

Trial Hearing

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
 2 Trial Chamber VI
 3 Situation: Democratic Republic of the Congo
 4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
 5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
 6 Judge Chang-ho Chung
 7 Trial Hearing - Courtroom 2
 8 Tuesday, 24 January 2017
 9 (The hearing starts in open session at 9.31 a.m.)
 10 THE COURT USHER: [9:31:24] All rise.
 11 The International Criminal Court is now in session.
 12 Please be seated.
 13 PRESIDING JUDGE FREMR: [9:31:55] Good morning, everybody.
 14 Court officer, please call the case.
 15 THE COURT OFFICER: [9:32:01] Thank you, Mr President.
 16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
 17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
 18 We are in open session.
 19 PRESIDING JUDGE FREMR: [9:32:14] Thank you.
 20 Now appearances in usual order.
 21 MS SAMSON: [9:32:18] Good morning, Mr President, your Honours.
 22 For the Prosecution today are Ms Selam Yirgou, Mr James Pace, and myself,
 23 Nicole Samson.
 24 PRESIDING JUDGE FREMR: [9:32:27] Thank you, Ms Samson.
 25 Defence please.

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- 1 MR BOURGON: [9:32:31] (Interpretation) Good morning, Mr President, one change.
- 2 Sarah Levac is back with us for the hearing. Thank you.
- 3 PRESIDING JUDGE FREMR: [9:32:43] And I have to add for the record that it is just
- 4 one change compared to yesterday morning, because in the afternoon we had
- 5 a different, different composition.
- 6 Legal Representative of Victims, please.
- 7 MS PELLET: [9:32:58] (Interpretation) Good morning, your Honour. The former
- 8 child soldiers are represented by Mohamed Abdou and myself, Sarah Pellet.
- 9 MR SUPRUN: [9:33:15] Good morning, your Honours. The victims of the attacks
- 10 are represented by myself, Dmytro Suprun, counsel for the Office of Protection of
- 11 Witnesses. Thank you.
- 12 PRESIDING JUDGE FREMR: [9:33:26] Thank you, Ms Pellet.
- 13 Thank you, Mr Suprun.
- 14 PRESIDING JUDGE FREMR: [9:33:32] Mr Witness, good morning.
- 15 Can you hear me and see me well?
- 16 WITNESS: DRC-OTP-P-0005 (On former oath)
- 17 (The witness speaks French)
- 18 (The witness gives evidence via video link)
- 19 THE WITNESS: [9:33:38] (Interpretation) Yes.
- 20 PRESIDING JUDGE FREMR: [9:33:48] Welcome back, Mr Witness. So we are going
- 21 to continue again today two morning sessions, one hour each. Again, it is my duty
- 22 to remind you that you are still under oath, which means that you have to speak
- 23 truth and nothing but the truth. And now I will give floor to Prosecution.
- 24 Ms Samson, according our measuring, you still have 34 minutes to conclude your
- 25 examination-in-chief. Do you want to proceed in open or in private session?

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- 1 MS SAMSON: [9:34:19] I would ask to move into private session, please,
- 2 Mr President.
- 3 PRESIDING JUDGE FREMR: [9:34:23] For sure.
- 4 Court officer, let's move into private session.
- 5 (Private session at 9.34 a.m.) *(Reclassified partially in public)
- 6 THE COURT OFFICER: [9:34:41] We are in private session, Mr President.
- 7 PRESIDING JUDGE FREMR: [9:34:43] Thank you, court officer.
- 8 Ms Samson, please proceed.
- 9 QUESTIONED BY MS SAMSON: (Continuing)
- 10 Q. [9:34:52] Good morning, Mr Witness.
- 11 A. [9:34:54] Good morning.
- 12 Q. [9:34:57] I will be asking you some questions this morning in relation to a new
- 13 subject. (Redacted)
- 14 (Redacted)
- 15 A. (Redacted)
- 16 (Redacted)
- 17 Q. [9:35:53] (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 A. [9:36:21] (Redacted)
- 21 (Redacted)
- 22 Q. [9:36:40] (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 THE INTERPRETER: [9:37:06] The interpreter answered he also mentioned making

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- 1 Q. [9:40:05] (Redacted)
- 2 (Redacted)
- 3 A. [9:40:25] (Redacted)
- 4 Q. [9:40:34] (Redacted)
- 5 A. [9:40:46] (Redacted)
- 6 Q. [9:40:50] (Redacted)
- 7 (Redacted)
- 8 A. [9:41:11] (Redacted)
- 9 (Redacted)
- 10 Q. [9:41:30] (Redacted)
- 11 A. [9:41:39] (Redacted)
- 12 (Redacted)
- 13 Q. [9:41:59] (Redacted)
- 14 (Redacted)
- 15 A. [9:42:14] (Redacted)
- 16 MS SAMSON: [9:42:16] The court officer, I believe, has the (Redacted)
- 17 (Redacted) and I understand that we can display them on the Elmo one at a time,
- 18 perhaps the cover and initial pages, so that the witness can confirm (Redacted)
- 19 (Redacted)
- 20 PRESIDING JUDGE FREMR: [9:42:42] Defence, no objections?
- 21 MR BOURGON: [9:42:45] No objection, as long as we proceed one document by
- 22 document, Mr President. Thank you.
- 23 PRESIDING JUDGE FREMR: [9:42:51] All right.
- 24 MR BOURGON: [9:42:51] And of course, as mentioned in our notice of objection, we
- 25 would like that if any document is shown to the witness, it should be the original

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1 and not the transcription. Thank you.

2 MS SAMSON: [9:43:04] Mr President, we can potentially do that. What
3 the Prosecution has done and disclosed some time ago were photocopies of the
4 (Redacted), and that is what has been uploaded naturally into eCourt
5 because it is impossible to upload the original. So I would like to show the original
6 to the witness now so that he can identify them because they are the original, and
7 thereafter my questions will come from the photocopies of the notebook itself,
8 because those are the one that can be displayed on the screen.

9 PRESIDING JUDGE FREMR: [9:43:43] All right, then we will see. Okay.

10 MS SAMSON: [9:43:55] So, for the purposes of the record, (Redacted) -- and
11 there are also transcriptions (Redacted), they are located in tabs 9
12 through 22 of the Prosecution's binders. The ERNs of the original notebooks which
13 correspond to the ERNs of the photocopies are (Redacted), that's number 9
14 on the Prosecution's list; (Redacted), that's number 11;
15 (Redacted), that's number 13; (Redacted), that's number 15;
16 (Redacted), that's number 17; (Redacted), that's number 19; and
17 (Redacted), and that's number 21. If we could start, please, with number 9
18 which is the ERN ending in (Redacted)

19 Could we make the image smaller so that it can -- oh, there we go.

20 Q. [9:46:46] Sir, can you see the book that is on your screen?

21 A. [9:47:05] *Yes, I can see, *but it's in black.

22 MS SAMSON: [9:47:09] And if I could ask the court officer to open the book to the
23 first pages in which there is writing. Perhaps the next page.

24 Q. [9:47:28] Now we have stopped at page 4. Sir, can you read what it says on
25 page 4?

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1 A. [9:47:58] You mean what I see now?

2 Q. [9:48:01] Yes.

3 A. [9:48:04] (Redacted)

4 Q. [9:48:26] (Redacted)

5 A. [9:48:36] Yes.

6 Q. [9:49:10] And if we move, please, to page 0018. Sir, I would just like to know,
7 we can see here that it says (Redacted)

8 A. [9:49:43] Yes.

9 Q. [9:49:46] (Redacted)

10 A. [9:49:55] I think so.

11 Q. [9:49:59] And is it your handwriting on this page?

12 A. [9:50:07] I believe so, yes.

13 MS SAMSON: [9:50:22] Mr President, I could take the witness through additional
14 areas just to confirm that it is his, but it appears to me that (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 PRESIDING JUDGE FREMR: [9:51:06] Mr Bourgon, Defence position?

20 MR BOURGON: [9:51:11] Mr President, we did make an objection as to the use of
21 those documents and the fact that we wanted the originals to be used for the

22 questioning. I want to help my colleague in terms of time, and I would like to

23 make -- make it possible to proceed as swiftly as possible. However, I would like

24 any request for the admission of these documents to be delayed until my colleague is

25 finished with the documents and her questioning and then we can proceed for any

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1 request, if the Prosecution wishes to have these documents admitted.

2 Thank you, Mr President.

3 PRESIDING JUDGE FREMR: [9:51:46] Ms Samson.

4 MS SAMSON: [9:51:47] Mr President, I will be making a request to admit the

5 documents now; and thereafter I will ask questions on their content, because these

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Thank you.

13 PRESIDING JUDGE FREMR: [9:52:34] Mr Bourgon, do you maintain your position?

14 MR BOURGON: [9:52:38] I do, Mr President, and if my colleague insists on making

15 this argument now, again I believe we should stop this session for a few minutes

16 without the presence of the witness so that we can make substantive arguments.

17 Thank you, Mr President -- unless my colleague wants to proceed with her

18 questioning, but we do insist that the questioning is part of the admission process.

19 Thank you.

20 PRESIDING JUDGE FREMR: [9:53:00] All right then. So court officer, and

21 Mr Witness, we will have now to disconnect connection with you for few minutes

22 and then we will return back.

23 So, court officer, please disconnect the line to the field.

24 (Video link disconnected)

25 PRESIDING JUDGE FREMR: [9:53:27] So now, Mr Bourgon, you have the floor.

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1 MR BOURGON: [9:53:36] Well, is the -- in the Chamber's view the Prosecution's
2 request to have the documents admitted complete, or do you want to have --

3 PRESIDING JUDGE FREMR: [9:53:43] We understood that, yes that Ms Samson
4 explained that she would like to request admission now according her conditions are
5 met.

6 MR BOURGON: [9:53:54] Thank you, Mr President. The Defence opposes the
7 admission of the documents sought to be admitted in evidence at this stage. The
8 reason is both reasons of substance, reasons of format, and reasons of prejudice, all
9 three reasons. To begin with, Mr President, looking at the substance, the
10 documents sought to be admitted cover a very long period, both from the years 2002
11 and 2003. It was open to my colleague to ask questions on the contents of these
12 documents so that we could at least verify what the witness meant (Redacted)
13 (Redacted) In the absence of such
14 questioning, the Chamber is left without any information and is left with (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)

18 As for the Defence, well, we will be prejudiced because although no questions were
19 asked to the witness on a number of events, we will have to cross-examine the
20 witness on (Redacted), which go way beyond then any of the
21 questions that were put to the witness by the Prosecution. If we fail to ask any such
22 questions and the material is declared to be admissible and admitted in evidence, it
23 means that we will have to -- this will increase the burden on the Defence, not only
24 in terms of defence, but also in terms of investigation and in terms of presenting
25 the Defence point of view on these documents, which will have been introduced

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1 without any input from the witness.

2 So in terms of substance, these documents are not necessary to understand the

3 testimony of this witness.

4 Had the Prosecution elected to lead the evidence of this witness pursuant to Rule

5 68(3), the Defence would have objected in order -- in order to -- to these documents

6 being admitted on the -- for the reason that the documents cannot be considered

7 associated documents, other for the single entries referred to in the statement. So

8 for example, we have a witness statement and the witness refers (Redacted)

9 (Redacted) on, let's say, for example, 20 different occasions. Then, of course, the

10 associated (Redacted) would be

11 considered as associated documents, they would assist the Chamber in evaluating

12 the statement of the witness. Now this is not the way that we have proceeded. We

13 have proceeded by having viva voce testimony - that was the Prosecution's choice

14 and the Prosecution has referred to specific events - and it was open to

15 the Prosecution during examination-in-chief to ask the witness specific questions on

16 specific events and to refer to (Redacted)

17 Now the Prosecution did not do so and is seeking to have (Redacted)

18 (Redacted) admitted in evidence. This is doing by the back door what cannot be done

19 by the front door. This is admitting in evidence a statement. This is the contents of

20 (Redacted), amount to a statement, a statement which is being admitted

21 without any input from the witness and which goes way beyond what was done

22 during examination-in-chief.

23 So whether we use a parallel to Rule 68(3) or whether we look at the viva voce

24 procedure, even though the Defence does not challenge the authenticity of the

25 documents, the Defence does not challenge the reliability of the documents and the

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1 (Redacted) , what we do challenge is that if we have
 2 evidence, this evidence must be introduced via the witness and the witness must
 3 explain. I say again, Mr President, the Chamber will be overburdened and
 4 the Chamber has said so on a number of occasions in the past when the Defence was
 5 trying to lead documents in evidence.
 6 Let's take for example, Mr President, if the Defence would like to introduce these
 7 documents for purpose of impeachment, then the Chamber would say no, no, no, no,
 8 we have told you that you need to make the record clear. The Prosecution should
 9 have made the record clear as it went along during its examination-in-chief; it did
 10 not do so. The record is not clear, (Redacted), and
 11 now the Chamber is left with a whole bunch of documents, many pages, which
 12 the Chamber will have to guess, it is the guessing part also that causes prejudice to
 13 the Defence because (Redacted) - as the Chamber will look when it will look at these
 14 documents – (Redacted)
 15 (Redacted)
 16 (Redacted) So it is highly prejudicial.
 17 Last argument, Mr President, refers to the format. The format is when we will use
 18 the original with the witness, and when -- if the Chamber decides to admit any part
 19 of the documents, it should be the original. The original is in a language which is
 20 an official language of this Court, it is in French, and what the Prosecution seeks to
 21 have admitted is a transcription from French to French. There is no need for this
 22 transcription. Granted, the transcription makes the life of both the Chamber and
 23 the parties easier. However, the transcription must be identical to the original
 24 document, and identical in the sense of having exactly what appears in the original
 25 page by page. I say this for two reasons. The main reason is that when the witness

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1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted). We have the testimony, we will have
12 cross-examination, only (Redacted) referred to during examination-in-chief or
13 cross-examination should be entered in evidence, if any part of these documents
14 must be entered in evidence.
15 Thank you, Mr President.
16 PRESIDING JUDGE FREMR: [10:03:03] Thank you, Mr Bourgon. Before we
17 deliberate, Ms Samson, do you want to react?
18 MS SAMSON: [10:03:10] Yes, Mr President. I will start very briefly on the format
19 issue, and here I would insist that Defence counsel be accurate on the issue of
20 formatting. The witness's statement in paragraphs 27 and 28 indicate that these
21 (Redacted) He does indicate that for two of them (Redacted)
22 (Redacted) But this
23 is not going to be an issue that impacts in any way whether or not these documents
24 are admissible.
25 And I would like to be clear as to whether or not -- as to what we are seeking to

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1 admit here. The Prosecution seeks to admit original (Redacted)
 2 (Redacted)
 3 (Redacted) and the Defence does not challenge
 4 the authenticity or the reliability of these books (Redacted)
 5 (Redacted). The test for admissibility has already been met, as conceded by
 6 the Defence. Now, similar with the FPLC logbook, for instance, which is
 7 a document that we have admitted in full because it is an accurate, authentic, and
 8 reliable log of communications within the FPLC, we have thereafter shown certain
 9 witnesses discrete sections of that logbook for further guidance or evidence into
 10 what they purport to contain. It is the same principle that the Prosecution seeks to
 11 follow here. I do intend to show certain passages to the witness. (Redacted)
 12 (Redacted)
 13 (Redacted) It is not, as
 14 the Defence purports, impossible to understand what is written.
 15 (Redacted)
 16 (Redacted)
 17 (Redacted)
 18 (Redacted)
 19 (Redacted)
 20 (Redacted)
 21 (Redacted)
 22 (Redacted)
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1 (Redacted)

2 PRESIDING JUDGE FREMR: [10:11:05] Thank you.

3 Mr Bourgon, do you want to add anything? Please, briefly.

4 MR BOURGON: [10:11:10] Yes, Mr President. First of all, the fact that my colleague

5 decided to enter all documents in one lot, I cannot be -- of course be prejudiced by

6 the fact that my argument then goes into the details (Redacted). It was

7 the Prosecution's choice.

8 Mr President, the fact of the matter is that the Prosecution is attempting to lead

9 evidence through a viva voce witness without asking him any questions, and that is

10 the prejudice. Would the Prosecution try to enter these documents via the bar

11 table - which is another possibility that they could use - what would the Defence

12 say? The Defence would immediately argue, Mr President, (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted). The fact that we recognise - and of course will ask

16 questions about that - but generally we do recognise authenticity and reliability.

17 There is additional criteria which my colleague from the Prosecution omitted to

18 mention, it is when the probative value of evidence to be admitted is far exceeded by

19 the potential prejudice to the accused. That is also an admissibility criteria. To

20 introduce such a voluminous material without asking any questions to the witness

21 and then asking the Chamber to consider this material in order to determine the

22 guilt or innocence of the accused is highly prejudicial, especially in the format.

23 And the Chamber will see for itself the format in which these notes are taken. It is

24 not, as my colleagues say, (Redacted)

25 (Redacted) The Chamber will not be able to properly assess these

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1 documents, yet it will be -- it will have to because it will be on the record, and this is
2 what is at stake here.

3 What we propose, Mr President is, if we want this trial to be fair, then only the
4 (Redacted) events covered during the live testimony of this witness should
5 be entered in evidence. If it deals with other events, it should not be entered in
6 evidence unless questions are put to the witness. And lastly, for the -- in terms of
7 the photocopies, the idea is it is not the same to deal with a transcription, which is of
8 course in a typed format with the pages all mixed up, as with dealing with the
9 original, it is simply not the same in trying to understand the material, whether it is
10 for the Defence or - more importantly - for the Chamber in its truth-seeking function.
11 Thank you, Mr President.

12 MS SAMSON: [10:14:19] If --

13 PRESIDING JUDGE FREMR: [10:14:20] Ms Samson, but also please just briefly.

14 MS SAMSON: [10:14:23] Yes, I will, your Honour, be brief.

15 The -- two points simply. The Defence has been able to digest (Redacted) since
16 May 2013 and, moreover, the witness has described a number of events that are set
17 out (Redacted), but I do not intend to take him to each and every one of those. So
18 the Defence is purporting that only the ones I show today have any *relevance,
19 whereas the witness has spoken about other events (Redacted)
20 (Redacted) as well and the Chamber ought to be able to see whether or not his recollection
21 is as set out contemporaneously or not to assess this witness's evidence. And these
22 (Redacted) highly relevant.

23 Thank you.

24 PRESIDING JUDGE FREMR: [10:15:16] Thank you. So we will have to deliberate
25 since the issue is not so easy, we will have to deliberate outside of the courtroom and

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- 1 my estimation that we will need at least 15 minutes to deliberate.
- 2 So now we break.
- 3 THE COURT USHER: [10:15:33] All rise.
- 4 (Recess taken at 10.15 a.m.)
- 5 (Upon resuming in private session at 10.27 a.m.) *(Reclassified partially in public)
- 6 THE COURT USHER: [10:27:34] All rise.
- 7 Please be seated.
- 8 PRESIDING JUDGE FREMR: [10:28:08] I believe that it is better to remain in the
- 9 regime of private session, because some aspects of our decision could again mean
- 10 risk for the witness and risk that his identity would be revealed. So as to the
- 11 request made by Prosecution and comparison with the logbook which we discussed,
- 12 we see, we see some -- some difference, because the (Redacted) logbook, in my view,
- 13 are mostly -- or, rather, would call it technical, technical nature, (Redacted)
- 14 (Redacted) So in
- 15 our view they should be dealt in different way.
- 16 First of all, we would in the remaining time, which is not very extensive, we would
- 17 like to ask Ms Samson to focus her examination on way in which (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 Nevertheless, as I said before, we -- since we see some difference between the
- 23 logbooks (Redacted), we will, if admit, we will admit only (Redacted) that
- 24 have been covered by viva voce testimony of this witness.
- 25 So obviously we don't expect that the Prosecution will be able today specify those

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1 (Redacted) we can postpone decision on the admission until -- I guess it will be
 2 made in good, good course -- until Prosecution will provide the Chamber will
 3 specific, specific parts (Redacted) that have been covered by viva voce testimony.
 4 And then even understandably, Defence will be given chance also to respond to this
 5 request, and only then we will decide.
 6 And the last issue, technical issue, whether to admit transcripts or photocopies or
 7 originals, we have no problem to admit photocopies, which -- because there are no
 8 objections, again, their authenticity, together with transcript because it will -- it
 9 should make easier for the Chamber to understand. And if there are some
 10 discrepancies between photocopies of the original and transcripts, no problem for
 11 Defence to draw attention of the Chamber on those discrepancies and we will then
 12 deal with them accordingly.
 13 So to sum it up at the moment, Ms Samson, please focus in the remaining time on
 14 (Redacted), and then, in some -- I guess
 15 it should be in the extent of few days, please you can come with request for
 16 admission, but this request should contain entry of those items which have been
 17 covered by viva voce testimony.
 18 So for the moment is it clear or do you want to put any question, especially you,
 19 Ms Samson?
 20 MS SAMSON: [10:32:46] Yes, thank you, your Honour. I think it is clear, but just so
 21 that I am fully moving forward in the right footing. I will ask the witness some
 22 additional questions (Redacted) I
 23 will show the witness a passage, also so that the Chamber can see the way in which
 24 (Redacted) but I will first elicit it from him.
 25 PRESIDING JUDGE FREMR: [10:33:14] Sorry to interrupt you. Our idea is that

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1 probably it is very likely there (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 MS SAMSON: [10:33:38] Thank you. I will do that.

6 And then thereafter, the Prosecution will submit to the Chamber (Redacted)

7 we propose for admission, with the testimony transcript supporting where these

8 reference were -- were made to those sections. I would also like to show certain

9 passages to the witness that cover more broadly (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted). So I intend to do that in the time

15 that I have remaining.

16 PRESIDING JUDGE FREMR: [10:34:38] Yes, I think we are on the same page. In

17 fact, this guidance from the Chamber is inspired by Mr Bourgon's objection, which I

18 found absolutely accurate, (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted) So that was the core

25 of my guidance.

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1 MS SAMSON: [10:35:35] Thank you, Mr President.

2 Now I am going to make a request that will certainly not be particularly pleasing,

3 I am sure, but I would ask to have an additional 30 minutes to be able to provide

4 the Chamber with some more examples of this particular style.

5 PRESIDING JUDGE FREMR: [10:35:56] Court officer, how much time at the moment

6 the Prosecution has at its disposal?

7 THE COURT OFFICER: [10:36:04] The Prosecution has used five hours and

8 42 minutes, so 18 minutes remains for the Prosecution.

9 PRESIDING JUDGE FREMR: [10:36:12] Give me a second, I will consult my

10 colleagues.

11 (Trial Chamber confers)

12 PRESIDING JUDGE FREMR: [10:36:55] So we deliberated and, to be absolutely open,

13 it is really a situation we wouldn't like to face next time. Ms Samson, it was not

14 with connection with your examination but it was in connection with another

15 examination of another colleague, and I think I'm afraid was not the only time. I

16 highlighted that we really highly discourage parties to come with the most serious

17 issues at the very end of their -- of the time allotted to them, which then could put

18 them in troubles and even put in troubles the Chamber because the Chamber is also

19 interested to find this during the case. And if the most serious issues are

20 really -- could be avoided because of time pressure, we wouldn't find it appropriate.

21 So in this case we are making exception, we will grant you 40 minutes to finish your

22 examination, but really I am highlighting that next time it is pretty possible that we

23 will not accept such a request.

24 So 40 minutes and then we will cut you, regardless of the stage of the examination

25 you will be in.

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(Private Session)

ICC-01/04-02/06

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1 Now, court officer, please connect us with the field again.

2 MS SAMSON: [10:38:36] Mr President, thank you for the indulgence, and I just ask
3 in relation to timing, shall I proceed the 40 minutes now and then we take a break or
4 ordinarily our break would have started at 10.30?

5 PRESIDING JUDGE FREMR: [10:38:50] I would rather prefer to now to continue for
6 40 minutes and then to -- even to be better for Defence to prepare for
7 cross-examination. And since there were some limits in the interest of the witness,
8 still he now had a chance to have a break and to have a rest, so I think it will not
9 have any bad impact on him. So we will now continue for 40 minutes and then we
10 will break.

11 (The witness enters the video link room)

12 PRESIDING JUDGE FREMR: [10:39:58] Mr Witness, can you hear me and see me
13 again?

14 THE WITNESS: [10:40:07] (Interpretation) Very well. Thank you.

15 PRESIDING JUDGE FREMR: [10:40:11] Fine. Mr Witness, just to give you
16 explanation, we had to sort one procedural issue, that was why we had to cut
17 connection for that time; and now we will continue for 40 minutes in which
18 Prosecution is required to finish its examination and then we will have a break.

19 Now, Ms Samson, you have the floor.

20 MS SAMSON: [10:40:39]

21 Q. [10:40:39] (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
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(Private Session)

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1 A. [10:41:33] (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [10:41:58] (Redacted)

5 A. [10:42:15] (Redacted)

6 Q. [10:42:24] (Redacted)

7 A. [10:42:41] (Redacted)

8 Q. [10:42:59] (Redacted)

9 A. [10:43:16] (Redacted)

10 (Redacted)

11 THE INTERPRETER: I'm sorry, I'm not catching this Ms Samson. Could you ask
12 him to repeat it? I am very sorry.

13 MS SAMSON: [10:44:00]

14 Q. [10:44:00] Sorry, sir. Sorry. There was a problem interpreting your answer,
15 so I'm afraid you will have to repeat it, please.

16 A. [10:44:19] (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [10:45:30] (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 A. [10:46:44] (Redacted)
- 6 (Redacted)
- 7 Q. [10:47:02] (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 A. [10:47:37] (Redacted)
- 11 Q. [10:47:44] (Redacted)
- 12 (Redacted)
- 13 A. [10:48:12] (Redacted)
- 14 (Redacted)
- 15 MS SAMSON: [10:48:32] (Redacted)
- 16 (Redacted)
- 17 PRESIDING JUDGE FREMR: [10:48:45] Defence, I don't guess that you object?
- 18 Okay, then please go on.
- 19 MS SAMSON: [10:48:50]
- 20 Q. [10:48:50] (Redacted)
- 21 (Redacted) at number 19 in the Prosecution's list. The registration number is
- 22 (Redacted) is the first page and I would like to show
- 23 page (Redacted).
- 24 Sir, do you see the pages that are on your screen?
- 25 A. [10:49:55] I can't really read it clearly.

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(Private Session)

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WITNESS: DRC-OTP-P-0005

1 MS SAMSON: [10:50:03] Would it be possible to zoom in slightly from the top?

2 Because I like the witness to confirm (Redacted)

3 Q. [10:50:17] (Redacted)

4 A. [10:50:19] (Redacted) .

5 MS SAMSON: [10:50:23] If we can move down on the screen to the next entry, the
6 same page.

7 Q. [10:50:34] (Redacted) .

8 (Redacted)

9 A. [10:50:47] (Redacted)

10 Q. [10:50:51] (Redacted)

11 (Redacted)

12 (Redacted)

13 A. [10:51:08] (Redacted)

14 Q. [10:51:12] (Redacted)

15 (Redacted)

16 A. [10:51:33] (Redacted)

17 (Redacted)

18 Q. [10:51:56] (Redacted)

19 A. [10:52:04] (Redacted)

20 (Redacted)

21 Q. [10:52:30] (Redacted)

22 MS SAMSON: [10:52:37] (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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(Private Session)

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1 PRESIDING JUDGE FREMR: [10:52:58] Defence, any objection to that?

2 MR BOURGON: [10:53:01] No.

3 PRESIDING JUDGE FREMR: [10:53:02] All right. No problem.

4 MS SAMSON: [10:53:12]

5 Q. [10:53:12] Mr Witness, I am going to ask you to follow carefully the passage in

6 front of you. I am going to read it. Please tell me if at any time I have made

7 a mistake (Redacted)

8 So I will start now, page (Redacted).

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. [10:55:55] That's correct.

17 Q. [10:56:01] (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 THE INTERPRETER: [10:57:07] The witness adds that "that's correct."

24 MS SAMSON: [10:57:21]

25 Q. [10:57:21] And I'm going to read the top:

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1 (Redacted)

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

3 MS SAMSON: [11:16:25] And if we could please turn to page (Redacted)

4 PRESIDING JUDGE FREMR: [11:16:31] And last four minutes, Ms Samson.

5 MS SAMSON: [11:16:40] Thank you, Mr President. Our counting seems to be
6 slightly different, but I will accept the Chamber's --

7 PRESIDING JUDGE FREMR: [11:16:47] Maybe five because I also interrupted, so
8 five.

9 MS SAMSON: [11:16:50] Now, sir, at the bottom of this page I am going to start
10 reading an entry on the bottom of this page and the next page. And I would like
11 you to let the Chamber know if the -- if I am reading it correctly:

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. [11:17:43] (Redacted)

16 Q. [11:17:45] ((Redacted)

17 A. [11:17:56] (Redacted)

18 Q. [11:17:59] (Redacted)

19 (Redacted)

20 (Redacted)

21 A. [11:18:32] (Redacted)

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

23 (Redacted)

24 THE INTERPRETER: [11:18:50] (Redacted)

25 (Redacted)

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1 correctly?

2 If you could scroll down to the bottom of the page, please.

3 A. [11:22:41] (Redacted).

4 Q. [11:22:43] (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 A. [11:23:27] (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 PRESIDING JUDGE FREMR: [11:24:14] Ms Samson, I'm sorry, I have to interrupt

15 you.

16 MS SAMSON: [11:24:18] Thank you, Mr President.

17 PRESIDING JUDGE FREMR: [11:24:19] Your time is over.

18 Now, since there was some procedural issues and we lost some time, because of that

19 I would like to adjust our further schedule to that fact. We have to be flexible,

20 especially with this witness.

21 So now we would like to sacrifice 10 minutes of regular break, so we will just have

22 20 minutes break. We will continue quarter to 12, but only for 30 minutes, which

23 also means that we will then sacrifice 15 minutes of our lunch break and we will

24 continue as planned. So now we break, we break for 20 minutes, and then we will

25 continue for 30 minutes and then we will conclude testimony of this witness for

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1 today.

2 So now we break for 20 minutes.

3 THE COURT USHER: [11:25:11] All rise.

4 (Recess taken at 11.25 a.m.)

5 (Upon resuming in open session at 11.45 a.m.)

6 THE COURT USHER: [11:45:44] All rise.

7 Please be seated.

8 PRESIDING JUDGE FREMR: [11:45:59] In the next 30 minutes we will continue by

9 cross-examination of our witness by Defence; but before doing that, one

10 announcement. The Chamber reconsidered its decision about the possible request

11 for admission of entries in one detail. Because I said that you should submit such

12 a request in due course in few days, but we are of the view that it would be fair to

13 the Defence to provide them with -- even if not with the request, but at least with the

14 list of the entries you would like to rely on by tomorrow, that they could then focus

15 their cross-examination on that. So is it feasible, Ms Samson?

16 MS SAMSON: [11:46:50] Yes, certainly, your Honour.

17 PRESIDING JUDGE FREMR: [11:46:53] So now I am giving floor to the Defence.

18 We will continue just for 30 minutes, because of special regime we conduct with this

19 witness.

20 Mr Bourgon, we are at the moment in open session. Do you want to maintain that

21 or do you want to change into private?

22 MR BOURGON: [11:47:14] I would like to begin shortly in public session and will

23 move very shortly.

24 PRESIDING JUDGE FREMR: [11:47:20] All right then. So please, you have the

25 floor.

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(Open Session)

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1 QUESTIONED BY MR BOURGON: (Interpretation)

2 Q. [11:47:28] Good morning, Mr Witness. Can you hear me, Mr Witness?

3 A. [11:47:40] I can hear you very well.

4 Q. [11:47:44] First of all, Mr Witness, I would like to introduce myself. We

5 haven't had the opportunity to meet during your preparation sessions with

6 the Prosecution. My name is Stéphane Bourgon. I am a Canadian lawyer. I am

7 with my colleagues here by my side. We represent Bosco Ntaganda during this

8 affair. Do you understand that?

9 A. [11:48:10] Yes.

10 PRESIDING JUDGE FREMR: [11:48:14] Witness, one important thing. Now it is

11 slight difference because you both, you and Defence counsel, you will be speaking in

12 French, but we still need some time for translation into English. So please do not

13 respond immediately after Mr Bourgon puts his question. Please wait at least for

14 three seconds and only then provide your answer. Do you understand that,

15 Mr Witness?

16 THE WITNESS: [11:48:43] (Interpretation) Yes.

17 MR BOURGON: [11:48:54] Thank you, your Honour.

18 Q. [11:48:55] Mr Witness, I have of course many questions to ask you following

19 your testimony and the replies you gave to Prosecution over the last few days. We

20 only have 30 minutes at our disposal today, so I will restrict myself to general

21 questions.

22 Most times we will go into private session in accordance with the Chamber's

23 directives in order not to identify you, and of course at any time if we are in open

24 session you can stop me if you feel that something might identify you.

25 A. [11:49:45] Yes.

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1 MR BOURGON: [11:49:49] Mr President, if we can move into private session, please.

2 PRESIDING JUDGE FREMR: [11:49:54] All right.

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

4 (Private session at 11.49 a.m.) *(Reclassified partially in public)

5 THE COURT OFFICER: [11:50:00] We are in private session, Mr President.

6 PRESIDING JUDGE FREMR: [11:50:04] Thank you.

7 Mr Bourgon, please proceed.

8 MR BOURGON: [11:50:08] (Interpretation) Thank you, your Honour.

9 Q. [11:50:13] (Redacted)

10 (Redacted)

11 (Redacted) is that correct?

12 A. [11:50:36] Yes.

13 Q. [11:50:43] (Redacted)

14 (Redacted) is that correct?

15 A. [11:50:54] Yes.

16 Q. [11:51:02] At a later stage I will have a number of questions to ask you about

17 (Redacted)

18 (Redacted)

19 (Redacted) is that

20 correct?

21 A. [11:51:39] Yes.

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

23 (Redacted) is that correct?

24 A. [11:52:01] Yes, *it's possible.

25 Q. [11:52:09] You say that in the reply that that is possible. It is very important

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1 to have, for the court record, clear replies as far as possible. When you say it is

2 possible, do you say -- would you say that (Redacted)

3 (Redacted)

4 A. (Redacted)

5 (Redacted)

6 Q. [11:53:04] (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted) is that correct?

10 Did you hear my question, Mr Witness?

11 A. [11:54:10] I heard the question.

12 Q. [11:54:22] And your answer is?

13 A. [11:54:32] (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [11:55:32] (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 A. [11:56:12] (Redacted)

24 (Redacted)

25 Q. [11:56:32] (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 A. [12:00:44] (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [12:01:18] (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. [12:01:56] That's correct.

16 Q. [12:02:03] Did you see the print-out of the electronic message?

17 A. [12:02:07] Well, today, these things happened such a long time ago that I no
18 longer remember.

19 Q. [12:02:16] (Redacted)

20 (Redacted)

21 (Redacted)

22 So *you don't know whether you actually saw that document or not*; is that correct?

23 A. [12:02:45] I don't know whether they too saw that document. But what I am
24 saying is that people were talking about it. No one was sure about what was being
25 said.

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1 Q. [12:03:06] (Redacted)

2 (Redacted)

3 (Redacted)

4 A. [12:03:23] (Redacted)

5 Q. [12:03:32] I want to then refer to your testimony and say the following:

6 (Redacted)

7 (Redacted). Is that

8 your testimony?

9 A. [12:03:59] A request in that connection, no.

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

11 (Redacted)

12 (Redacted)

13 A. [12:04:24] (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. [12:05:08] Do you know one Richard Lonema?

19 A. [12:05:14] Yes, I know him.

20 Q. [12:05:21] (Redacted)

21 (Redacted)

22 A. [12:05:32] (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [12:05:56] What was Richard Lonema's position (Redacted)

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1 (Redacted)

2 A. [12:06:08] For (Redacted) Lonema's function within the UPC, he was,
3 I believe, a member just like any other Hema who thought well of himself or herself.

4 Q. [12:06:25] I put it to you indeed that he was a member, but I want to find out
5 from you whether he held any particular position within the UPC at that time?

6 A. [12:06:34] I have no such recollection.

7 Q. [12:06:44] (Redacted)

8 (Redacted)

9 (Redacted)

10 A. [12:07:21] No, I don't remember for now.

11 Q. [12:07:25] Well, let us look at (Redacted)

12 MR BOURGON: [12:07:33] (Interpretation) The first page of the document which I
13 would like to see is (Redacted), and the page I would like displayed is
14 (Redacted). Could that page be displayed, please, on the screen.

15 Q. [12:08:05] Mr Witness, that page will be displayed before you, and I will read
16 out what is written in the middle paragraph. We shall use the same process that
17 was used by the Prosecution. And then you will tell me whether what I read (Redacted)
18 (Redacted) is correct:

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 MS SAMSON: [12:10:16] Sorry for interrupting, but I would ask whether -- to see if

3 the witness could confirm whether the first -- the second line (Redacted) may also

4 (Redacted) I would just like to see

5 whether that is (Redacted)."

6 PRESIDING JUDGE FREMR: [12:10:38] Mr Bourgon, please clarify.

7 MR BOURGON: [12:10:40] Much appreciated, Mr President. I have the same

8 question.

9 Q. [12:10:47] (Interpretation) Mr Witness, I read out the paragraph for you and

10 there are two words that are not clear. The last word of the first line, is it (Redacted)

11 "(Redacted)? And then you have in the third line, you have a word, is it

12 (Redacted)

13 (Redacted)

14 THE COURT OFFICER: (Via video link) (Interpretation) [12:11:27] Counsel, you

15 asked the court officer in The Hague to display the page or are you asking me to

16 display the page?

17 MR BOURGON: [12:11:46] (Interpretation) Regardless who displays the document,

18 what matters is for the witness to see the document. So let me proceed.

19 Q. [12:11:57] And without paying attention to the two words that are rather

20 ambiguous, Mr Witness, (Redacted)

21 A. [12:12:15] I don't know, because up until then the UPC government had not

22 yet been formed, as far as I know, so I don't know why (Redacted)

23 (Redacted)

24 (Redacted)

25 MR BOURGON: [12:12:48] (Interpretation) If we look further up on the same page,

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1 court officer, we have a document here, so let's use it the way it is for now.

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

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. [12:13:44] Unfortunately, I cannot see the document, but you may want to

9 know that during that period when the UPC was there, the UPC was seeking to win

10 the trust and confidence of the people of the town of Bunia. So the UPC would

11 convene meetings effectively and, (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 I think this is what must have been going on, and that would have been the reason

17 (Redacted)

18 Q. [12:15:02] Mr Witness, we shall revisit this question. I am out of time and I

19 think I should stop here. We are already out of time. It is 12.15 and we will

20 resume our questioning tomorrow morning, Mr Witness.

21 THE WITNESS: [12:15:16] (Interpretation) Thank you.

22 PRESIDING JUDGE FREMR: [12:15:18] I am sorry to interrupt you, Mr Bourgon, but

23 really we have to break because we have already sacrificed 15 minutes from the

24 break and should we go too far.

25 Now let's move into open session.

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(Open Session)

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1 (Open session at 12.15 p.m.)

2 THE COURT OFFICER: [12:15:36] We are in open session.

3 PRESIDING JUDGE FREMR: [12:15:47] Thank you, court officer.

4 Mr Witness, again I would like to thank you. We had to sit a bit longer than usually

5 today, and we will again continue tomorrow morning, hopefully in the same regime

6 like usual, which means two sessions, one hour each. So I thank you for the

7 moment and I am giving the usual reminder that in the meantime till tomorrow you

8 must not discuss your testimony with anybody else. So thank you and we see you

9 tomorrow.

10 And now we break --

11 THE WITNESS: [12:16:28] (Interpretation) I also want to thank you for the advice

12 you have provided.

13 PRESIDING JUDGE FREMR: [12:16:37] And we can disconnect connection with the

14 field, and now we break and we will continue at 1.30 according the original

15 schedule, which means two sessions, one hour each.

16 THE COURT USHER: [12:16:58] All rise.

17 (Recess taken at 12.17 p.m.)

18 (Upon resuming in open session at 1.35 p.m.)

19 THE COURT USHER: [13:35:12] All rise.

20 Please be seated.

21 PRESIDING JUDGE FREMR: [13:35:43] Good afternoon, everybody. We will start

22 with appearances. Any changes compared to yesterday afternoon? Prosecution?

23 MS MORRIS: [13:35:58] Good afternoon, Mr President. Good afternoon, your

24 Honours. The appearances are the same. Thank you.

25 PRESIDING JUDGE FREMR: [13:36:04] Thank you, Ms Morris.

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1 Defence.

2 MR GOSNELL: [13:36:06] Good afternoon, Mr President. No changes for
3 the Defence.

4 PRESIDING JUDGE FREMR: [13:36:11] Thank you.

5 MR GOSNELL: [13:36:12] Mr President, just to be clear, no changes from yesterday
6 afternoon.

7 PRESIDING JUDGE FREMR: [13:36:16] Exactly. Thank you. Thank you,
8 Mr Gosnell.

9 And now Legal Representative of Victims, please.

10 MS PELLET: [13:36:24] (Interpretation) Thank you. Mohamed Abdou has joined
11 our team. It is the only change compared with yesterday.

12 MR SUPRUN: [13:36:38] From the victims of the attack, there are no changes
13 compared with yesterday.

14 PRESIDING JUDGE FREMR: [13:36:43] Thank you, Ms Pellet.

15 Thank you, Mr Suprun.

16 Mr Witness, good afternoon. Can you see me? Can you hear me?

17 WITNESS: DRC-OTP-P-0108 (On former oath)

18 (The witness speaks Swahili)

19 (The witness gives evidence via video link)

20 THE WITNESS: [13:36:54] (Interpretation) Yes, I can hear you.

21 PRESIDING JUDGE FREMR: [13:37:02] Very well.

22 Mr Witness, today we will continue with your examination. Today you will be
23 examined by A representative of Defence, who is Mr Gosnell. And please, I have to
24 again to remind you that you are still under oath, which means that you have to
25 speak the truth and nothing but the truth.

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1 And as concerns practical matters, please do it as yesterday. You did it very well
2 yesterday, so mainly keep pauses between question put to you and between the
3 answer.

4 Now, Mr Gosnell, the floor is yours.

5 MR GOSNELL: [13:37:49] Thank you, Mr President. We will have to start in private
6 session.

7 PRESIDING JUDGE FREMR: [13:37:55] Understandable.

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

9 (Private session at 1.38 p.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: [13:38:13] We are in private session, Mr President.

11 PRESIDING JUDGE FREMR: [13:38:16] Thank you.

12 Mr Gosnell, please proceed.

13 MR GOSNELL: [13:38:22] Thank you, Mr President.

14 QUESTIONED BY MR GOSNELL:

15 Q. [13:38:27] Good afternoon, Mr Witness. My name is Christopher Gosnell. I
16 will be asking you some questions this afternoon. And the first question that I
17 would like to ask you is: How many children do you have?

18 A. [13:38:53] I have (Redacted) children, one of whom has died, and (Redacted) are still
19 alive -- only one died.

20 Q. [13:39:10] And how old are they, approximately, each of them?

21 A. [13:39:28] I don't know their ages. The oldest was born in (Redacted)
22 (Redacted) I have forgotten everything.

23 Q. [13:40:06] Yesterday when you were being asked --

24 A. [13:40:10] I have forgotten everything, but my (Redacted) is the oldest.

25 Q. [13:40:16] And how old is your eldest (Redacted), approximately?

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1 A. [13:40:36] The oldest is (Redacted), and (Redacted) was born in (Redacted).

2 Q. [13:40:49] And do you have any (Redacted) children? Do you have any (Redacted)?

3 A. [13:41:04] (Redacted)

4 (Redacted)

5 Q. [13:41:23] And can you give us a general idea as to how old (Redacted)

6 are?

7 A. [13:41:44] I really don't remember very well, because I have lost my memory.

8 Q. [13:41:57] But they are (Redacted) adults; is that correct?

9 A. [13:42:02] Yes, they are adult. Some of them have children already. The
10 youngest (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [13:43:04] Are these (Redacted) over or under 30 years old?

14 A. [13:43:28] I don't know their exact ages. The youngest was born in (Redacted).

15 Q. [13:43:51] Thank you, Mr Witness. That's very helpful.

16 A. [13:43:54] The youngest was born in (Redacted).

17 Q. [13:43:57] Thank you for that, Mr Witness. That's very helpful. Now
18 yesterday when you were being asked questions you were asked the following
19 question, quote:

20 "Can you tell the Chamber was there a letter sent by Hema?"

21 And your answer was:

22 "Yes, there was a letter."

23 And then you were asked, quote:

24 "Mr Witness, how did you find out about this letter?"

25 And then you answered, Mr Witness, quote:

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1 "I learned of it when Jitchu called us together so that we could go to the peace
2 meeting. It was through this message that I learnt of its existence."

3 Question: "When you were called together by Chief Jitchu, do you remember what
4 Chief Jitchu told you?"

5 And then your answer was:

6 "Jitchu didn't say anything to me. He just wanted us all to go to the peace talks."

7 Do you remember having said that yesterday, Mr Witness?

8 A. [13:45:29] Yes, I said that.

9 Q. [13:45:32] Now thinking back to this event I want to ask you a few questions
10 about it, and the first question is: Did you see the letter that had been sent to
11 Chief Jitchu?

12 A. [13:45:58] You are talking about the letter? It was the chief who received it
13 and when he had received it he talked to us and then we went. I can't see a letter
14 that's in the hands of the chief. When the chief received the letter he spoke to
15 everybody and told them about it, informed them.

16 Q. [13:46:30] So --

17 A. (Overlapping speakers) --

18 Q. -- Mr Witness, let me just go to my next question, please, and that is: Are
19 you telling us then that you did not see the letter in his hands at any time?

20 A. [13:47:09] I spoke of it and I am being asked to talk too much as well.

21 Q. [13:47:23] Did the chief tell you anything about who was invited to the
22 meeting?

23 A. [13:47:45] His population.

24 Q. [13:47:52] Did he say where the meeting was to be held? Mr Witness, did he
25 say to you that the meeting to which you were being invited was to be held in Kobu?

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1 A. [13:48:43] Yes.

2 Q. [13:48:47] So he did not say that the meeting was to be held in Sangi?

3 Mr Witness, have you ever heard --

4 A. [13:49:13] I have already forgotten these events.

5 Q. [13:49:20] Mr Witness, have you heard of a village called Sangi?

6 A. [13:49:37] No, I don't know it. I don't have the strength to testify. I testified
7 too much yesterday. I am having to speak too much.

8 MR GOSNELL: [13:50:10] Mr President, should I proceed and see where we go or
9 would you wish to intervene?

10 PRESIDING JUDGE FREMR: [13:50:20] Mr Witness, we fully respect that your health
11 conditions that require to do special approach, that is also why we, compared to
12 normal testimonies, we shorten the sessions with you to two short pieces. But I still
13 believe that, you know, after 15 minutes you should still be able to continue. So
14 even if -- if you currently feel unwell, we can break, for example, for five minutes;
15 but otherwise, I would like to ask you to continue. And as I said, the plan is to sit
16 for one hour --

17 THE WITNESS: [13:51:19] (Interpretation) Even if I were to rest, what I said is what I
18 said.

19 PRESIDING JUDGE FREMR: [13:51:39] Mr Witness, now I don't understand.
20 You are not able to answer this concrete question, or you feel unable to continue
21 with giving your testimony now?

22 THE WITNESS: [13:52:11] (Interpretation) I have already talked too much.

23 PRESIDING JUDGE FREMR: [13:52:26] So do you want to make a break? Because
24 otherwise I will invite you -- I will ask you to come tomorrow, we will anyway
25 continue tomorrow. So I still believe it is better for you to finish today and to have

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1 a rest.

2 THE WITNESS: [13:53:22] (Interpretation) What do you want me to say? All that I
3 know I have already told you. What do you want me to say?

4 PRESIDING JUDGE FREMR: [13:53:30] You know, to make it clear to you, before our
5 court we have two parties and each party have a chance to put questions to you.
6 You were examined by Prosecution, now the other party had the same right. So
7 there is counsel representing Defence, and he would also like to put to you the
8 questions as counsel of Prosecution did it. So you will have to survive next two
9 sessions, even not two sessions, half an hour and then another one hour, and then
10 you will be free. So I am strongly encouraging you, please remain strong; and if
11 you will answer questions for the next 90 minutes, then you will be free.

12 THE WITNESS: [13:54:41] (No interpretation)

13 PRESIDING JUDGE FREMR: [13:54:45] Mr Witness, Mr Witness, I will propose the
14 following way. We have also psychologist who can assist you, so we will break
15 now and please have a talk with psychologist and he will explain you what is the
16 best for you. So I would like to meet you again in 10 minutes and then we will
17 continue. I hope so.

18 So now we break and my message goes to the field that the psychologist that should
19 be on standby and should be ready to assist our witness will meet Mr Witness and
20 will explain him what the Court needs from him. And also to assure him that we
21 will make it in maximum, maximum careful way, to respect his health conditions.
22 Now we break.

23 THE COURT USHER: [13:55:46] All rise.

24 (Recess taken at 1.55 p.m.)

25 (Upon resuming in private session at 2.09 p.m.) *(Reclassified partially in public)

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1 THE COURT USHER: [14:09:10] All rise.

2 Please be seated.

3 PRESIDING JUDGE FREMR: [14:09:30] Mr Witness, it is my understanding that now
4 you are ready to continue in giving your testimony. Is it the case?

5 THE WITNESS: [14:10:02] (Interpretation) I have no problem.

6 PRESIDING JUDGE FREMR: [14:10:16] I appreciate that, Mr Witness. It is good for
7 you, good for the Court. So now I am giving floor back to Mr Gosnell.

8 Mr Gosnell, please proceed. And we are still in private session.

9 MR GOSNELL: [14:10:33] Thank you, Mr President.

10 Q. [14:10:34] Mr Witness, yesterday you were asked the following at page 57,
11 quote:

12 "Did you decide to attend this peace meeting?" End quote.

13 And you answered, quote:

14 "All of us went there. All the inhabits of Jitchu went there."

15 And then at line 4, page 58 you say, quote:

16 "We all went together." Unquote.

17 First of all, did you walk from Jitchu to Kobu?

18 A. [14:11:35] On foot.

19 Q. [14:11:36] And as you walked from Jitchu to Kobu, were there any Hema
20 people with you?

21 A. [14:11:46] The Hema took their paths and we took ours.

22 Q. [14:12:07] Were there any Hema guarding you at any point as you walked to
23 Kobu?

24 A. [14:12:39] When we arrived in Kobu, we were made to enter a place called
25 Paradiso. Afterwards, sometime later, we saw how things changed, people starting

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1 fleeing, others too. At that time I fell, as I described yesterday.

2 PRESIDING JUDGE FREMR: [14:13:11] Sorry to interrupt you.

3 You all see that we face technical problem we have faced before. But I would still,

4 even if registry is working on fixing that, I would recommend even to continue,

5 because as you probably understand it would not probably be very wise to break

6 now. Moreover, we are in private session, so nobody outside the courtroom can

7 hear it. So sorry for that inconvenience, but we will continue.

8 Please, Mr Gosnell.

9 MR GOSNELL: [14:13:45] Thank you, Mr President.

10 Q. [14:13:48] So, Mr Witness, do I correctly understand that it is your memory, it

11 is your recollection, that during the walk between Jitchu and Kobu you were not

12 guarded by any Hema people, during the walk?

13 A. [14:14:24] No, I didn't see them. All I can remember is that I saw them a lot

14 later, when they entered the building where we were and we were dispersed.

15 Q. [14:14:40] Can you remember what time of day you arrived in Kobu? Was it

16 midday? Was it the afternoon? Was it the evening? Was it the morning?

17 A. [14:15:06] There we arrived towards 10 o'clock. It wasn't far, not far from

18 where we were.

19 Q. [14:15:21] When you say "10 o'clock," do you mean 10 o'clock in the morning?

20 A. [14:15:32] Yes, the morning.

21 Q. [14:15:36] And while you were walking to Kobu did you pass through any

22 villages, as best you can recall?

23 A. [14:16:01] No, we didn't pass through them.

24 Q. [14:16:08] And there were no Lendu women with you when you went to

25 Kobu; is that correct?

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1 A. [14:16:19] The women didn't go there. It was the young people, over 18 -- or,
2 rather, those over 15 years of age who went. What I know is that young people
3 aged over 15 went to the meeting, but the women and girls did not go.

4 Q. [14:17:06] Did your son who was born in (Redacted) go along with you?

5 A. [14:17:20] My son, he was very young. He was very young. Now he
6 (Redacted)

7 Q. [14:17:42] How young was he, as best you can recall? What was his age?

8 A. [14:17:50] He didn't even know what was happening.

9 Q. [14:17:56] And just to be clear, that's the son who was born in (Redacted); is that
10 correct?

11 A. [14:18:05] Yes.

12 Q. [14:18:12] Now, you have told us that only those who were over 15 years of
13 age went. Why does this particular age stick out in your memory?

14 A. [14:18:38] (No interpretation)

15 Q. [14:18:39] Mr Witness --

16 A. [14:18:43] Because we thought that they were already of an age to be able to
17 follow what was going to be said there. As such, they could follow, they could
18 follow the debate.

19 THE INTERPRETER: [14:19:00] Your Honour, could the witness be asked to wait for
20 the question before speaking. Message from the Swahili booth.

21 PRESIDING JUDGE FREMR: [14:19:10] Mr Witness, we appreciate that you are
22 responding clearly to all questions put to you, but please wait a moment before you
23 give your answer, because there is also some translation; and if you respond
24 immediately, the interpreters are not able to capture everything. So please, first
25 question put to you by Mr Gosnell, then count one, two, three, and only then after

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1 this pause please give your question.

2 Am I clear enough?

3 THE WITNESS: [14:20:00] (Interpretation) Yes.

4 PRESIDING JUDGE FREMR: [14:20:01] Thank you.

5 Mr Gosnell, please proceed.

6 MR GOSNELL: [14:20:05]

7 Q. [14:20:05] Mr Witness, can you remember the year in which you were first
8 interviewed by the ICC?

9 PRESIDING JUDGE FREMR: [14:20:25] Mr Witness, have you heard the question?

10 If you answered, then probably you answered too early.

11 So, Mr Gosnell, please repeat your question.

12 MR GOSNELL: [14:20:43]

13 Q. [14:20:43] Mr Witness, can you remember the year in which you were first
14 interviewed by people from the ICC?

15 A. [14:21:13] That started in (Redacted).

16 Q. [14:21:25] Mr Witness, let's be very clear about my question. I am asking you
17 if you can remember the year in which you first met people from the ICC. Do you
18 say that that year was (Redacted)?

19 A. [14:22:05] The first time we weren't aware of how they started the war. The
20 war started in the north and it came to join us in the south.

21 Q. [14:22:27] You say that the war started in the north. Do you remember -- can
22 you remember in what year the war started in the north?

23 A. [14:22:56] I don't remember exactly the year. I don't know any more what
24 year it was in.

25 Q. [14:23:06] Mr Witness, do you remember that there was a time when you were

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1 examined physically by two -- well, by a white woman, a doctor from the ICC? Do
2 you have any recollection of that event?

3 A. [14:23:53] I didn't follow you.

4 Q. [14:23:58] Do you remember at any time having met with a white doctor,
5 a woman, from the ICC who was asking you questions about your health or about
6 your state of mind or about your well-being? Can you remember anything about
7 that?

8 A. [14:24:41] I have forgotten. I have forgotten. I met white people on several
9 occasions. Since (Redacted) I have met them on several occasions.

10 Q. [14:25:06] Can you remember the years in which these meetings occurred, in
11 which years they occurred?

12 A. [14:25:33] I met them in (Redacted). Right up to today I have
13 met them. Until today - we are in 2017 - I still meet them.

14 Q. [14:26:03] In what year did you receive a machete strike (Redacted)?

15 A. [14:26:23] That was in (Redacted).

16 Q. [14:26:26] Are you sure it wasn't in (Redacted), the year before (Redacted)?

17 A. [14:26:53] It was in (Redacted) that it happened.

18 Q. [14:27:01] Before the occasion when you were injured by the machete, did you
19 ever hear about any other violence between Hema and Lendu occurring in Kobu?

20 A. [14:27:36] Yes, I'd heard about that.

21 Q. [14:27:40] And how long before the occasion in which you were injured was
22 this other violence between Hema and Lendu in Kobu?

23 A. [14:28:17] No, I don't remember. I don't remember how many years had
24 gone by; but what I do know is that the war started in the north, in the place I was
25 born, and bit by bit it came to where we were.

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1 Q. [14:28:40] And you were born in (Redacted); is that correct?

2 A. [14:28:52] Yes, I was born in (Redacted).

3 Q. [14:28:57] And in what year did you (Redacted)?

4 A. [14:29:16] I came to (Redacted).

5 MR GOSNELL: [14:29:30] Mr President, I would go to a new subject, but I see we are
6 at the time.

7 PRESIDING JUDGE FREMR: [14:29:38] But I would rather continue at least for next
8 15 minutes because we lost some time, so let's continue till quarter to 3.

9 MR GOSNELL: [14:29:51] Absolutely, Mr President.

10 Q. [14:29:52] Mr Witness, yesterday you gave the following testimony about the
11 events in Kobu, and you said the following, and I quote:

12 "I fell somewhere into a banana tree and they started to cut me up. I didn't know
13 what had happened, but I do know that there were a lot of people from the village
14 who were fleeing and that people were trying to exterminate them. The people
15 who attacked me thought that they had killed me, but I then started to climb into the
16 tree I had fallen into and I started to cry. And people were looking for me.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 A. [14:32:13] (Redacted)

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1 (Redacted)

2 A. [14:36:41] (Redacted)

3 (Redacted)

4 Q. [14:36:56] (Redacted)

5 (Redacted)

6 (Redacted)

7 A. [14:37:21] (Redacted)

8 (Redacted)

9 Q. [14:38:07] (Redacted)

10 A. [14:38:23] (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [14:38:52] (Redacted)

14 (Redacted)

15 A. [14:39:11] (Redacted)

16 Q. [14:39:17] Now yesterday you said at page 62, quote:

17 "When we arrived there they took us straight to Paradiso, which is why we were
18 unable to observe anything else."

19 Do you remember saying that; that you were taken to Paradiso and that that was
20 why you were unable to observe anything else?

21 A. [14:40:00] The only thing I know is that they invited us for peace talks, but
22 when we got there things turned out differently. The Hema took -- arrived there by
23 one route and we took a different route. And then they summoned us to go into the
24 building.

25 Q. [14:40:32] And yesterday at page 62 you said, quote:

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1 "We were shut up into the house."

2 And when you say that you were shut up into the house, what do you mean? Were
3 the window shutters closed or were they open?

4 A. [14:41:13] The doors were open.

5 Q. [14:41:19] And what about the windows?

6 A. [14:41:34] The doors were open.

7 Q. [14:41:40] So were you able to see what was going on outside?

8 A. [14:41:59] They were discussing amongst themselves outside, but we were
9 inside and we couldn't hear what they said, because they were attacking us on
10 the -- inside of the building and it was everyone for themselves and people fled.

11 Q. [14:42:29] Were any of the Lendu inside the house tied up in any way?

12 A. [14:43:10] I have nothing further to say to you. Since yesterday, you keep
13 asking me the same questions. Today you -- you are asking me the same questions
14 again. What more do you want me to say? I am not going to be able to tell you
15 things I don't know. Everything I know I have told you.

16 PRESIDING JUDGE FREMR: [14:43:38] Mr Witness, just to make it clear, yesterday
17 you were examined by another person. So it is not, you cannot blame this counsel
18 that he is putting the same questions like yesterday. But anyway, please remain
19 patient. And if you don't remember, if you don't know, feel free to say "I don't
20 remember," "I don't know." It's fine with the Court. But anyway we will break
21 now. So, Mr Witness, you now can take a break for 30 minutes, and then hopefully
22 in the next session we will conclude your testimony.
23 So first now please disconnect the line with the field.

24 (Video link disconnected)

25 PRESIDING JUDGE FREMR: [14:44:41] And now in the absence of the witness,

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1 Mr Gosnell, you know, I am aware of the fact that you have to follow some aim of
2 the cross-examination, but again I am highlighting the recommendation of
3 VWU - and even our own guidance - that the questions should be really adjusted to
4 the capability of the witness. It is visible that especially he has problem with days,
5 he has problems with situating events in some time, but still I believe that you can
6 successfully finish your examination.

7 And as regards of that, how much time do you think you will need to conclude?

8 Because Ms Morris used one hour 30-something, so you are generally expected to
9 take the same time, even if originally you have been allotted two hours. So what is
10 your assumption at the moment?

11 MR GOSNELL: [14:45:49] I am not sure how much time I have used already, but
12 from here to the --

13 PRESIDING JUDGE FREMR: [14:45:55] I think it is something about 40 minutes,
14 court officer? 42.

15 MR GOSNELL: [14:45:58] I should certainly hope that I could finish well within one
16 hour but, Mr President, I can't guarantee that. And just to say I have been, as you
17 will notice, trying to keep the questions very simple and really relying on his own
18 statements from yesterday rather than getting into my own formulations.

19 PRESIDING JUDGE FREMR: [14:46:20] I would recommend even to try to be more
20 simple because still, you know, there is some limited capacity of this witness. I
21 appreciate your effort, but we all saw the outcome. So anyway, it would be
22 desirable if you could finish in the last hour we have for today, because again, to
23 adjourn just for the short time with this witness wouldn't be very reasonable.

24 So we will now break for 30 minutes and reconvene quarter past 3.

25 THE COURT USHER: [14:46:50] All rise.

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(Private Session)

ICC-01/04-02/06

1 (Recess taken at 2.46 p.m.)

2 (Upon resuming in open session at 3.16 p.m.)

3 THE COURT USHER: [15:16:40] All rise.

4 Please be seated.

5 PRESIDING JUDGE FREMR: [15:17:07] Mr Witness, welcome back. You are going

6 to move to the last portion of your testimony, so please remain patient. Please

7 respond clearly. And I firmly believe that we will finish your testimony in one

8 hour.

9 Now we are in open session so I expect, Mr Gosnell, that there is a need to move into

10 private; am I correct?

11 MR GOSNELL: [15:17:38] I think so, Mr President.

12 PRESIDING JUDGE FREMR: [15:17:41] All right. Then court officer, let's move into

13 private session.

14 (Private session at 3.17 p.m.) *(Reclassified partially in public)

15 THE COURT OFFICER: [15:17:48] We are in private session, Mr President.

16 PRESIDING JUDGE FREMR: [15:17:51] Thank you, court officer.

17 Mr Gosnell, please proceed.

18 MR GOSNELL: [15:17:57]

19 Q. [15:17:57] Mr Witness, yesterday, at page 60 of the transcript you said:

20 "And then Hema came in too carrying weapons and people started to flee." And

21 there you were referring to the Paradiso building. And then at page 71 you said, in

22 response to the question:

23 "What did the Hema start to do to the people in Paradiso?"

24 Your answer was:

25 "They started chasing after them with machetes."

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1 Is that correct, Mr Witness, that the Hema who came in started attacking the people
2 inside the Paradiso building with machetes?

3 A. [15:19:24] That is already said. I already told you that, my brothers. I have
4 already testified about that.

5 Q. [15:19:40] What you haven't specifically said - and this is what I am asking
6 you - is whether they started attacking them inside the building or whether they
7 waited until they came outside?

8 A. [15:20:22] I already said that. I said that they came in and we were dispersed.
9 And everybody fled in different directions. I had some pain in my leg and I
10 couldn't run fast, and that is how they managed to catch me.

11 Q. [15:21:01] How were you able to flee at all if you were locked in the building
12 at the time of this attack?

13 A. [15:21:31] I was able to wiggle my way out through the crowd, the crowd of
14 people; that's how I got out.

15 Q. [15:21:43] Was that through the door or through a window that you managed
16 to wiggle your way out?

17 A. [15:22:03] The door. I was fleeing. I wiggled myself through the people.

18 Q. [15:22:17] And this entire event that you have been describing occurred
19 during the rainy season, as best you can recall; is that correct?

20 A. [15:22:52] Yes, it was rainy. Well, I don't know whether it was the rainy
21 season as such. Well I really don't know, I don't -- I don't remember anymore.

22 Q. [15:23:10] Let's see if I can refresh your memory.

23 MS GOSNELL: [15:23:13] Could we please have DRC-OTP-0108-0094, which is tab 1,
24 and if we could please turn to page 0097.

25 Q. [15:24:16] At paragraph 16, Mr Witness, here is what you are recorded as

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1 having said in (Redacted) when you spoke to investigators from the ICC. And I'm going
2 to quote in French:

3 (Interpretation) "However, I remember that during that period we were in the
4 middle of the rainy season."

5 (Speaks English) At paragraph 18 you said, quote:

6 (Interpretation) "At that time of the year, when the rains are heavy and strong."

7 (Speaks English) Does that remember you that this event occurred at the time of the
8 year when, as you said in (Redacted), "the rains are very strong and intense"?

9 A. [15:25:57] The rains come in the month of September or August. So from
10 September to October, all the way to November, that is what we refer to as the rainy
11 season.

12 Q. [15:26:22] And that's when these events occurred, correct, sometime during
13 that rainy season?

14 A. [15:26:52] Well, you see, there are things that I no longer remember.

15 Q. [15:26:59] And the portion of your statement that I have just read out, where
16 you say that you remember that "it was in this period when we were in the middle of
17 the rainy season," and when you say "it was during the part of the year when the
18 rains were very strong and intense," that doesn't refresh your memory?

19 A. [15:27:47] Well, you have just read it out and I -- I heard it.

20 Q. [15:28:02] Yes. And I'm asking you whether you now, having heard that and
21 knowing that that is part of the statement that you gave in (Redacted), does that remind
22 you -- does that help with your memory that this event occurred during the rainy
23 season?

24 MS MORRIS: [15:28:31] Your Honour.

25 PRESIDING JUDGE FREMR: [15:28:33] Yes, Ms Morris, please.

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1 MS MORRIS: [15:28:34] I believe this question has been asked and answered.

2 PRESIDING JUDGE FREMR: [15:28:41] Mr Gosnell.

3 MR GOSNELL: [15:28:43] I think this witness needs perhaps more than one
4 chance - to put it like that - to answer certain questions.

5 PRESIDING JUDGE FREMR: [15:28:52] All right. Please proceed.

6 MR GOSNELL: [15:29:06]

7 Q. [15:29:06] Mr Witness, does the fact that the portion of your previous
8 statement from (Redacted), does that remind you -- does that help your memory at all that
9 these events occurred during the rainy season?

10 A. [15:30:14] I have understood your question, but am I going to talk about
11 things that I do not know? I gave this statement in (Redacted). What do you want me to
12 say today? Everything that I said has already been taken down in the statement.
13 What do you want me to say again? I made this statement in (Redacted) and now, today,
14 you -- what year are we? 2017. It is 2017 already, 2017 already. So what do you
15 want me to say? They have already written down everything. Everything has
16 already been taken down.

17 PRESIDING JUDGE FREMR: [15:30:56] Mr Witness, you still have an option to say,
18 as you said, "I don't remember and I believe that I testified truly in (Redacted)." So if you
19 don't remember, it doesn't mind, really. It is even understandable after such a long,
20 long time. But please remain patient. If you don't remember, say "I don't
21 remember." And you can even just confirm that according to you, you said it
22 truthfully in (Redacted).

23 Mr Gosnell, please proceed.

24 MR GOSNELL: [15:31:39] Thank you, Mr President, and that's a good suggestion of
25 the way forward.

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1 Q. [15:31:43] And, Mr Witness, you did tell the truth when you gave your first
2 statement to the investigators of the ICC, didn't you?

3 A. [15:32:11] Yes, I did.

4 MR GOSNELL: [15:32:13] May we have DRC-OTP-0108-0155, please, it is tab 56. I
5 would like, please, to have the unredacted version.

6 THE COURT OFFICER: (Via video link) (Interpretation) [15:33:19] Please kindly
7 repeat the number.

8 MR GOSNELL: [15:33:23] Yes, that is DRC-OTP-0108-0155. And I don't know if this
9 is possible in the courtroom, but if we could perhaps lighten slightly the image.
10 May I enquire if the witness is looking at a hard copy or is looking at a picture on
11 a screen?

12 PRESIDING JUDGE FREMR: [15:34:18] Court officer, is there hard copy available in
13 the field?

14 THE COURT OFFICER: [15:34:24] A hard copy, yes, should be able. I am going to
15 ask a confirmation from the remote court officer, but currently also we are able to
16 display the electronic copy for the witness.

17 PRESIDING JUDGE FREMR: [15:34:39] But it depends what quality is better,
18 whether the hard copy or the electronic version.

19 THE COURT OFFICER: [15:34:47] I believe, Mr President, the copy on the screen
20 must be of a better quality, depending on the printing format of the picture, than the
21 hard copy.

22 PRESIDING JUDGE FREMR: [15:35:01] Yes, better quality but still a bit poor,
23 because especially as concerns face, even for the record, to put on the record that the
24 quality is really poor.

25 MR GOSNELL: [15:35:07]

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1 Q. [15:35:14] Mr Witness, do you see the image on the screen in front of you?

2 A. [15:35:29] Yes, I can see it.

3 Q. [15:35:31] Can you recognise this person?

4 MR GOSNELL: [15:35:32] And I'll ask, please, if we can zoom in a little bit more on
5 the face.

6 Q. [15:35:42] Do you recognise this person, Mr Witness, as someone that you
7 have ever seen before or that you know?

8 A. [15:36:19] I do not know that person.

9 MR GOSNELL: [15:36:22] (Redacted)

10 Q. [15:36:57] (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 A. [15:52:36] (Redacted)
- 4 Q. [15:52:41] (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 A. [15:53:18] (Redacted)
- 8 (Redacted)
- 9 Q. [15:53:42] (Redacted)
- 10 (Redacted)
- 11 A. [15:54:12] (Redacted)
- 12 Q. [15:54:28] (Redacted)
- 13 A. [15:54:42] (Redacted)
- 14 (Redacted)
- 15 MR GOSNELL: [15:55:01] Mr President, I tender this document for impeachment.
- 16 PRESIDING JUDGE FREMR: [15:55:07] Prosecution, your position?
- 17 MS MORRIS: [15:55:10] No objection, Mr President.
- 18 PRESIDING JUDGE FREMR: [15:55:13] All right. So the document specified by
- 19 Mr Gosnell is admitted into evidence for the purpose of impeachment as a further
- 20 Defence exhibit.
- 21 MR GOSNELL: [15:55:28]
- 22 Q. [15:55:28] Mr Witness, thank you for your testimony.
- 23 MR GOSNELL: [15:55:30] Mr President, that concludes my cross-examination.
- 24 Thank you.
- 25 PRESIDING JUDGE FREMR: [15:55:37] Now, Ms Morris, do you have any request

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1 for redirect?

2 MS MORRIS: [15:55:44] No, Mr President. No.

3 PRESIDING JUDGE FREMR: [15:55:48] All right. The Chamber also doesn't have
4 any questions for this witness.

5 So, Mr Witness, I have good news for you. Your testimony is concluded. So I
6 would like to thank you very much that in spite of your health conditions you did
7 your best, you remained patient until the end of the testimony, and that you
8 responded so many questions. So we thank you very much and we hope that your
9 testimony will assist us in the Chamber's effort to find the truth in this case.

10 So I thank you, Mr Witness, and we wish you safe journey home.

11 THE WITNESS: [15:56:57] (Interpretation) Thank you.

12 PRESIDING JUDGE FREMR: [15:57:00] "Asante sana."

13 So now we can disconnect the line. So let's move into open session for remainder.

14 (Open session at 3.57 p.m.)

15 THE COURT OFFICER: [15:57:30] We are in open session, Mr President.

16 PRESIDING JUDGE FREMR: [15:57:33] So, first of all, I would like to thank both
17 examiners, that they really had to do their best, because it was not an easy task, but
18 I think you succeeded within the limits of the -- of the reality.

19 Now, for tomorrow we have only agenda for morning session. So in accordance
20 with our, our schedule, we will have two sessions each of one hour with
21 Witness P-0005 and maybe, if the witness will be in good condition, we can at least
22 slightly make those sessions longer, for example, for five, ten minutes. I think even
23 that would be -- would be good, but we will see what will be the condition of
24 Mr Witness.

25 So now we break -- sorry -- and also important, important announcement.

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- 1 Tomorrow we are going to move into courtroom number 3, so we all hope that we
- 2 will face, if no technical issues, at least less technical issues than we have faced so far
- 3 in the courtroom number 2.
- 4 So tomorrow 9.30, courtroom number 3.
- 5 THE COURT USHER: [15:59:08] All rise.
- 6 (The hearing ends in open session at 3.59 p.m.)
- 7 RECLASSIFICATION REPORT
- 8 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
- 9 the public reclassified and lesser redacted version of this transcript is filed in the case.