

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor versus Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing - Courtroom 2
7 Thursday, 19 January 2017
8 (The hearing starts in open session at 1.39 p.m.)
9 THE COURT USHER: [13:39:24] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [13:39:48] Good afternoon, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [13:40:04] Thank you, Mr President. The situation in the
15 Democratic Republic of the Congo, in the case of The Prosecutor versus Bosco
16 Ntaganda, ICC case reference 01/04-02/06. We are in open session.
17 PRESIDING JUDGE FREMR: [13:40:14] Thank you, court officer.
18 Now I will ask appearances in habitual order, starting with the Prosecution.
19 MS SAMSON: [13:40:23] Good afternoon, Mr President, your Honours. For the
20 Prosecution today is Mr James Pace; Ms Selam Yirgou; and myself, Nicole Samson.
21 PRESIDING JUDGE FREMR: [13:40:37] Thank you, Ms Samson.
22 Defence please.
23 MR BOURGON: [13:40:41] (Interpretation) Thank you, your Honour. Representing
24 Mr Bosco Ntaganda we have Sara Eve Levac from the -- who is in the courtroom for
25 the first time; Margaux Portier; and myself, Stéphane Bourgon. Thank you very

1 much.

2 PRESIDING JUDGE FREMR: [13:40:58] Thank you, Mr Bourgon.

3 Now Legal Representatives of Victims, please.

4 MS PELLET: [13:41:08] (Interpretation) Thank you, your Honour. Former child
5 soldiers are represented by Mohamed Abdou; and myself, Sarah Pellet, counsel
6 OPCV.

7 MR SUPRUN: [13:41:33] (Interpretation) Good afternoon, your Honours. The
8 victims of the attacks are represented by myself, Dmytro Suprun, counsel OPCV.

9 PRESIDING JUDGE FREMR: [13:41:35] Thank you, Ms Pellet.

10 Thank you, Mr Suprun.

11 Mr Bourgon, sorry, because I see that the name of a new member of your team is not
12 appearing in the -- at least in the English version of the transcript correctly. Could
13 you repeat that?

14 MR BOURGON: [13:41:58] (Interpretation) Sara Eve Levac is the name of my
15 colleague. I thank you indeed, your Honour.

16 PRESIDING JUDGE FREMR: [13:42:02] Thank you. So, Madam Levac, welcome.

17 Now I would like before we move to the testimony of our witness, who is in the
18 field, and we will do this -- we will conduct this examination through video-link.

19 So for the purposes of timing for this witness, as indicated in the Chamber's email of
20 4th May, 2016, both parties shall have six hours each for their respective
21 examinations. I also recall that the adjusted sitting hours will apply during the
22 testimony of this witness, meaning that the witness will testify for two one-hour
23 court sessions per day, with a 30-minute break in between because of circumstances
24 that are well known to the parties. With the exception of today, we will hear this
25 witness during the morning sessions. In view of this specific schedule, the

1 Chamber strongly encourages the parties and participants to endeavour to minimise
2 any interruptions to the witness' testimony on procedural matters and - to the extent
3 possible - save any submissions until after the witness has taken a break.

4 With this in mind, the Chamber has taken note of the Defence's notice and
5 supplemental notice of objections to the use or admissions of certain documents, and
6 as usual it will address any such objections if and when they arise.

7 So now we can turn to the scheduled testimony. I can note that we already have
8 our video-link connected, so I can address Mr Witness directly.

9 WITNESS: DRC-OTP-P-0005

10 (The witness speaks in French)

11 (The witness testifies via video-link)

12 PRESIDING JUDGE FREMR: [13:44:26] Mr Witness, can you hear and see me okay?

13 THE WITNESS: [13:44:30] (Interpretation) Very well.

14 PRESIDING JUDGE FREMR: [13:44:33] Good. On behalf of the Chamber, I would
15 like to welcome you. You are called to testify in the case against Mr Bosco
16 Ntaganda. You will be asked by questions both by the Judges and lawyers here in
17 the courtroom. In this connection, I would like to guide you as follows:

18 Please listen carefully to those questions. If you do not understand, feel free to ask
19 for the question to be repeated. We want you to tell the truth and tell us what you
20 saw, heard, or sensed yourself. If you didn't see or hear it yourself but you found
21 out some other way, then you should explain how. Please testify just on that which
22 you remember. Don't guess. Don't make things up. There is nothing wrong in
23 saying, "I don't know" or "I don't remember."

24 Do you understand all this, Mr Witness?

25 THE WITNESS: [13:45:28] (Interpretation) Yes, your Honour.

- 1 PRESIDING JUDGE FREMR: [13:45:36] Fine. Mr Witness, another issue.
- 2 Protective measures are put in place to ensure that your identity is not revealed to
- 3 the public. In practice, it means that the public cannot see your face today and that
- 4 your voice is being disguised so that the public cannot recognise it. We will refer to
- 5 you as "Mr Witness" only and ensure that your name and any other information that
- 6 risks revealing who you are is not broadcast to the public. Therefore, whenever you
- 7 need to describe anything that might reveal your identity, we will do so in private
- 8 session so that no one outside the courtroom can hear your answer.
- 9 Do you understand, Mr Witness?
- 10 THE WITNESS: [13:46:33] (Interpretation) Yes, I've understood completely, your
- 11 Honour.
- 12 PRESIDING JUDGE FREMR: [13:46:44] Very well. Mr Witness, now you should
- 13 find in front of you a piece of paper with the text of the solemn undertaking. Do
- 14 you have it?
- 15 THE WITNESS: [13:46:52] (Interpretation) Yes, I do, your Honour.
- 16 PRESIDING JUDGE FREMR: [13:47:00] Fine. So please now make your solemn
- 17 undertaking to tell the truth by reading out the declaration you have in front of you.
- 18 THE WITNESS: [13:47:11] (Interpretation) I swear I shall tell the truth, the whole
- 19 truth, and nothing but the truth.
- 20 PRESIDING JUDGE FREMR: [13:47:28] Thank you, Mr Witness. You are now
- 21 under oath, so you need to be aware that it's an offence within the jurisdiction of this
- 22 Court to give false testimony. Do you understand that?
- 23 THE WITNESS: [13:47:46] (Interpretation) Yes, I have, your Honour, perfectly.
- 24 PRESIDING JUDGE FREMR: [13:47:57] And finally a few practical matters you
- 25 should have in mind when giving your testimony. It's important to speak into the

1 microphone - what you are so far doing very well - to speak clearly, and to speak at a
2 slow pace to allow the interpreters to translate everything. You should only start
3 speaking when the person asking you the question has finished. So when a
4 question is asked, please do not respond immediately but rather count in your head
5 to three and only then give your answer. This pause of three seconds at least is
6 essential for us to properly hear, record, and translate what you are saying. If you
7 have any questions during your testimony, do not hesitate to let us know. We will
8 then give you the opportunity to speak. In case you cannot hear us well or need to
9 take a break, please let the court officer, who is with you in the room, know.

10 Mr Witness, have you understood all that?

11 THE WITNESS: [13:49:14] (Interpretation) Of course, your Honour.

12 PRESIDING JUDGE FREMR: [13:49:16] Very well. It means that we now can start
13 your testimony, and I am giving the floor to the Prosecution. I guess it will be
14 Ms Samson who will conduct this examination.

15 Ms Samson, you have the floor. And I'm just reminding you that we are at the
16 moment are in open session and this is a protected witness.

17 MS SAMSON: [13:49:37] Thank you, Mr President.

18 QUESTIONED BY MS SAMSON:

19 Q. [13:49:44] Good afternoon, Mr Witness.

20 A. [13:49:48] Good afternoon, your Honour.

21 Q. [13:49:50] You will recall that we met last week, and my name is Nicole
22 Samson. I'll be asking you questions over the next several days on behalf of the
23 Prosecution.

24 MS SAMSON: [13:50:11] Mr President, if we may go into private session for the
25 initial questioning, which will be about the witness' biographical details.

1 PRESIDING JUDGE FREMR: [13:50:23] Understandable.

2 Now, court officer, let's move into the private session. And for the information of
3 the public, since this witness is a protected one, he was granted that his identity will
4 not be revealed to the public. So as soon as that there is upcoming questions that
5 could reveal his identity, we are obliged to move into private session, which is the
6 case just now.

7 (Private session at 1.50 p.m.) *(Reclassified partially in public)

8 THE COURT OFFICER: [13:50:53] We're in private session, Mr President.

9 PRESIDING JUDGE FREMR: [13:50:58] Thank you, court officer.

10 Ms Samson, please proceed.

11 MS SAMSON: [13:51:04]

12 Q. [13:51:05] Sir, I'll ask you now a number of questions about your identity,
13 your education, and your employment history. Can you please state your full name
14 for the Court.

15 A. [13:51:31] My name is (Redacted)

16 Q. [13:51:44] What is your date of birth?

17 A. [13:51:46] I was born on (Redacted)

18 Q. [13:51:55] Where were you born?

19 A. [13:52:00] In (Redacted)

20 Q. [13:52:10] And is that part of the Democratic Republic of the Congo?

21 A. [13:52:24] Yes.

22 Q. [13:52:34] What is your ethnicity?

23 A. [13:52:07] (Redacted)

24 Q. [13:52:43] (Redacted)

25 (Redacted)

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1 (Redacted)

2 A. [13:53:03] Yes, your Honour.

3 Q. [13:53:04] Since I'm, in fact, not a Judge but a member of the Prosecution, you
4 do not need to refer to me as "your Honour."

5 (Redacted)

6 (Redacted) You do not need to tell us where you're employed but is that
7 your position?

8 A. [13:53:39] (Redacted)

9 Q. [13:54:03] (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 A. [13:54:37] That is correct. (Redacted)

14 Q. [13:54:42] (Redacted)

15 A. [13:54:54] Correct.

16 Q. [13:54:59] (Redacted)

17 (Redacted)

18 A. [13:55:15] That is correct. (Redacted)

19 (Redacted)

20 Q. [13:55:27] (Redacted)

21 A. [13:55:47] (Redacted)

22 (Redacted)

23 THE INTERPRETER: [13:56:56] Inaudible.

24 A. [13:56:07] -- (Redacted)

25 MS SAMSON: [13:56:09]

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- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 THE INTERPRETER: [13:58:56] Message from the interpreter: We believe the sound
- 12 may have cut out suddenly.
- 13 MS SAMSON: [13:58:04]
- 14 Q. [13:58:12] Could you please repeat (Redacted)
- 15 (Redacted) please?
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 THE INTERPRETER: [13:58:41] Message from the interpreter: The quality of the
- 20 video-link is not stellar. We will do our best but we may have to ask for an answer
- 21 to be repeated.
- 22 MS SAMSON: [13:58:54]
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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7 (Redacted)

8 THE INTERPRETER: [14:07:25] The interpreters point out that there are several

9 inaudible parts of the audio at the moment, which is making comprehension

10 difficult.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 A. [14:07:57] Please could you repeat.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [14:09:27] To your knowledge, was the UPC aligned with either the Lendu or

25 the Hema community?

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1 A. [14:09:52] The UPC was aligned with the Hema community.

2 Q. [14:10:02] I would like to show you a document now.

3 MS SAMSON: [14:10:08] I would ask the court officer who is with you to please
4 retrieve the document at tab 48 of the binders that you should have.

5 For the court officer, the registration number is (Redacted)

6 Q. [14:10:39] And I would ask that you take a look at this document. It will also
7 be projected on the screen in front of you, but you should also have a hard copy.

8 THE COURT OFFICER: (Via video-link) [14:10:56] Yes. I don't have the paper
9 copy because the documents -- well, I've left them on the computer. I would have
10 to open -- switch on the computer to look at them.

11 MS SAMSON: [14:11:15] Well, that's fine because they should be broadcast and
12 visible to the witness on the computer screen.

13 THE COURT OFFICER: (Via video-link) [14:11:45] (Interpretation) Yes. If you
14 give me a minute, there's a problem with regard to the connection. The document
15 is there. It's on the screen. I don't know if you're able to see it.

16 MS SAMSON: [14:12:22] If the witness can see it, would you be able to ensure that he
17 can have a good view of the document?

18 THE COURT OFFICER: (Via video-link) [14:12:35] (Interpretation) Okay. Very
19 well. The witness is looking at the document.

20 PRESIDING JUDGE FREMR: [14:12:59] Mr Witness, can you see the document well?

21 THE WITNESS: [14:13:14] (Interpretation) Yes.

22 MS SAMSON: [14:13:15]

23 Q. [14:13:33] Do you recognise this document? Can you tell us what it is?

24 A. [14:13:40] Yes, I recognise the document. (Redacted)

25 (Redacted)

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6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 MS SAMSON: [14:17:18] Mr President, I seek to admit (Redacted) as a

15 Prosecution exhibit.

16 PRESIDING JUDGE FREMR: [14:17:26] Defence, any objection?

17 MR BOURGON: [14:17:43] No objection, Mr President.

18 PRESIDING JUDGE FREMR: [14:17:46] So the document specified by Ms Samson is

19 admitted into evidence as a further Prosecution exhibit.

20 Ms Samson, you may proceed.

21 MS SAMSON: [14:17:58]

22 Q. [14:18:00] Sir, I'd like to show you another document. This one is at number

23 56 in the Prosecution's binders of documents. The registration number is

24 (Redacted)

25 THE COURT OFFICER: (Via video-link) [14:18:53] (Interpretation) I'm sorry, I

1 would like to know the number because it stopped at 005. Please could you repeat
2 the number.

3 MS SAMSON: [14:19:01] Yes. The number is (Redacted) but on the
4 version that you have, I believe the number will read (Redacted)

5 THE COURT OFFICER: (Via video-link) [14:19:35] (Interpretation) Okay. I've seen
6 the document and opened it. It's on the computer. I will show it to you first.

7 MS SAMSON: [14:19:49] Yes, that appears to be the correct document. It can be
8 shown to the witness, please.

9 THE COURT OFFICER: (Via video-link) [14:20:02] (Interpretation) Yes, with your
10 leave, I have made the document available to the witness.

11 MS SAMSON: [14:22:11]

12 Q. [14:22:15] Sir, can you explain to the Court whether you recognise this
13 document, and if so, what it is.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 MS SAMSON: [14:25:17] Mr President, this document has already been admitted, so
5 I don't speak to admit it, clearly, and I'll move to another document.

6 Q. [14:25:29] I have another document to show you, sir, and this one is number
7 51 in the Prosecution's list of materials. The registration number is

8 (Redacted) and the number that you can see on the document,

9 Mr Registrar, is (Redacted)

10 THE COURT OFFICER: (Via video-link) [14:26:36] (Interpretation) Yes, I'm
11 presenting the document (Redacted)

12 MS SAMSON: [14:26:48] Thank you. Could you please show it to the witness.

13 THE COURT OFFICER: (Via video-link) [14:27:03] (Interpretation) The document is
14 being shown to the witness as asked.

15 THE WITNESS: [14:30:04] I've read the document.

16 MS SAMSON: [14:30:07]

17 Q. [14:30:08] Do you recognise it and can you tell the Chamber what it is?

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 A. [14:31:45] Could you kindly repeat your question.

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8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 MS SAMSON: [14:34:22] Mr President --

16 THE WITNESS: [14:34:23] (Interpretation) It's not entirely clear. Could you repeat
17 your question, please. It's not entirely clear to me.

18 MS SAMSON: [14:34:30]

19 Q. [14:34:31] Certainly. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 A. [14:35:41] I no longer recall.

25 Q. [14:35:45] Thank you.

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- 1 MS SAMSON: [14:35:46] Mr President, I seek to admit this document, and thereafter,
- 2 I wonder do we break now?
- 3 PRESIDING JUDGE FREMR: [14:35:55] Now, first, Defence, any objection to the
- 4 admission?
- 5 MR BOURGON: [14:36:01] None, Mr President.
- 6 PRESIDING JUDGE FREMR: [14:36:03] In such a case, the document specified by
- 7 Ms Samson is admitted into evidence as a further Prosecution exhibit.
- 8 Now, for the remainder of the session, please, court officer, let's move into open
- 9 session.
- 10 (Open session at 2.36 p.m.)
- 11 THE COURT OFFICER: [14:36:25] We are in open session, Mr President.
- 12 PRESIDING JUDGE FREMR: [14:36:27] Thank you, court officer. Because of the
- 13 special schedule approved for our witness, we will break now and we will
- 14 reconvene after 30 minutes, which means at 3.05. And for the public gallery, I am
- 15 afraid that even after the break, most of the questions could be revealing -- might be
- 16 revealing the identity of the witness, so it's very likely we will also proceed in the
- 17 regime of private session.
- 18 Now we will break for 30 minutes.
- 19 THE COURT USHER: [14:37:20] All rise.
- 20 (Recess taken at 2.37 p.m.)
- 21 (Upon resuming in open session at 3.06 p.m.)
- 22 PRESIDING JUDGE FREMR: [15:07:15] We are going to continue with the next piece
- 23 of direct examination of our witness by the Prosecution for the next hour.
- 24 Ms Samson, habitual question and I suppose you will have to continue in the regime
- 25 of private session; am I right?

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1 MS SAMSON: [15:07:41] Mr President, I can try to do one brief section in open
2 session with the next document I'd like to show, but we may have to move into
3 private session depending on the answers, with your leave.

4 PRESIDING JUDGE FREMR: [15:07:52] Understood. So currently we can remain in
5 open?

6 MS SAMSON: [15:07:56] Yes.

7 PRESIDING JUDGE FREMR: [15:07:56] All right. So you have the floor.

8 MS SAMSON: [15:07:00]

9 Q. [15:08:01] Sir, I would like to show you another document. Please note that,
10 as Mr President has just said, we are in open session so I would ask that you not give
11 an answer that may identify you. The document I would ask you to look at is
12 number 26 in the Prosecution's materials. The registration number is
13 DRC-OTP-0113-0133. Please take a look at that document.

14 THE COURT OFFICER: (Via video-link) [15:08:01] (Interpretation) Yes, madam, I
15 will show you the document on the screen first before showing it to the witness.

16 MS SAMSON: [15:09:12] Thank you. I confirm that that is the correct document.

17 THE COURT OFFICER: (Via video-link) [15:09:26] (Interpretation) The witness can
18 now see the document.

19 MS SAMSON: [15:13:15]

20 Q. [15:13:42] Sir, do you recognise this document?

21 A. [15:13:51] I no longer remember this document, but the signature is Lubanga's
22 signature.

23 (Redacted)

24 (Redacted)

25 (Redacted)

- 1 (Redacted)
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- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 PRESIDING JUDGE FREMR: [15:15:31] For sure.
- 12 Court officer, let's move into private session now.
- 13 (Private session at 3.15 p.m.) *(Reclassified partially in public)
- 14 THE COURT OFFICER: [15:15:40] We are in private session, Mr President.
- 15 MS SAMSON: [15:15:45]
- 16 Q. [15:15:55] Sir, the individuals listed on page 2 who signed this document, this
- 17 political declaration, did they have any official positions in the UPC?
- 18 A. [15:16:25] Yes. I see Avochi Nyipir Utwikende, I see Ndukute Mangili,
- 19 Tinanzabo Zeremani, Combe Ngabu, Ibrahim Bamaraki. That is a group of people
- 20 who were held in detention in Kinshasa with Thomas Lubanga -- along with Thomas
- 21 Lubanga in the same year.
- 22 Q. [15:17:21] And on the first page, the title of the document is, and I'll read it in
- 23 French: (Interpretation) "Political declaration of the FRP, "Front Pour La
- 24 Reconciliation et la Paix."
- 25 (Speaks English) What relationship, if any, did the UPC have with the FRP?

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1 A. [15:17:46] Kindly repeat your question, please.

2 Q. [15:17:49] Yes. This is a political declaration by the FRP, signed by those
3 persons that we just looked at; and I'd like to know what relationship, if any, there
4 was between the FRP and the UPC?

5 A. [15:18:25] Okay. When I joined the UPC, the UPC was of the view that it was
6 in favour of peace for everybody, but it was only a fleeting peace on the ground. It
7 was not *visible peace because there was fire everywhere.

8 Q. [15:19:05] And is the FRP different to the UPC or is it the same group?

9 A. [15:19:22] The FRP, as the name indicates, has a political statement here which
10 was made after the UPC had control over -- had taken over control of the territory.

11 Q. [15:19:56] And so what was the relationship between the FRP and the UPC?

12 A. [15:20:20] The relation is that the UPC wanted the international community to
13 see that it was committed to peace and reconciliation which, however, did not exist
14 between the UPC and the others, the other fronts. So here we have a simple
15 statement, a simple statement to point out that the UPC was engaging in peace with
16 everyone. However, the document is produced by the UPC and it was publicised
17 everywhere because the UPC, *pretending to control Ituri, produced this document.
18 It is a UPC document.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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7 Q. [15:23:42] And if you look again at this document in the first bullet point

8 where it refers to armed dissident elements of the RDC/ML aligned behind the

9 ex-Minister of Defence of the RDC/ML, Thomas Lubanga, taking effective control of

10 Bunia and surrounding areas on 9 August 2002. Is that what you refer to as the

11 UPC takeover of Bunia?

12 PRESIDING JUDGE FREMR: [15:24:22] Hold on, Mr Witness. Hold on.

13 Mr Bourgon, please.

14 MR BOURGON: [15:24:26] Mr President, I understand the difficulty in switching

15 from French to English, but it does not say on 9 August. It says: "... au terme des

16 affrontement du 09 août." There's a large difference, Mr President. So the

17 document should be quoted properly so the witness can provide an answer. Thank

18 you.

19 PRESIDING JUDGE FREMR: [15:24:45] Ms Samson.

20 MS SAMSON: [15:24:46] Yes. What I will do, then, is just have the witness read the

21 paragraph to himself again, and I'll ask the question.

22 PRESIDING JUDGE FREMR: [15:24:53] All right.

23 MS SAMSON: [15:24:53]

24 Q. [15:24:56] Sir, to be sure that there's no errors in my interpretation of the

25 document, on the first -- in the information contained in the first bullet point starting

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1 with the words "que nos éléments ..." and ending with the words "et leurs alliés," I
2 would like to know whether this paragraph describes the takeover of the UPC -- the
3 takeover of Bunia by the UPC in August 2002 that you have been describing?

4 A. [15:25:41] That's correct. As I just stated, the UPC took control of Bunia and
5 surrounding areas. The surrounding areas had been occupied by the FNI
6 combatants. Now, here, since Bunia and its surroundings had been captured, the
7 UPC felt that it had some supremacy and could therefore make a statement to the
8 effect that it was occupying the territory of the Ituri. The fighting had taken place
9 between the UPC and Lendu combatants, headed by Lopondo who was the
10 governor of the Ituri at that time.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. [15:27:14] Is the information contained in this document accurate to your
16 recollection of events?

17 A. [15:27:37] The information in paragraph 2 which you read, namely that
18 incident armed elements of the RCD, yes, that information pertaining to them is
19 correct.

20 Q. [15:27:45] And having read the remainder of the document yourself earlier,
21 does the information contained in it, is it accurate to your understanding and
22 recollection of events at the time?

23 A. [15:28:12] The information is indeed accurate.

24 MS SAMSON: [15:28:15] Mr President, I seek to admit this document as a further
25 Prosecution exhibit.

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1 PRESIDING JUDGE FREMR: [15:28:20] Defence? Any opposition?

2 MR BOURGON: [15:28:24] No objection, Mr President.

3 PRESIDING JUDGE FREMR: [15:28:27] Therefore, this document is admitted into
4 evidence as a further Prosecution exhibit.

5 MS SAMSON: [15:28:24]

6 Q. [15:28:41] Sir, I have one further document to show you today, and that

7 document is at number 52 in the materials, Prosecution's materials. The registration
8 number is DRC-OTP-0089-0093.

9 THE COURT OFFICER: (Via video-link) [15:29:41] (Interpretation) Yes, madam.

10 The document DRC-OTP-0089-0093 has been found and I will show you the
11 document for certification.

12 MS SAMSON: [15:29:56] Yes, thank you, that is the document. Could you please
13 provide it to the witness.

14 THE COURT OFFICER: (Via video-link) [15:30:03] (Interpretation) Okay. With
15 your leave, the document is now in the hands of the witness. Thank you.

16 MS SAMSON: [15:30:06]

17 Q. [15:30:07] Sir, could you take a quick look at the document and please let the
18 Chamber know if you recognise it, and if so, what it is.

19 THE COURT OFFICER: (Via video-link) [15:30:44] (Interpretation) Madam, the
20 witness is looking for his glasses to be able to read the document.

21 MS SAMSON: [15:31:10] Mr President, since it is the last document of the day, if
22 there is no objection and the Chamber permits, I could read out the relevant portion.
23 I think it's a largely non-controversial document.

24 PRESIDING JUDGE FREMR: [15:31:23] Defence, any objection to that proposal?

25 Ms Samson would like to read out parts of the document.

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1 MR BOURGON: [15:31:36] No objection, Mr President.

2 PRESIDING JUDGE FREMR: [15:31:38] All right then. Please proceed, Ms Samson.

3 MS SAMSON: [15:31:40]

4 Q. [15:31:41] Mr Witness, in the interests of time, although I see you've located

5 your glasses, but I note that this is a decree on UPC letterhead, dated 2 June 2003,

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. [15:35:25] And, sir, I have -- I do, in fact, have another document to show you.

2 It's number 53 in the Prosecution's list. The registration number is

3 (Redacted)

4 THE COURT OFFICER: (Via video-link) [15:35:01] (Interpretation) Please kindly
5 repeat the last four figures.

6 MS SAMSON: [15:36:04] Yes. 0183.

7 THE COURT OFFICER: (Via video-link) [15:36:41] (Interpretation) Yes, madam.

8 DRC-OTP-001-0018 (as interpreted) is now being presented to you.

9 MS SAMSON: [15:36:49] Thank you. That is the document.

10 THE COURT OFFICER: (Via video-link) [15:36:51] (Interpretation) I shall now give
11 the document to the witness.

12 MS SAMSON: [15:37:53]

13 Q. [15:37:10] Now, sir, this document is titled, and I'll read it in French,

14 (Interpretation) (Redacted)

15 (Speaks English) (Redacted)

16 A. [15:37:38] (Redacted)

17 Q. [15:37:59] And do you recall what was discussed at this meeting?

18 A. [15:38:19] Unfortunately -- unfortunately, I don't remember the topics.

19 Q. [15:38:27] That's fine. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 MS SAMSON: [15:42:48] Mr President, I seek to admit both of these documents as
23 further Prosecution exhibits.

24 PRESIDING JUDGE FREMR: [15:42:53] Defence?

25 MR BOURGON: [15:42:57] No objection, Mr President.

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1 PRESIDING JUDGE FREMR: [15:42:59] All right. So those documents are admitted
2 into evidence as further Prosecution exhibits.

3 MS SAMSON: [15:43:09]

4 Q. [15:43:13] Sir, we spoke briefly and looked at one (Redacted) that
5 referred to the constitution of the UPC in 2000. What information do you have
6 about the circumstances and the creation of the UPC?

7 PRESIDING JUDGE FREMR: [15:43:40] Excuse me, Ms Samson, would it be possible
8 to deal with this part of this testimony in the regime of open session?

9 MS SAMSON: [15:43:47] I believe we can, your Honour. There's one -- the source of
10 his information on one part of this answer will be sensitive, but the general
11 information that he can give, I agree with your Honour, this could be done in open
12 session.

13 PRESIDING JUDGE FREMR: [15:44:00] So, Mr Witness, now we will move into open
14 session because we suppose that you will deal with a rather general issue which
15 shouldn't reveal your identity. But in case that you would like to answer in a way
16 that could reveal your identity, then please let me know and we will move into
17 private session. Do you understand?

18 THE WITNESS: [15:44:34] (Interpretation) Yes, I understand you very well.

19 PRESIDING JUDGE FREMR: [15:44] All right.

20 Court officer, let's now move into open session.

21 (Open session at 3.44 p.m.)

22 THE COURT OFFICER: [15:44:50] We are in open session, Mr President.

23 PRESIDING JUDGE FREMR: [15:44:54] Thank you.

24 Ms Samson, please proceed.

25 MS SAMSON: [15:44:57]

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1 Q. [15:44:59] Sir, I'll repeat my question: I wanted you to explain what you
2 know about the circumstances and creation of the UPC.

3 A. [15:45:28] Very well. The UPC, to the best of my knowledge, didn't come
4 into being in Bunia; it came into being in Uganda. And I didn't understand very
5 well the circumstances which led to the UPC being created, to this party being
6 created. But to the best of my knowledge, the UPC defended the Hema, generally.
7 I think that can be considered one of the circumstances for the UPC's creation. It
8 was about the reorganisation of the Hema because already in 1999, there was already
9 a conflict between the UPC, who were the Hema generally, and the Lendu. And in
10 order to better structure and organise the ethnic group, it was necessary to have
11 something that would bring together the Hema in a party.

12 Q. [15:46:54] Now, in very general terms, in 2000, which political group was
13 controlling Ituri, and who were its leaders?

14 A. [15:47:19] I'm sorry, from what year?

15 Q. [15:47:21] 2000.

16 A. [15:47:37] In 2000, the Hema were organising themselves into the UPC and the
17 Lendu were organising themselves as well, but it was the UPC who controlled Ituri
18 in general.

19 Q. [15:47:53] Well, then, let's move a bit further forward to 2002, and I'm
20 interested in the period after March 2002, April 2002. Can you describe the climate
21 in Bunia and what was happening in Bunia in or about April 2002 from a political
22 perspective? Who was in control? What was happening in the town?

23 A. [15:48:37] In 2002 there was terror, psychosis, terror in town. That was from
24 April, if my memory serves me well, from April 2002; and people were getting ready
25 to leave the town in order to go into the rural areas.

1 Q. [15:49:10] And who at that time was in control of Bunia, in April 2002?

2 A. [15:49:28] In April 2002 the UPC were in control of Bunia.

3 Q. [15:49:32] And have you heard of a person named Claude Kiza?

4 A. [15:49:47] I remember well. I remember Claude well. If I'm not mistaken,
5 Claude was a commander in the APC, in the RCD political party, RCD/KML.

6 Q. [15:50:18] And what happened to Claude Kiza?

7 A. [15:50:29] Claude Kiza - I heard people speak about him after - he died in
8 Bunia; he was shot. He was shot by the UPC in the town centre of Bunia, and it was
9 then that I heard people talk about Claude. He was named by the name of Claude.

10 Q. [15:50:57] In April 2002 were you in --

11 MS SAMSON: [15:51:05] Mr President, perhaps it is better to go into private session.

12 PRESIDING JUDGE FREMR: [15:51:08] I do agree.

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

14 (Private session at 3.51 p.m.) *(Reclassified partially in public)

15 THE COURT OFFICER: [15:51:19] We're in private session.

16 PRESIDING JUDGE FREMR: [15:51:23] Thank you.

17 Ms Samson, please proceed.

18 MS SAMSON: [15:51:27]

19 Q. [15:51:29] And in April 2002 were you in Bunia or were you outside of Bunia?

20 A. [15:51:31] In April 2002? Is that it?

21 Q. [15:51:52] Yes.

22 A. [15:51:55] I was in Bunia. I was in Bunia. I remember. It caused people to
23 flee in Bunia.

24 Q. [15:52:31] And can you describe for the Chamber what it was like in Bunia
25 between April and August 2002 when the UPC had gained control?

1 A. [15:52:53] When the UPC gained control of the town, life was uncertain in
2 Bunia. There were complaints everywhere. Abuses were being committed.
3 That's what we lived through during that period.

4 Q. [15:53:14] And in August 2002, at the time of the takeover by the UPC, were
5 any -- had any abuses been committed at that time and by whom? You've just
6 referred to it generally but I'd like to know more about those abuses.

7 A. [15:53:32] Between April 2002 to August 2002, people -- (Redacted)
8 (Redacted) Of
9 course, there were people who were killed. People were complaining everywhere,
10 everywhere, everywhere, in the town of Bunia.

11 Q. [15:54] And who was being killed and by whom were they being killed?

12 A. [15:54:48] UPC troops controlled the town of Bunia, by UPC troops.

13 Q. [15:54:52] Yes, but you've mentioned that people were being killed. I'd like
14 to know who were these people? Were they of a particular ethnic group or were
15 they various ethnic groups? And who was killing them? If you can give us more
16 details.

17 A. [15:55:28] It's simple. As the control of the town was in the hands of the
18 UPC, I think that it could only be them, the UPC, who were killing the people.

19 Q. [15:55:45] Can you describe who was being killed. Did they have a particular
20 ethnic identity or were they identifiable in some other way? I don't mean their
21 names but who were these people?

22 A. [15:56:15] Well, I have to recall that even the members of the Alur community
23 were killed. I can mention two of their names. If you go to Mudzipela on the other
24 side, there were Lendu as well who were killed.

25 (Redacted)

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1 (Redacted) how do you know about Lendu persons killed?

2 A. [15:56:14] Well, I'll reply as follows: There was a lady who worked in an
3 institution, a university institution, the ISP, in Mudzipela. Now, this lady was
4 killed because her family -- community, they complained, they were complaining
5 because of that killing. (Redacted) Her
6 name was Charlotte.

7 Q. [15:58:00] What was Charlotte's ethnicity?

8 A. [15:58:16] She was Lendu.

9 Q. [15:58:20] And did --

10 (Redacted)

11 (Redacted)

12 Q. [15:58:44] And were these persons, if you know, were they killed -- at what
13 time were they killed? Are you aware approximately what month?

14 A. [15:58:03] The month? I don't know.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

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18 (Open session at 4.07 p.m.)

19 THE COURT OFFICER: [16:07:11] We are in open session, Mr President.

20 PRESIDING JUDGE FREMR: [16:07:17] Thank you, court officer.

21 So now we will adjourn. Mr Witness, I would like to thank you for your today's
22 involvement. You perfectly followed my guidance so there was no problem with
23 transcription, no problem with translation of your testimony. We will continue
24 tomorrow morning, and again we will hold two sessions, one hour each.

25 So now we adjourn -- oh, Mr Bourgon.

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1 MR BOURGON: [16:07:56] Mr President, in line with the Chamber's guidance, there
2 are a few issues I would like to raise after this session. Thank you.

3 PRESIDING JUDGE FREMR: [16:08:02] So now we can cut the connection with the
4 field, and we will -- in the remainder we will deal with some procedural issues.

5 Thank you very much, Mr Witness. See you tomorrow morning.

6 Sorry, before we cut -- oh, okay. Could we -- forget about it. We will -- so now are
7 we back in open session? Still in open session. Okay.

8 Mr Bourgon, please, you have the floor.

9 (Redacted)

10 (Redacted)

11 (Redacted)

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1 And I'd like also to -- we will, of course, compare both transcripts, but I would like, if
2 we would be very, very careful when moving from French to English, and especially
3 with documents.

4 And the last thing I'd like to say is I would have liked to raise a few objections of
5 leading questions. I did not do so because the Chamber asked us not to interrupt
6 the testimony, but there are some examples. I will bring -- raise those with my
7 colleague. And we have the documents, we have the witness, we're moving very
8 slowly. I don't think there is no need to go to leading question. We can elicit the
9 information from the witness.

10 Just one last part I'd like to say, and I think my colleague will understand -- will
11 agree with me: The testimony of the witness in this -- those last 15 minutes in terms
12 of who was in control of Bunia, who was fighting between April and August, is far
13 from being clear, at least from our understanding in terms of really who was in
14 control or who was fighting or who was committing those crimes, is far from clear.
15 I think we can, without leading the witness, at least confirm what the period we are
16 talking about so that the testimony is clear and it's easier for us to cross-examine, but
17 also - and more importantly - easier for the Chamber to assess the testimony.

18 Thank you.

19 PRESIDING JUDGE FREMR: [16:11:46] Thank you. Also, a comment on your
20 submission, but before that I also will give the floor to Ms Samson, if she wants to
21 also make -- respond.

22 MS SAMSON: [16:11:57] No. In relation to translation issues, well, of course, we
23 leave it to the final review of the transcripts.

24 In relation to leading questions, I think Defence counsel is going to -- we're going to
25 discuss this issue later. And naturally, I don't believe that they were -- that they

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1 were used or they were used at times, as I alluded to, to the Court, in order to review
2 a document.

3 In terms of the confusion that may result from the last 15 minutes, I will review the
4 transcript carefully and see if there are clarifications that could be made tomorrow
5 morning.

6 PRESIDING JUDGE FREMR: [16:12:39] Yes. And now, before we adjourn, a
7 comment from my part, Mr Bourgon. I appreciate that you maybe too strictly
8 followed our guidance because it doesn't mean you are prohibited to make
9 objections or even to put -- to draw our attention to some discrepancy in the
10 translation, especially if it should have some immediate impact on the answer of the
11 witness. So please feel free. This guidance was made in general way, but for sure
12 it doesn't mean that you should be prohibited for making it during the testimony.
13 So please take this -- take this guidance within those limits. So feel free. If there is
14 a leading question, if there is some discrepancy in translation which really may have
15 some, as you said, crucial impact on the answer, please raise it immediately. No
16 problem with us.

17 Now we adjourn and we will, as I said, hold two one-hour sessions, first one from
18 9.30 tomorrow.

19 (The hearing ends in open session at 4.14 p.m.)

20 RECLASSIFICATION REPORT

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