
15 remained, regardless of that, concentrated and you patiently responded all the
16 questions. So thank you very much for that. We will continue tomorrow 9.30.
17 And it's my duty to remind you that in the meantime you must not discuss your
18 testimony with anybody else. Do you understand?

19 All right.

20 THE WITNESS: [16:38:15] (No interpretation)

21 PRESIDING JUDGE FREMR: [16:38:18] So now, court officer, please assist
22 Mr Witness to leave the courtroom.

23 And as concerns schedule for tomorrow. So far Mr Bourgon exhausted 2 hours and
24 41 minutes, which means that he still has at his disposal 2 hours 19 minutes for
25 tomorrow. We are planning to sit in three sessions tomorrow, but examine two

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1 witnesses, so examination of this witness hopefully will be completed in two morning
2 sessions, first 9.30 till 11, and the second one 11.30 till 1 p.m. Then we will have a bit
3 longer break than usually and we are going to continue in the late afternoon from 2
4 to -- sorry, from 4 to 6 p.m. by examination of Witness P-918 via video link, if
5 everything will be ready and we hope that everything will be ready.

6 Mr Bourgon.

7 MR BOURGON: [16:39:28] Thank you, Mr President. I do intend to make an
8 application in the morning for the additional hour I had requested for
9 cross-examination. I understand the Trial Chamber's position is that, in principle,
10 the time is one for one. However, here we have a witness who claims to be a
11 13-year-old who joined the UPC and to have participated in a number of operations
12 on which he provided detailed information. And the time to elicit information in
13 examination-in-chief is much shorter where the answers are already known --

14 PRESIDING JUDGE FREMR: [16:40:12] Mr Bourgon, sorry, we are in open session.
15 So we will have to redact most part of Mr Bourgon's submission. I'm going to have
16 to move into private session for the rest of his submission.

17 (Private session at 4.40 p.m.) *(Reclassified partially in public)

18 THE COURT OFFICER: [16:40:29] We are in private session, Mr President.

19 PRESIDING JUDGE FREMR: [16:40:37] Now, you may proceed, Mr Bourgon.

20 MR BOURGON: [16:40:40] I apologise, Mr President. I should have been more
21 careful.

22 This witness, I can make my application now to save time for tomorrow.

23 PRESIDING JUDGE FREMR: [16:40:49] Please do. Please do it now.

24 MR BOURGON: [16:40:52] But my application, Mr President, is to get the
25 additional hour requested. And the reason for this application, there's a number of

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1 issues covered by the witness in addition to the main issue. It is clear from
2 cross-examination, Mr President, that the issue is that this witness was never a
3 member of the UPC, it is a major issue, and in addition to that is that he testified
4 about many operations, and in his statements he goes even further into the operations
5 that he describes. In order for the Defence to have a fair possibility to do a
6 cross-examination, which will be in the interest of justice and in the interest of the
7 Chamber, the one additional hour, Mr President, we say is very reasonable and is
8 justified in the circumstances and it does warrant a departure from the norm of one to
9 one.

10 This is what I have to say, Mr President, and I would like to have the time to finish
11 this witness and to ask for that additional hour. Thank you.

12 PRESIDING JUDGE FREMR: [16:41:57] Give me a second, I will consult my
13 colleagues whether we are able to deliberate just now or whether we will deliberate in
14 the evening.

15 (Trial Chamber confers)

16 PRESIDING JUDGE FREMR: [16:42:11] Sorry, Mr Iverson, I haven't seen you.
17 Please.

18 MR IVERSON: [16:42:15] Thank you. And I would like to be heard on this,
19 your Honours.

20 We would oppose the additional hour. There's no reason why Defence counsel can't
21 finish the cross-examination within five hours. I note that Defence counsel chose to
22 spend almost an hour on a collateral matter this morning, (Redacted) rather
23 than going into the substance of the witness's testimony. So he's free to do so, I'm
24 not complaining about that, but then I don't think that Defence counsel should be
25 entitled then to ask for an additional hour to go into substance when he could have

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1 chosen to do that rather than requiring into collateral matters that are marginally
2 relevant. And so those are the Prosecution's submissions. There should be no
3 additional time extended. He should be able to finish cross-examination in the same
4 time that we were allotted.

5 PRESIDING JUDGE FREMR: [16:43:02] Thank you. Give us a moment.

6 (Trial Chamber confers)

7 PRESIDING JUDGE FREMR: [16:44:16] So as you can see, we deliberated.

8 First of all, we share opinion expressed by Mr Iverson that really the issue of
9 knowledge of Mr Witness of the ICC cases, in our view, should be covered in much
10 shorter time than in the time, Mr Bourgon, you devoted to that issue. At the same
11 time, we partially accept your argumentation. So the result is that we decided to
12 make or take some compromise which result in the decision that you will be given
13 two morning sessions, which means three hours of -- it's true that it's a rough time,
14 but if you compare that at the moment you have 2.20 or 2.19, so it is in fact plus
15 something like plus 40 minutes, frankly saying, maybe 30 minutes of additional time,
16 but still some good portion of additional time.

17 And as I said many times, Mr Bourgon, I find you a very experienced and
18 professional lawyer, so if there are some -- and always according my long-term
19 experience, there are always some more relevant questions, less relevant questions.
20 In such a case, if you will not be able in this time to cover all of them, you will simply
21 have to, in my view, eliminate those less relevant, even if from some angle relevant,
22 relevant aspects. So, to sum it up, you will have three hours in the morning, those
23 two morning sessions, but not more.

24 Mr Iverson.

25 MR IVERSON: [16:46:15] I just want to give the Chamber a head's up that I do

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1 intend on --

2 PRESIDING JUDGE FREMR: [16:46:22] Give me a second, I have to consult the
3 court usher.

4 MR IVERSON: [16:46:28] Yes.

5 (Pause in proceedings)

6 PRESIDING JUDGE FREMR: [16:46:56] We have to finish in one minute, Mr -- is it
7 such a big issue?

8 MR IVERSON: [16:47:03] No, I just wanted to let you know that I do intend on
9 asking for re-direct, probably around 10 minutes.

10 PRESIDING JUDGE FREMR: [16:47:11] Now we adjourn.

11 THE COURT USHER: [16:47:13] All rise.

12 (The hearing ends in private session at 4.47 p.m.)

13 RECLASSIFICATION REPORT

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