

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

6 Judge Chang-ho Chung

7 Trial Hearing - Courtroom 2

8 Friday, 20 January 2017

9 (The hearing starts in open session at 9.31 a.m.)

10 THE COURT USHER: [9:31:26] All rise. The International Criminal Court is now in
11 session. Please be seated.

12 PRESIDING JUDGE FREMR: [9:31:48] Good morning, everybody.

13 Court officer, please call the case.

14 THE COURT OFFICER: [9:31:54] Thank you, Mr President. The situation in the
15 Democratic Republic of the Congo, in the case of The Prosecutor versus Bosco
16 Ntaganda, case reference ICC-01/04-02/06. We are in open session.

17 PRESIDING JUDGE FREMR: [9:32:08] Thank you.

18 Now appearances, and you can just limit on changes, if any.

19 MS SAMSON: [9:32:14] Good morning, Mr President, your Honours. There has
20 been no change to the composition of the Prosecution team today.

21 PRESIDING JUDGE FREMR: [9:32:20] Thank you, Ms Samson.

22 Defence, please.

23 MR BOURGON: [9:32:23] (Interpretation) Good morning, your Honour. No change
24 on the side of the Defence, your Honour.

25 PRESIDING JUDGE FREMR: [9:32:28] Thank you, Mr Bourgon.

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1 Legal Representatives of Victims, please.

2 MS PELLET: [9:32:38] (Interpretation) Thank you, your Honour. No change for the
3 team of the former child soldiers.

4 MR SUPRUN: [9:32:47:] Good morning, your Honours. For the victims of attacks,
5 there are no changes since yesterday.

6 PRESIDING JUDGE FREMR: [9:32:53] Thank you, Ms Pellet.

7 Thank you, Mr Suprun.

8 WITNESS: DRC-OTP-P-0005 (On former oath)

9 (The witness speaks French)

10 (The witness gives evidence via video link)

11 PRESIDING JUDGE FREMR: [9:33:03] Mr Witness, good morning. Can you hear me
12 and can you see me?

13 THE WITNESS: [9:33:10] (Interpretation) I can hear you, yes.

14 PRESIDING JUDGE FREMR: [9:33:14] Good. Mr Witness, today we are going to
15 continue with your examination by the Prosecution. Our plan is to conduct two
16 sessions, one hour each, but if you would -- in case that you would feel tired, let me
17 know and we can make some short break even during those two one-hour sessions.

18 Second issue, it is my legal duty to remind you that today again you are still under
19 oath, which means that you have to speak the truth and nothing but the truth.

20 Have you understood all that, Mr Witness?

21 THE WITNESS: [9:33:59] (Interpretation) I've understood that well.

22 PRESIDING JUDGE FREMR: [9:34:14] Very well, Mr Witness. So it means we can
23 move to the testimony itself.

24 And I'm asking Ms Samson whether, subject to upcoming questions, there is still
25 possibility to remain in the regime of open session; or because this witness is a

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1 protected one, there is a need to move into the regime of private session.

2 MS SAMSON: [9:34:32] Mr President, I can ask several questions in open session now

3 and seek permission to move to private session shortly thereafter.

4 PRESIDING JUDGE FREMR: [9:34:46] Very well, Ms Samson. So now please

5 proceed.

6 QUESTIONED BY MS SAMSON: (Continuing)

7 Q. [9:34:56] Good morning, sir.

8 A. [9:35:00] Good morning.

9 Q. [9:35:02] I will continue asking you some session -- some questions now in
10 open session, starting with an area I'd like to clarify further to your testimony
11 yesterday, which is the armed group or groups in control of Bunia between April
12 2002 and August 2002.

13 A. [9:35:35] Yes, madam.

14 Q. [9:35:37] Yesterday you referred to the death of a man named Claude Kiza
15 whom you had stated was a commander in the APC and, you said, RCD political
16 party. Can you recall in which month Claude Kiza was killed?

17 A. [9:36:19] Claude Kiza, known as Claude, Claude, if I'm not wrong, was killed
18 in the month of April. If I'm not mistaken, I think it was the 18th of April, 2003.

19 Q. [9:36:38] And, sir, you just referred to a specific date. You said 18 April 2003
20 and I just want to ask you whether or not that is, indeed, the date that you just gave?

21 A. [9:37:04] Yes, madam.

22 Q. [9:37:07] Sir, we'll come back to that in a moment, but you also referred
23 yesterday to a man named Governor Lompondo, and to clarify, which armed group
24 or military group --

25 A. [9:37:26] Yes, madam.

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1 Q. [9:37:28] -- to which armed or political group did he belong?

2 A. [9:37:42] Lompondo, he was in -- he was working for the government. He
3 worked for the Congolese government.

4 Q. [9:37:51] And was he associated with any group that was in control of Bunia in
5 the April to August 2002 period?

6 A. [9:38:22] I don't think so. But whatever the case, when the UPC took Bunia,
7 we were informed that many Lendu groups of civilians went to take shelter in the
8 neighbourhood at his residence.

9 Q. [9:38:52] And in the period of April to August 2002, which military forces were
10 present in Bunia? Can you name all of the military forces present in Bunia in that
11 time period?

12 A. [9:39:14] In this period the UPC was there, the FNI had pretty much
13 withdrawn because the UPC took the town when Lompondo fled. It was under the
14 UPC's control.

15 Q. [9:39:42] Yes. And when the UPC took Bunia, which forces were they fighting
16 against? And I'm referring to August 2002.

17 A. [9:40:12] The UPC was in the town. There was also the FNI with the Lendu
18 combatants. They withdrew to the hills.

19 Q. [9:40:26] Now, you referred to Commander Kiza as being part of the APC, at
20 least until his death in April 2000 -- in April. And were the APC elements also in
21 Bunia at this time, April to August 2002, or not?

22 A. [9:40:54] The APC wasn't visible as such in Bunia, but it supported the group
23 of Lendu combatants. The APC was not visible in the town, nor the FNI. The FNI
24 withdrew to the hills, towards the south of Bunia.

25 Q. [9:41:28] And what about the RCD/K-ML, was it still operational from April to

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1 August 2002?

2 A. [9:41:44] No, RCD/K-ML, had its HQ in Beni. It wasn't visible in the town
3 either.

4 Q. [9:42:03] And coming back to the death of Claude Kiza, did that happen before
5 or after the UPC took control of Bunia in August 2002?

6 A. [9:42:27] The UPC, I don't remember. I don't remember very well.

7 Q. [9:42:47] And I have another series of questions that I can ask you in open
8 session. You mentioned yesterday that Mr Lubanga had been in Kinshasa in or
9 around August 2002. Do you know --

10 A. [9:43:09] Yes.

11 Q. [9:43:10] Do you know who was in charge of the UPC while he was in
12 Kinshasa?

13 A. [9:43:31] When he was in Kinshasa, he led the UPC -- well, the person who led
14 the UPC was Djokaba Lambi. That was on the executive side. On the other side,
15 for the army, it was Kisembo, Kisembo and Bosco Ntaganda.

16 MS SAMSON: [9:44:15] Mr President, may we move into private session for my next
17 series of questions, please.

18 PRESIDING JUDGE FREMR: [9:44:19] Certainly.

19 Court officer, let's move into private session now.

20 (Private session at 9.44 a.m.) *(Reclassified partially in public)

21 THE COURT OFFICER: [9:44:36] We're in private session, Mr President.

22 PRESIDING JUDGE FREMR: [9:44:38] Thank you.

23 Ms Samson, please proceed.

24 MS SAMSON: [9:44:43]

25 Q. [9:44:44] Sir, following the death of Claude Kiza, did you personally attend

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1 any meetings with UPC or other political parties?

2 A. [9:44:04] No, I don't remember.

3 Q. [9:45:16] And, sir, do you recall -- would it assist you in your recollection if

4 you were able to look at the statement you gave to investigators in (Redacted)?

5 Would that help refresh your memory?

6 A. [9:45:39] I think --

7 PRESIDING JUDGE FREMR: [9:45:41] Hold on, Mr Witness. Before you answer, I

8 have to listen to Mr Bourgon.

9 Mr Bourgon.

10 MR BOURGON: [9:45:46] Thank you, Mr President. Before establishing whether

11 looking at his statement would refresh the witness' memory, the first step to go

12 through is to ask him whether he did answer these questions in his statement and

13 whether he remembers giving an answer different to what he is saying today. If so,

14 then we can move to the step to see if, looking at this statement, would be of

15 assistance. But there is a first step to go through, Mr President. Thank you.

16 PRESIDING JUDGE FREMR: [9:46:16] Ms Samson.

17 MS SAMSON: [9:46:17] Your Honour, in my assessment, the witness does not recall

18 having provided this information, and in my submission the efficiency of this

19 particular procedure would be enhanced if I could go directly to asking whether or

20 not it would assist him if he could review -- I feel as if I know what the witness will

21 say if I were to go through the step that Defence counsel is suggesting.

22 PRESIDING JUDGE FREMR: [9:46:51] I find conditions for refreshment of the

23 memory matter. Please proceed. Objection is overruled.

24 MS SAMSON: [9:47:05]

25 Q. [9:47:05] Sir, could I ask you, please, to look at your statement, which is at the

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1 first tab of the Prosecution's documents, and its registration number is

2 DRC-OTP-0174-0057.

3 PRESIDING JUDGE FREMR: [9:47:31] Sorry, Ms Samson.

4 Mr Bourgon.

5 MR BOURGON: [9:47:34] Thank you, Mr President. The witness should not be

6 directed to his statement in general. He should be directed to a specific answer on a

7 specific page to a specific question, and he should be asked before whether he recalls

8 when he said in his statement. There's a procedure, Mr President, to be followed.

9 If we just give him his statement and he refreshes his memory from his statement,

10 then we're not getting the testimony; we are getting the statement.

11 Thank you, Mr President.

12 PRESIDING JUDGE FREMR: [9:48:05] Ms Samson, what is your intention?

13 MS SAMSON: [9:48:07] Well, my intention is not to ask the witness to read his

14 69-page statement right now. My intention is for him to read the paragraph at

15 which this matter is discussed.

16 PRESIDING JUDGE FREMR: [9:48:16] All right, then.

17 MS SAMSON: [9:48:27] I was just providing the document so that the registrar in the

18 field could find it quickly.

19 THE COURT OFFICER: (via video link) [9:48:55] (Interpretation) Yes. I have the

20 document on the laptop and it's open. I can show it. The document's there.

21 MS SAMSON: [9:49:18] My apologies, it's actually the second statement. So the

22 registration number is DRC-OTP-2079-0340, and that is --

23 THE COURT OFFICER: (via video link) [9:49:39] (Interpretation) 340?

24 MS SAMSON: [9:49:47] Yes, 0340, and it is at paragraph 12.

25 THE COURT OFFICER: (via video link) [9:50:01] (Interpretation) If I could repeat the

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1 number, madam. DRC-OTP-2079-0340.

2 MS SAMSON: [9:50:12] Yes, that's correct.

3 THE COURT OFFICER: (via video link) [9:50:18] (Interpretation) Yes. First of all, I'm
4 presenting the document.

5 MS SAMSON: [9:50:25] It's number 8 on the Prosecution's list.

6 Yes. The document is 13 pages in total.

7 Q. [9:50:51] Sir, do you recognise this as a statement that you gave to the
8 investigators from the Prosecution in (Redacted)? If you look at the last -- actually, the first
9 page of the document, at the very bottom you'll see a signature. Is that first
10 signature yours?

11 A. [9:52:08] Yes, that's mine.

12 Q. [9:52:09] And is this a copy, looking at it just generally, not reviewing its
13 contents, a copy of the statement that you gave to the Prosecution --

14 PRESIDING JUDGE FREMR: [9:52:21] Hold on, Ms Samson.

15 Go ahead, Mr Bourgon.

16 MR BOURGON: [9:52:26] Thank you, Mr President. I would just like to know what
17 the witness is looking at because we don't know what he has. Does he have a paper
18 copy or is he looking on the screen? I think the registrar said he had a screen. I'd
19 just like to know what he's looking at.

20 PRESIDING JUDGE FREMR: [9:52:37] It's my -- but we can refer at the moment.

21 I -- in my understanding, he's looking at the hard copy.

22 MS SAMSON: [9:52:47]

23 Q. [9:52:47] Sir, do you have a hard copy of this statement before you or are you
24 looking at it on a computer screen?

25 THE COURT OFFICER: (via video link) [9:53:09] (Interpretation) Madam, the first

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1 document you said was DRC-OTP-0057, that one is on the screen; however, the
2 document that the witness is looking at is DRC-OTP-2079-0340, and that is a hard
3 copy.

4 PRESIDING JUDGE FREMR: [9:53:34] Mr Bourgon.

5 Sorry, Ms Samson. Mr Bourgon again.

6 MR BOURGON: [9:53:39] Mr President, I would just like to reiterate our objection,
7 that he should be directed to specific parts so that we know what he's looking at, and
8 not been going through his statement to just refresh his memory in general.

9 PRESIDING JUDGE FREMR: [9:53:51] I agree, but my understanding was that we
10 started with the first pages just to ensure that it's his signature, and then Ms Samson,
11 I'm sure, will move to the concrete part.

12 Am I right, Ms Samson?

13 MS SAMSON: [9:54:05] Yes, your Honour.

14 PRESIDING JUDGE FREMR: [9:54:06] All right. So then please proceed.

15 MS SAMSON: [9:54:07] So I understand the witness has confirmed --

16 Q. [9:54:10] Do you confirm, sir, that this is a copy of your statement from (Redacted),
17 given to Prosecution investigators?

18 A. [9:54:31] I think so.

19 Q. [9:54:33] And if I ask you to turn, please, to page 3 of the document, ending in
20 0342, and to paragraph 12.

21 THE COURT OFFICER: (via video link) [9:55:00] (Interpretation) I've given the
22 document to the witness.

23 MS SAMSON: [9:55:05] Yes.

24 Q. [9:55] Sir, if you could read paragraph 12 of your statement but just paragraph
25 12.

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1 A. [9:55:17] The writing's so small. I'm not able to read it.

2 PRESIDING JUDGE FREMR: [9:55:26] Ms Samson, I think you can read that out.

3 MS SAMSON: [9:55:28] I will do that.

4 Q. [9:55:29] Sir, I will read it and then you can hear what I say. I will read it in
5 French. This is paragraph 12.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 *A. (Redacted)

15 *Q. (Redacted)

16 (Redacted)

17 (Redacted)

18 A. [9:57:14] I'm listening to you.

19 PRESIDING JUDGE FREMR: Please hold on, Mr Witness.

20 Mr Bourgon now.

21 MR BOURGON: [9:57:19] Thank you, Mr President. Now that the paragraph has

22 been read to the witness and that he has his statement, we object once again to this

23 procedure. The paragraph contains information on many topics which go way

24 beyond what my colleague was trying to establish with the witness, namely, whether

25 there was a meeting between a man called Claude and RCD/K-ML. So we are

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1 simply deviating from the procedure in order to ask the witness what to say in court
2 today. Thank you, Mr President.

3 PRESIDING JUDGE FREMR: [9:57:53] Ms Samson, your comment.

4 MS SAMSON: [9:57:55] Yes, your Honour. I wasn't trying to establish a meeting
5 between Claude and the RCD because we've established that Claude was killed. I
6 was seeking to establish whether the witness could recall having a meeting after
7 Claude's death with UPC representatives or representatives of another political party.
8 That was my question. And he said he didn't recall. So I wanted to see if this
9 would assist him. And now that he can remove the document, I can ask questions to
10 him without the document in front of him. So the usual procedure for refreshing
11 recollection on this event.

12 PRESIDING JUDGE FREMR: [9:58:32] All right. And in case that the part of the text
13 read out to the witness would be really broader than necessary, and even the
14 Chamber will be careful to monitor that, if it would rely that it was -- it had some
15 impact on the responses made by the witness, we will take into account when
16 adjudicating credibility of such an answer and testimony.

17 Ms Samson, please proceed.

18 MS SAMSON: [9:59:03]

19 Q. [9:59:03] Now, sir, has the statement been removed? Is it no longer in front of
20 you?

21 THE COURT OFFICER: (via video link) [9:59:30] (Interpretation) No, madam. I am
22 the court officer. I confirm that the document has been removed.

23 MS SAMSON: [9:59:36] Thank you.

24 Q. [9:59:36] Now, Mr Witness, does that help refresh your recollection as to
25 whether you participated in any meetings after Mr Kiza's death with UPC

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1 representatives or representatives of other armed groups?

2 A. [10:00:02] Please could you repeat the question.

3 Q. [10:00:05] Certainly. Does that paragraph from your statement that I just read
4 to you, does it refresh your recollection about whether you met with representatives
5 of the UPC or other armed groups after the death of Claude Kiza? Do you
6 remember having met with members of the UPC or other armed groups after the
7 death of Claude Kiza?

8 A. [10:00:48] No, no.

9 Q. [10:00:53] (Redacted)

10 (Redacted)

11 (Redacted)

12 A. [10:01:21] (Redacted)

13 Q. [10:01:22] (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 A. [10:01:59] (Redacted)

18 Q. [10:02:09] (Redacted)

19 (Redacted)

20 A. [10:02:40] (Redacted)

21 (Redacted)

22 Q. [10:02:47] (Redacted)

23 (Redacted)

24 PRESIDING JUDGE FREMR: [10:03:12] And, Ms Samson, you mean currently or
25 2002/2003?

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1 MS SAMSON: [10:03:18] Thank you, Mr President.

2 Q. [10:03:18] I'm referring to the 2002/2003 period, if it's any different to today.

3 But specifically 2002, 2003, (Redacted)?

4 A. [10:03:51] (Redacted)

5 Q. [10:04:00] (Redacted)

6 (Redacted)

7 (Redacted)

8 A. [10:04:38] (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [10:05:32] (Redacted)

14 (Redacted)

15 A. [10:06:03] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. [10:06:37] (Redacted)

21 (Redacted)

22 A. [10:06:50] (Redacted)

23 Q. [10:07:02] (Redacted)

24 (Redacted)

25 A. [10:07:17] (Redacted)

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1 Q. [10:15:26] (Redacted)

2 (Redacted)

3 A. [10:15:33] (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [10:16:28] (Redacted)

9 (Redacted)

10 A. [10:16:57] (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [10:17:12] (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. [10:17:48] (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [10:18:33] Yes, thank you. And did you have any reports about which armed
25 group on the Hema side were responsible for massacres?

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- 1 A. [10:18:42] The massacres were perpetrated by, or with the use of firearms.
- 2 The UPC was thus organised. The UPC army had commanders, commanders in
- 3 chief, like Kisembo Bahemuka and his deputy in charge of operations was Mr Bosco
- 4 Ntaganda.
- 5 Q. [10:19:38] (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 A. [10:20:02] (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 Q. [10:20:21] (Redacted)
- 12 (Redacted)
- 13 A. [10:20:40] (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 Q. [10:21:20] (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 A. [10:21:46] (Redacted)
- 23 Q. [10:21:47] (Redacted)
- 24 A. [10:21:58] (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [10:22:35] Now, we spoke a bit about the UPC structure - in general terms

6 you've mentioned a few things - and I'd like to ask you more detailed questions about

7 the structure of the political side of the UPC and the military side and the interactions

8 between the two.

9 First, how was the UPC referred to commonly? Did people refer to --

10 A. [10:23:27] I'm sorry?

11 Q. [10:23:29] Well, first let me ask this way: What was the name of the military

12 branch of the UPC?

13 A. [10:23:49] The military wing of the UPC was known as *FPLC, or FPLC.

14 THE INTERPRETER: [10:24:05] the witness' answer wasn't clear to the interpreter,

15 Mr President.

16 PRESIDING JUDGE FREMR: [10:24:09] Ms Samson, don't you think that would be

17 possible to move into open session?

18 MS SAMSON: [10:24:16] Yes, (Redacted)

19 (Redacted)

20 PRESIDING JUDGE FREMR: [10:24:23] I know that maybe there will be some

21 mention about (Redacted), then we have to be

22 careful, but at least maybe for some first questions we can move into open.

23 MS SAMSON: [10:24:35] Yes, your Honour, I think so, too.

24 PRESIDING JUDGE FREMR: [10:24:38] All right.

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

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1 And, Mr Witness, if you, as a part of your answer would be -- would feel the need to
2 talk about yourself, then we will move into private session. But I understood at the
3 beginning the questions would be rather exploring general issues, but as soon as
4 there will be a need to speak about you, we will move into private.

5 (Open session at 10.25 a.m.)

6 THE COURT OFFICER: [10:25:22] We are in open session, Mr President.

7 PRESIDING JUDGE FREMR: [10:25:26] Thank you, court officer.

8 Ms Samson, please proceed.

9 MS SAMSON: [10:25:29]

10 Q. [10:25:31] Sir, what can you recall? How was the UPC political branch
11 structured? Who was at the top and thereafter what positions followed?

12 A. [10:26:12] Very well. The leader of the UPC was Thomas Lubanga. Then
13 you have the presidency at the top of the organisational chart. After the presidency
14 you have the executive and its members, who were the national secretaries, and
15 below that you had the support staff. But when it comes to the military wing, that
16 wing was under Thomas Lubanga. The executive did not communicate or exchange
17 views with the military wing. *No, that is the preserve of the hierarchy, and the
18 hierarchy was Mr Lubanga alone.

19 Q. [10:27:19] And other than Mr Lubanga, were there any other persons or groups
20 within the -- on the political side who would meet with the military?

21 A. [10:27:49] Apart from Lubanga, I don't see any other. I don't see any
22 relationship. But in any event I *could not have been aware of it. *Officially, it was
23 not allowed that there should be official contact with the military branch. That
24 matter was the exclusive preserve of Lubanga.

25 Q. [10:28:20] Did Mr Lubanga have any advisors, formal or informal?

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1 A. [10:28:38] Yes. He had advisors. Political advisor, diplomatic advisor,
2 security advisor, yes, he had such advisors.

3 Q. [10:28:58] Who was his security advisor?

4 A. [10:29:08] Yes. His security advisor was Rafiki.

5 Q. [10:29:18] And who was his political advisor or advisors?

6 A. [10:29:38] Political advisor, it was Honourable Ondini *Kidikpa.

7 Q. [10:29:53] And diplomatic advisors?

8 A. [10:29:56] The diplomatic advisor was Dhetchuvi.

9 Q. [10:30:17] Who financed the UPC?

10 A. [10:30:26] Financing the UPC? I forget the name.

11 Q. [10:30:37] Did the UPC ever get money from individuals or how did the
12 UPC -- how was it funded.

13 A. [10:31:09] Please repeat your question.

14 Q. [10:31:11] Yes. How was the UPC funded? From where did the UPC get
15 money?

16 A. [10:31:22] Well, that was a private matter and I know nothing about it. We
17 never discussed finances in the UPC.

18 Q. [10:31:38] The name that --

19 A. [10:31:42] So I don't know where Lubanga got his funding from. I don't
20 know.

21 Q. [10:31:47] The name that you provided --

22 PRESIDING JUDGE FREMR: [10:31:48] Hold on.

23 Mr Bourgon, are you --

24 MR BOURGON: [10:31:51] I can wait until the end of this session.

25 PRESIDING JUDGE FREMR: [10:31:54] Very well.

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1 MS SAMSON: [10:31:54]

2 Q. [10:31:55] The name that you provided for the diplomatic advisor was not
3 captured in our transcript. Could you repeat the name you provided, please?

4 A. [10:32:04] What should I repeat?

5 Q. [10:32:13] The name of the diplomatic advisor.

6 A. [10:32:22] Yes. The diplomatic advisor, Dhetchuvi was his name.

7 MS SAMSON: [10:32:39] Thank you. Mr President, given that it's 10.30.

8 PRESIDING JUDGE FREMR: [10:32:42] All right. And before we break for 30
9 minutes, let's move to private session because I would like to make -- to put one
10 additional question. So let's move into private session.

11 (Private session at 10.33 a.m.) *(Reclassified partially in public)

12 THE COURT OFFICER: [10:33:09] We are in private session, Mr President.

13 PRESIDING JUDGE FREMR: [10:33:12] I just have one additional question for you,

14 Mr Witness. (Redacted)

15 (Redacted)

16 (Redacted)

17 THE WITNESS: [10:33:34] (Interpretation) Never.

18 PRESIDING JUDGE FREMR: [10:33:42] Thank you.

19 Now let's move into open session again.

20 (Open session at 10.33 a.m.)

21 THE COURT OFFICER: [10:33:52] We are in open session.

22 PRESIDING JUDGE FREMR: [10:33:59] Thank you.

23 And now I will give the floor to Mr Bourgon.

24 Mr Bourgon, please.

25 MR BOURGON: [10:34:05] The question was answered. I was just looking for the

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1 name of the diplomatic advisor. Thank you, Mr President.

2 PRESIDING JUDGE FREMR: [10:34:12] All right. So now we will take our regular
3 break for 30 minutes, and then, Mr Witness, we will conclude for today by another
4 session which is going to take, again, one hour.

5 So now we break and we will reconvene at 11.05.

6 (Recess taken at 10.35 a.m.)

7 (Upon resuming in open session at 11.05 a.m.)

8 THE COURT USHER: [11:06:02] All rise.

9 Please be seated.

10 PRESIDING JUDGE FREMR: [11:06:18] Let's directly continue with the further piece
11 of examination-in-chief of our witness.

12 Ms Samson, you have the floor. And do you want to proceed in private or in open
13 session?

14 MS SAMSON: [11:06:36] Your Honour, I can ask one or two questions in open
15 session.

16 PRESIDING JUDGE FREMR: [11:06:42] Very well. So you may proceed.

17 MS SAMSON: [11:06:45]

18 Q. [11:06:48] Sir, did you know anybody by the name Mafuta Savo?

19 A. [11:06:58] Mafuta Savo, yes.

20 Q. [11:07:09] Who is or was Mafuta Savo?

21 A. [11:07:21] Mafuta Savo is somebody I often saw with President Thomas
22 Lubanga, at Thomas Lubanga's residence, but I don't know the relationship he had
23 with Thomas Lubanga.

24 Q. [11:07:47] To your knowledge, did Mr Savo have any formal or informal
25 function with the UPC?

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1 A. [11:08:09] Formal function? No. Informal function, I don't know that either,
2 but he came often.

3 MS SAMSON: [11:08:19] Mr President, may I seek your leave to move into private
4 session for my next questions.

5 PRESIDING JUDGE FREMR: [11:08:26] Certainly.

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

7 (Private session at 11.08 a.m.) *(Reclassified partially in public)

8 THE COURT OFFICER: [11:08:32] We are in private session, Mr President.

9 PRESIDING JUDGE FREMR: [11:08:41] Thank you, court officer.

10 Ms Samson, please proceed.

11 MS SAMSON: [11:08:44]

12 Q. [11:08:45] (Redacted)

13 (Redacted)

14 A. [11:09:00] (Redacted)

15 Q. [11:09:03] (Redacted)

16 A. [11:09:26] (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. [11:10:11] (Redacted)

23 (Redacted)

24 (Redacted)

25 A. [11:10:38] (Redacted)

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1 A. [11:15:01] (Redacted)

2 Q. [11:15:10] (Redacted)

3 (Redacted)

4 PRESIDING JUDGE FREMR: [11:15:19] Sorry, Ms Samson.

5 Mr Bourgon.

6 MR BOURGON: [11:15:23] Thank you, Mr President. Before we move on into -- this

7 is one area where there's English and French hearing the answer, and the original in

8 French. My understanding was the witness said the security, not as a body but the

9 security as the security along with the military and not as a body, and I'd like to

10 clarify this before we move to the next question. Thank you.

11 PRESIDING JUDGE FREMR: [11:15:48] Ms Samson.

12 MS SAMSON: [11:15:49] Certainly, your Honour, I'll seek to clarify that.

13 PRESIDING JUDGE FREMR: [11:15:55] All right.

14 MS SAMSON: [11:15:55]

15 Q. [11:15:55] (Redacted)

16 (Redacted)

17 A. [11:16:36] (Redacted)

18 Q. [11:16:38] (Redacted)

19 (Redacted)

20 A. [11:16:56] (Redacted)

21 Q. [11:17:00] (Redacted)

22 (Redacted)

23 A. [11:17:36] (Redacted)

24 Q. [11:17:38] (Redacted)

25 (Redacted)

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1 A. [11:18:05] I think so but I can't remember. It's possible.

2 Q. [11:18:13] I would like to show you a document. It's number 2 in the

3 Prosecution's list of documents, at (Redacted).

4 THE COURT OFFICER: (via video link) [11:18:59] (Interpretation) Yes, madam. I'm
5 showing you the document (Redacted).

6 MS SAMSON: [11:19:10] Thank you. That's the one. Could you please show it to
7 the witness.

8 THE COURT OFFICER: (via video link) [11:19:15] (Interpretation) And I am showing
9 the document to the witness. I'm making the document available to the witness.

10 MS SAMSON: [11:19:25]

11 Q. [11:19:28] Mr Witness, is that your signature on the bottom right-hand corner
12 of this document?

13 A. [11:19:38] That's correct.

14 Q. [11:19:39] And do you recall either preparing the document or providing
15 information to the investigators about the UPC structure and confirming that this --

16 A. [11:20:07] I think so. It's -- it's got my signature on it.

17 Q. [11:20:14] And does this -- does the information contained on this page
18 accurately reflect the information you've given us today and your recollection of the
19 structure of the UPC (Redacted)

20 A. [11:20:35] I think so.

21 MS SAMSON: [11:20:40] Mr President, I seek to admit this diagram as a further
22 Prosecution exhibit.

23 PRESIDING JUDGE FREMR: [11:20:47] Defence, any objection?

24 MR BOURGON: [11:20:49] None, Mr President.

25 PRESIDING JUDGE FREMR: [11:20:52] All right. So the diagram, ERN number

1 specified by Ms Samson, is admitted into evidence as a further Prosecution exhibit.

2 MS SAMSON: [11:21:13] I actually have one final question about the document.

3 Q. [11:21:15] Sir, can you explain what the arrows pointing upward mean and
4 what the arrows pointing downward mean on this organigram?

5 A. [11:21:35] The arrows mean that there is a relation. It could be a
6 communication relationship between the structures, the high structures and the low
7 structures.

8 Q. [11:21:58] And turning now to the presidency itself, could you please explain
9 to us which -- what was the structure of the presidency in 2002 and 2003, those
10 services which were attached to the presidency?

11 A. [11:22:36] The services linked to the presidency? Well, there was the
12 executive normally. You can also see a structure responsible for peace, peace and
13 reconciliation. And of course there's the military services.

14 Q. [11:23:28] And did Mr Lubanga have a cabinet of the president? You've
15 mentioned already some advisors.

16 A. [11:23:38] Yes. Yes. The advisors, the secretariat, something like that.

17 Q. [11:23:56] Did he have a secretary or a cabinet director?

18 A. [11:24:07] Yes.

19 Q. [11:24:12] Do you recall who occupied those positions in 2002 and 2003?

20 A. [11:24:25] As regards the function of chef du cabinet, if I'm not wrong, that was
21 Mbuna, Mbuna Dieudonné, I think.

22 Q. [11:24:47] Could you please pronounce that name one more time slowly.

23 A. [11:24:07] M-B-U-N-A.

24 Q. [11:25:27] And do you recall an individual whose last name was Avochi?

25 A. [11:25:39] Oh, yes, I remember well.

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1 Q. [11:25:44] What position did he hold, if any?

2 A. [11:25:55] Yes. Avochi, he was responsible for civil security. He was an
3 advisor in civil security.

4 Q. [11:26:14] And to which ethnic community did Mr Avochi belong?

5 A. [11:26:23] Avochi was Alur.

6 Q. [11:26:29] Earlier you also referred to Mr Ondini. Do you know what -- and
7 Mr Ondini, you mentioned, was --

8 A. [11:26:45] Yes. Ondini was an advisor, a political advisor.

9 Q. [11:26:49] Do you know what influence or power they had as security and
10 political advisors to Mr Lubanga?

11 A. [11:27:15] Not very well.

12 Q. [11:27:15] (Redacted)

13 A. [11:27:40] (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [11:28:07] (Redacted)

17 (Redacted)

18 A. [11:28:31] (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. [11:29:10] (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 A. [11:30:01] (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [11:30:22] And I'll show you another document. It's number 3 on the
5 Prosecution's list. It's (Redacted).

6 PRESIDING JUDGE FREMR: [11:30:49] Hold on, Mr Witness.

7 Mr Bourgon.

8 MR BOURGON: [11:30:52] Thank you, Mr President. Before this document is shown
9 to the witness, there has to be at least a sufficient basis or else it's simply leading. He
10 should know that he provided maybe this document. He should maybe know that
11 when, what it includes, and what is the intent of the document, and then maybe we
12 can show him to refresh with the details. But at least we should establish a sufficient
13 basis first. Thank you.

14 PRESIDING JUDGE FREMR: [11:31:21] Ms Solano -- sorry, Ms Samson.

15 MS SAMSON: [11:31:25] Yes. I will ask one additional question.

16 Q. [11:31:27] Sir, do you remember providing information to the Office of the
17 Prosecutor when you first met with investigators in (Redacted)
18 (Redacted)?

19 A. [11:31:56] I have not seen that document yet.

20 Q. [11:32:00] Yes. But generally, do you recall when you met with the Office of
21 the Prosecutor in (Redacted) that you provided information about (Redacted)
22 (Redacted).

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 you remember having done that?

2 A. [11:32:58] It would help to see the diagram. That might help me to
3 remember.

4 PRESIDING JUDGE FREMR: [11:33:09] I think I find the effort sufficient, so please
5 proceed with the document.

6 MS SAMSON: [11:33:16]

7 Q. [11:33:16] So I would ask Mr Registrar next to you to show you a copy of the
8 document (Redacted).

9 THE COURT OFFICER: (via video link) [11:33:35] (Interpretation) Yes, madam. I
10 will show the document. I'll display it.

11 MS SAMSON: [11:33:43] Yes. That's the one.

12 THE COURT OFFICER: (via video link) [11:33:47] (Interpretation) I am now making
13 the document available to the witness.

14 MS SAMSON: [11:34:08]

15 Q. [11:34:09] Sir, is that your signature on the bottom right-hand corner of the
16 document?

17 A. [11:34:16] Yes, it is my signature.

18 Q. [11:34:18] And is the information in it accurate, to the best of your
19 recollection?

20 A. [11:34:44] The information is accurate.

21 MS SAMSON: [11:34:45] Mr President, I seek to tender this document as a
22 Prosecution exhibit.

23 PRESIDING JUDGE FREMR: [11:34:48] Defence?

24 MR BOURGON: [11:34:50] No objection, Mr President. I do note, however, that
25 there's a lot of information on this document and that the witness has just answered

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1 that all of it is accurate. Thank you, Mr President.

2 PRESIDING JUDGE FREMR: [11:35:04] Yes, well noted by the Chamber.

3 So this document is admitted into evidence as a further Prosecution exhibit.

4 Ms Samson, please proceed.

5 MS SAMSON: [11:35:16] Mr President, given that there are people in the public

6 gallery, and I do think that a portion of these questions could be asked publicly,

7 provided that I delay seeking admission of individual diagrams until the end when

8 I can move into private session and show the witness the document with his

9 signature, if that's acceptable to the Chamber, then I propose that we move into

10 public session.

11 PRESIDING JUDGE FREMR: [11:35:38] Yes, it is, for sure.

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

13 (Open session at 11.35 a.m.)

14 THE COURT OFFICER: [11:35:50] We are in open session, Mr President.

15 PRESIDING JUDGE FREMR: [11:35:50] Thank you, court officer.

16 Ms Samson, please proceed.

17 MS SAMSON: [11:36:03]

18 Q. [11:36:05] Sir, I would like now to focus on the security section that you spoke

19 to us about as being headed by Mr Rafiki. Are you able to explain the structure of

20 that security section?

21 A. [11:36:51] The structure -- please repeat the question. Please.

22 Q. [11:36:57] Certainly. How was the security section subdivided? Who was

23 under Mr Rafiki? What was their position? If you can provide that, please.

24 A. [11:37:30] Who worked for -- what was the question?

25 Q. [11:37:32] (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. [11:38:15] (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [11:38:57] In his involvement in matters of military security, do you know

9 whether Mr Rafiki had direct contact with military within the FPLC or not?

10 A. [11:39:19] Well, I think so. I think so. He was in charge of security, and

11 therefore he must have known something about it.

12 Q. [11:39:40] Did the UPC have sections dealing with migration and

13 immigration?

14 A. [11:40:11] Yes, I think so. Rafiki was also in charge of intelligence and

15 migration, especially by air.

16 Q. [11:40:38] And can you recall who was in charge of migration and immigration

17 in 2002 and 2003?

18 A. [11:41:03] No, I can't remember.

19 Q. [11:41:26] I will ask you questions now about the structure of the FPLC. Who

20 was at the top of the FPLC in 2002/2003?

21 A. [11:41:49] The military general staff was under Kisembo Bahemuka, and his

22 deputy was Bosco Ntaganda who was in charge of operations.

23 Q. [11:42:15] And did the UPC have a minister of defence?

24 A. [11:42:31] Minister of defence? If I'm not mistaken, it was the president

25 himself.

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1 Q. [11:42:47] Who was under Mr Kisembo and Mr Ntaganda in the military
2 structure? How was the FPLC organised as far as you know?

3 A. [11:43:14] (Redacted)

4 (Redacted)

5 Q. [11:43:26] (Redacted)

6 (Redacted)

7 (Redacted)

8 A. [11:43:52] (Redacted)

9 (Redacted)

10 (Redacted)

11 MS SAMSON: [11:44:22] Mr President, may we please move into private session.

12 PRESIDING JUDGE FREMR: [11:44:26] Court officer, let's move into private session.

13 (Private session at 11.44 a.m.) *(Reclassified partially in public)

14 THE COURT OFFICER: [11:44:44] We're in private session, Mr President.

15 PRESIDING JUDGE FREMR: [11:44:47] Thank you.

16 Ms Samson, please proceed.

17 MS SAMSON: [11:44:49]

18 Q. [11:44:51] (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 A. [11:45:25] It is possible but I don't have a clear recollection.

23 MS SAMSON: [11:45:35] Mr President, I would like to show the witness the

24 document that I'm referring to.

25 PRESIDING JUDGE FREMR: [11:45:43] Defence, any objection?

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1 MR BOURGON: [11:45:45] Not at this stage, Mr President.

2 PRESIDING JUDGE FREMR: [11:45:47] All right, then.

3 MS SAMSON: [11:45:52]

4 Q. [11:45:53] I would like to show you a document. It's number 4 on the

5 Prosecution's list. The registration number is (Redacted).

6 THE COURT OFFICER: (via video link) [11:46:33] (Interpretation) Yes, madam. I

7 will now show you (Redacted).

8 MS SAMSON: [11:46:42] Yes, that's the document.

9 THE COURT OFFICER: (via video link) [11:46:44] (Interpretation) I am now making

10 the document available to the witness.

11 MS SAMSON: [11:46:47]

12 Q. [11:46:52] Mr Witness, is that your signature on the bottom right-hand corner?

13 Sir, is that your signature on the bottom right-hand corner of the document?

14 A. [11:47:30] Correct. That's right.

15 Q. [11:47:35] And looking at the document (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted) does that help you recall the information

19 you provided to the Office of the Prosecutor in (Redacted)? Can you recall now

20 having provided that information to the Office of the Prosecutor?

21 A. [11:49:08] Yes, I this so.

22 Q. [11:49:10] And does the information appearing in this diagram reflect

23 accurately the structure of the general security administration of the UPC in 2002 and

24 2003?

25 A. [11:49:40] Yes, it's clear. The general administration for security reported

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1 directly to the presidency.

2 Q. [11:49:58] What relationship did the security section and Mr Rafiki have to the
3 presidential guard of Mr Lubanga?

4 A. [11:50:22] Security is a very sensitive thing, (Redacted)

5 (Redacted). It was linked to the presidency. And for that reason

6 Rafiki submitted his reports directly to Lubanga and they took the decisions that they
7 wanted to take.

8 MS SAMSON: [11:50:45] Mr President, I seek to admit this document as a Prosecution
9 exhibit.

10 PRESIDING JUDGE FREMR: [11:50:49] Defence? Any opposition?

11 MR BOURGON: [11:50:52] Mr President, I note that this document is -- does not
12 contain a date, and the question that was put to the witness, that this correctly reflects
13 the organigram in force in 2002 and 2003, and the witness said yes. On the basis of
14 this answer, Mr President, we have no objection.

15 PRESIDING JUDGE FREMR: [11:51:14] Noted. So this document, the ERN specified
16 by Ms Samson, is admitted into evidence as a further Prosecution exhibit.

17 MS SAMSON: [11:51:40] Thank you, Mr President.

18 Q. [11:51:43] (Redacted)

19 (Redacted)

20 (Redacted)

21 A. [11:52:19] (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [11:52:57] (Redacted)

25 A. [11:53:08] (Redacted)

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1 MS SAMSON: [11:56:12]

2 Q. [11:56:13] (Redacted)

3 (Redacted)

4 PRESIDING JUDGE FREMR: [11:56:28] Hold on, Mr Witness. Hold on, because the
5 Defence counsel is on his feet.

6 Mr Bourgon.

7 MR BOURGON: [11:56:34] If I may suggest, Mr President, to go one by one instead of
8 asking a compound question of his relationship with many organs. I think it would
9 be clearer for the record if we can go one by one.

10 PRESIDING JUDGE FREMR: [11:56:48] It's up to Ms Samson because generally
11 compound question is not, in my view, in this Court prohibited, so what will work
12 better.

13 So, Ms Samson, it's up to you.

14 MS SAMSON: [11:57:03] I'm happy, your Honour, to go individually through.

15 Perhaps it will --

16 PRESIDING JUDGE FREMR: [11:57:07] I believe it will be more efficient.

17 MS SAMSON: [11:57:13]

18 Q. [11:57:13] (Redacted)

19 (Redacted)

20 (Redacted)

21 A. [11:57:41] (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [11:59:04] (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. [11:59:33] (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [12:00:31] (Redacted)

14 (Redacted)

15 (Redacted)

16 A. [12:01:00] Yes, some of them, but I cannot mention all of them. Chief Kahwa,
17 for example, was one of them. Chief Déo of Abahingi in -- of Hema Sud. Then we
18 had the chief of the Lotute collectivity, Bahema Baguru. Then we had Chief Yamu of
19 Mahagi, Zangal (phon). I am not able to mention all the chiefs. There were many of
20 them.

21 Q. [12:01:48] Since you mention Chief Kahwa, did Mr Kahwa have any role
22 within the UPC to your knowledge?

23 A. [12:02:11] Yes. Initially, Chief Kahwa was the president's deputy in charge of
24 defence.

25 Q. [12:02:26] And can you recall how long he remained in the UPC?

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1 A. [12:02:45] I do not remember but he wasn't there for long. He wasn't in there
2 for long. He moved on to create his own movement.

3 Q. [12:02:58] Do you know the reasons for his departure beyond the creation of
4 his own movement?

5 A. [12:03:14] I do not know the reason.

6 Q. [12:03:22] Do you have any information about his relationship with
7 Mr Lubanga?

8 A. [12:03:41] Well, directly, I don't know, but Chief Kahwa is Hema, Lubanga is
9 Hema as well, and I think there was some complicity between both of them.

10 MS SAMSON: [12:04:03] Mr President, I would like -- actually, I have one further
11 question before I do that.

12 Q. [12:04:07] (Redacted)
13 (Redacted)

14 A. [12:04:25] Yes, it is possible. If you are putting questions on that subject to
15 me, then it must be highly possible that I made such explanations and provided that
16 kind of information to them.

17 MS SAMSON: [12:04:44] Mr President, I would like to show one of these documents
18 to the witness. It is number 6 on the Prosecution's list. It's (Redacted).

19 PRESIDING JUDGE FREMR: [12:05:05] And, Ms Samson, please, we should, in fact,
20 conclude the testimony for today in roughly five minutes. Is it realistic?

21 MS SAMSON: [12:05:16] Yes, your Honour.

22 PRESIDING JUDGE FREMR: [12:05:17] All right. As concerns the document which
23 should be used with Mr Witness, Defence, any objection?

24 MR BOURGON: [12:05:24] No, Mr President.

25 PRESIDING JUDGE FREMR: [12:05:25] All right, then.

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1 THE COURT OFFICER: (via video link) [12:05:26] (Interpretation) Madam, the
2 document (Redacted) is here.

3 MS SAMSON: [12:05:46] Yes, thank you. That's the document.

4 THE COURT OFFICER: (via video link) [12:05:49] (Interpretation) I will make the
5 document available to the witness.

6 MS SAMSON: [12:06:04]

7 Q. [12:06:04] Mr Witness, can you confirm that it is your signature at the bottom
8 right of every page? There are three pages to this document.

9 A. [12:06:19] Correct. That's my signature.

10 Q. [12:06:26] Can you confirm that the information contained in these pages,
11 (Redacted)

12 (Redacted), is accurate?

13 Sir, is the information this this diagram accurate?

14 A. [12:11:46] It's correct.

15 Q. [12:11:49] (Redacted)

16 (Redacted)

17 (Redacted)

18 A. [12:12:13] (Redacted)

19 Q. [12:12:14] (Redacted)

20 (Redacted)

21 (Redacted)

22 A. [12:12:53] (Redacted)

23 (Redacted)

24 Q. [12:13:12] (Redacted)

25 (Redacted)

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1 A. [12:13:29] (Redacted)

2 (Redacted)

3 MS SAMSON: [12:13:40] Mr President, I seek to tender this document, admit it into
4 evidence. Thank you.

5 PRESIDING JUDGE FREMR: [12:13:44] Mr Bourgon?

6 MR BOURGON: [12:13:45] Mr President, we object to the admission of this
7 document on the basis that it does not correspond, nor match the testimony of the
8 witness. I refer the Chamber to the French transcript. The French transcript is at
9 page 43, lines 16 to 21, and in English we have page 38, lines 8 to 11. In this -- the
10 question put to the witness was: (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 My colleague tried to clarify the issue in the last question she put to the witness a few
15 seconds ago, but the issue was further confused. (Redacted)

16 (Redacted) This is not

17 reflected. If we want to admit this document, we would not object unless we have a
18 clear picture as to what name should be changed where so we have an accurate
19 reflection. Then we will have no objection. Thank you, Mr President.

20 PRESIDING JUDGE FREMR: [12:15:03] Ms Samson.

21 MS SAMSON: [12:15:04] Your Honour, I think that the document read in
22 connection -- in conjunction with the transcript will make it clear that the witness has
23 brought a correction to the fact that there were (Redacted)

24 (Redacted) - and so he's made the correction. This is a

25 document signed by the witness. So to alter it now would not, in my submission, be

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1 the best way. I think the document can be admitted with the corrections being
2 brought to it that the parties and the Chamber are aware of, and ought not to use in
3 any way different to the testimony. Thank you.

4 PRESIDING JUDGE FREMR: [12:15:48] Generally, I share the view presented by the
5 Prosecution, so even we notice the objection made by the Defence, we will take it into
6 account. We will compare (Redacted) with the text of the transcript and
7 indicate that such a discrepancy, which is minor, it's really not so crucial as concerns
8 charges against the accused, but we will any way have it in mind.

9 So the document is entered into evidence as a further Prosecution exhibit.

10 Now, Mr Witness, I would like to thank you. We can, for today, conclude with
11 your testimony. I would like to thank you that you remain focused, that you
12 patiently and clearly try to answer all questions put to you. It's also my duty
13 because we are going to continue on Monday, so it's my duty to remind you that in
14 the meantime until Monday, you must not discuss your testimony with anybody
15 else.

16 Do you understand that, Mr Witness?

17 THE WITNESS: [12:16:57] (Interpretation) Yes. Yes, your Honour.

18 PRESIDING JUDGE FREMR: [12:17:04] Very well. So thank you. Enjoy some
19 relaxed weekend and we will see you on Monday.

20 Now the connection with the field can be cut.

21 (The witness stands down)

22 PRESIDING JUDGE FREMR: [12:17:22] And I would like to use the remainder of this
23 90-minute session for two procedural issues.

24 First one, it concerns timing. Court usher, could you just provide me information
25 about the recent situation?

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1 THE COURT OFFICER: [12:17:41] Yes, Mr President. The Prosecution used so far 3
2 hours, 36 minutes.

3 PRESIDING JUDGE FREMR: [12:17:47] So it would mean that you would still have at
4 your disposal, Ms Samson, 2 hours, 24 minutes from the time originally allotted to
5 you, but my question is it's up to you to say whether you make progress that would, I
6 don't know, allow you even to finish earlier.

7 MS SAMSON: [12:18:03] I don't anticipate finishing earlier, your Honour, because I
8 still have a series of documents to show the witness, and that -- it does take time.

9 PRESIDING JUDGE FREMR: [12:18:12] All right. But be careful that we will strictly
10 insist that you will be given 6 hours, unless there will be some extraordinary reasons.
11 Otherwise, we will insist on 6 hours allotted to you.

12 And the final issue is that I would like to -- I would like to deliver orally a decision
13 concern in-court protective measures and special measures for Witness P-0108, which
14 is the next witness, which in effect will be simultaneously examined with this
15 witness. By the way, we are still in private session? So please move into open
16 session.

17 (Open session at 12.18 p.m.)

18 THE COURT OFFICER: [12:19:13] We are in open session, Mr President.

19 PRESIDING JUDGE FREMR: [12:19:17] And first one point concerning organisation
20 of this testimony of Witness P-0108. Originally we thought we would examine him
21 in two sessions in the afternoon, one hour each, but we would rather prefer to sit just
22 for one session of two hours. But we are still waiting for a report of VWU, so if there
23 will be no obstacles on, for example, health of the witness, we would rather prefer
24 this scheduling, to sit for two hours in one session. And now I will move to delivery
25 of this oral decision.

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1 The Chamber now will deliver an oral decision with respect to Witness P-0108 for
2 whom the Prosecution requested protective measures pursuant to Rule 87 of the
3 Rules in the form of face and voice distortion during testimony and the use of a
4 pseudonym in filing number 1475. In the same filing, the Prosecution also
5 foreshadowed the need for special measures pursuant to Rule 88 for this witness,
6 deferring to the VWU assessment in relation to this issue.

7 The Defence opposed the request for in-court protective measures in filing number
8 1487. The Defence submits that the Prosecution failed to provide an objective basis
9 for the measures requested. It does not oppose ordering of special measures.

10 On 19 January 2017, the Chamber received the in-court protective measures
11 assessment for the witness in which the VWU recommends the same protective
12 measures sought by the Prosecution.

13 The Chamber recalls that in assessing whether there exists an objectively justifiable
14 risk, it has previously held that the general security situation in the region may be a
15 relevant consideration in respect of specific witnesses.

16 With regard to Witness P-0108, the Chamber notes that the witness and his family
17 currently reside in an area where former UPC, FPLC militia members and supporters
18 of the accused are reportedly present or continue to have influence. The Chamber
19 further notes the Prosecution's submissions about the witness' personal situation and
20 limited mobility.

21 Regarding the Defence's submission that the request for in-court protective measures
22 is not based on any direct or specific threats received by the witness and lacked
23 substantiation, the Chamber finds that similar to scope on previous occasions, the
24 present request is poorly substantiated by the Prosecution. Nevertheless, the
25 Chamber recalls that threats to a witness or his or her family are not a prerequisite to

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1 determining whether a witness faces an objectively justifiable risk and that there are
2 reported instances where other witnesses, crime base as well as insider witnesses,
3 were allegedly threatened as a result of their involvement with the Court.

4 In assessing the witness' security situation, the Chamber has given particular
5 consideration to the protective measures assessment of the VWU in relation to the
6 witness. Therein, it is noted that the witness is well-known in his area due to his
7 personal situation and may be, therefore, easily identifiable, and that there are
8 realistic concerns that if his involvement with the Court becomes known, it would
9 present a realistic threat to him and his family and that protective measures would
10 reduce this risk.

11 Finally, the Chamber notes that Witness P-0108 is not currently in the ICC Protection
12 Programme.

13 In light of the above, the Chamber is satisfied that there exists an objectively
14 justifiable risk with respect to the security and well-being of the witness and his
15 family warranting the protection of his identity from the public. The Chamber
16 further finds that the in-court protective measures sought do not unduly infringe
17 upon the rights of the accused, given that the Defence will be able to see the witness
18 give evidence at trial and hear his voice without distortion via the video link.
19 Accordingly, and pursuant to Rule 87 of the Rules, the Chamber grants the measures
20 of use of a pseudonym for the purposes of the trial and voice and face distortion
21 during testimony for Witness P-0108. The Chamber postpones any ruling on special
22 measures pending receipt of the VWU's assessment.

23 This concludes the Chamber's ruling.

24 Now, are there any further requests for the floor? I think it's not the case, so I wish
25 you a relaxed weekend.

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- 1 Now we adjourn and we will reconvene on Monday, 9.30.
- 2 (The hearing ends in open session at 12.25 p.m.)
- 3 RECLASSIFICATION REPORT
- 4 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
- 5 the public reclassified and lesser redacted version of this transcript is filed in the case.