

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing - Courtroom 2
7 Thursday, 19 October 2017
8 (The hearing starts in open session at 9.30 a.m.)
9 THE COURT USHER: [9:30:16] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:30:42] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:30:58] Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 We are in open session.
18 PRESIDING JUDGE FREMR: [9:31:13] Thank you, court officer.
19 Appearances, Prosecution first.
20 MS LUPING: [9:31:17] Good morning, Mr President. Good morning, your
21 Honours. There's no change in the Prosecution's composition this morning.
22 PRESIDING JUDGE FREMR: [9:31:25] Thank you, Ms Luping.
23 Defence, please.
24 MR GOSNELL: [9:31:28] Good morning, Mr President and your Honours. The
25 appearances for the Defence are the same as yesterday.

1 PRESIDING JUDGE FREMR: [9:31:34] And as to the Legal Representatives, I can
2 also note that the composition is the same like in the morning yesterday, not in the
3 afternoon, because we have Ms Pellet back.

4 Now, before we invite Mr Witness for the rest of his testimony, the Chamber was
5 informed that Mr Gosnell would like to address us.

6 Mr Gosnell, you have the floor.

7 MR GOSNELL: [9:31:56] Yes, Mr President, there are two -- I see my colleague is
8 on her feet. I'm not sure -- there were just two transcript issues from yesterday,
9 matters that were put to the witness as impeachment based on things that he had
10 previously said. Partly because I didn't react quickly enough, and partly because it
11 may not have been worth interrupting the flow of questions, I did not address them at
12 the time, but I would like the opportunity to do so now. Also so that that gives the
13 Prosecution an opportunity if they want to revisit these issues to do so.

14 The first issue arose at page 50 of yesterday's transcript 250, which is starting about
15 line 8, and the proposition was put to the witness that he had said that
16 Nembe Kpaddingo had gone to Tchankwanzi. And having gone back and checked
17 the transcript from page 21, line 22, also transcript 250, the witness actually answered
18 the question about this person Nembe as follows, quote:

19 "He lives in Lopa. Before the war erupted he was living in a Lendu village, and
20 when his father died he moved to his elder brother's place, who lived in Lopa. He
21 was a nurse. And he actually finished his military service before me. Before that he
22 was in the APC. We went to Tchankwanzi whilst he was already a soldier."

23 So I would submit, Mr President, it's ambiguous as to whether he did or did not go to
24 Tchankwanzi.

25 The second issue, which arose at page 64, line 5 concerned Maki Lokana. The

1 proposition that was put to the witness was, quote: "You said that you did not know
2 whether this person Maki Lokana is the person that you know."

3 What the witness is recorded as having said, in fact, at DRC-D18-0001-6264 at
4 page 6267, which is the proofing note was, and I quote:

5 (Interpretation) "The witness is specifying that he is not sure that it's the person he
6 knows."

7 (Speaks English) And there is a significant difference between something that you say
8 you know and something that you say you're not certain about.

9 Thank you, Mr President.

10 PRESIDING JUDGE FREMR: [9:34:46] Ms Luping, do you want to react?

11 MS LUPING: [9:34:48] Yes, on the first issue, the transcript reference, I may or may
12 not go back. It's open to counsel to go back in re-examination if he wishes. It was
13 certainly our interpretation that, or we understood that what he was saying is that
14 this individual Nembe Kpaddingo had gone to Tchankwanzi as well, that it was plural,
15 we; he and the witness and the others had gone to Tchankwanzi, even though he was
16 already a soldier. And I don't -- we may not need to go back on that ourselves.

17 The second point, I had in fairness read the French excerpt from the witness
18 preparation note directly to the witness. Whether or not I may at some point have
19 not put it precisely as in the witness preparation note or not, I'm not certain, I'll have
20 to go back and check. But certainly I did quote directly from the witness preparation
21 note and he had the opportunity to hear his own words and he confirmed that that is
22 what he said. Again, if Defence counsel wishes to go back on that in re-examination
23 they're free to do so.

24 PRESIDING JUDGE FREMR: [9:35:55] Thank you.

25 I believe that for the Chamber it's enough. It's no need to go back because I think we

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1 now have everything at our disposal and it's up to the Chamber to adjudicate to what
2 extent the proposition fully reflected the transcript or, or the note and it's up to us to
3 adjudicate whether it could have or not influence on his, on his response.

4 Now, Mr Gosnell, one point of organisation, I believe that you still don't have any
5 news as concerns the arrival of the next witness?

6 MR GOSNELL: [9:36:36] Mr President, I understand that an email is being sent or
7 has been sent or is on the verge of being sent which does provide a timeline or an
8 indication about the next witness. I can say that the arrival of the person is not
9 imminent.

10 PRESIDING JUDGE FREMR: [9:36:56] All right.

11 And the last issue before we invite the witness, I think it's fair to inform you that the
12 Chamber has been informed that there were some troubles with witness, I believe that
13 yesterday late afternoon, yesterday evening, that he even for some time he refused to
14 come today. We don't have -- we don't have -- and he insisted to leave the Court and
15 to return back home. It seems that in the morning now his mood again is fine.

16 But I would like to provide you with this caveat and please have it in mind, especially
17 it's for Ms Luping. Because, frankly saying, if he would refuse to complete his
18 testimony, you know that we have some legal tools and we can then try to compel
19 him to complete. But, frankly saying, I am not sure that they will, they will work.
20 So I think it's better to use really some approach that would avoid such a risk.
21 So Ms Luping, please have it in mind.

22 And now, court usher, we can invite Mr Witness to enter the courtroom.

23 (The witness enters the courtroom)

24 PRESIDING JUDGE FREMR: [9:39:28] Good morning, Mr Witness. Welcome
25 back. And, Mr Witness, usual question, are you feeling okay to complete your

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1 testimony today?

2 WITNESS: DRC-D18-D-0038 (On former oath)

3 (The witness speaks Swahili)

4 THE WITNESS: [9:39:50] (Interpretation) Yes.

5 PRESIDING JUDGE FREMR: [9:39:51] All right. I was informed that you had
6 some problems, but I would like to highlight that we are aware of the fact that the
7 testimony is sometimes very tiring experience. At the same time, I would like to
8 stress that it's very important for us to have testimony of witnesses who can
9 importantly assist us to find the truth. So I would like to ask you to remain patient
10 and I can also guarantee that we will complete your testimony this morning.

11 All right?

12 THE WITNESS: [9:40:34] (Interpretation) Yes.

13 PRESIDING JUDGE FREMR: [9:40:36] And as usually - too fast - as usually I have
14 to remind you, it's my legal duty to remind you that you are under oath, which means
15 that you have to speak truth and nothing but the truth. Do you understand?

16 THE WITNESS: [9:40:53] (Interpretation) Yes.

17 PRESIDING JUDGE FREMR: [9:40:55] Very well. And now I can give floor to
18 Ms Luping for the rest of cross-examination and, Ms Luping, you have still 1 hour 31,
19 if I am not wrong, minutes.

20 MS LUPING: [9:41:11] Thank you, Mr President.

21 QUESTIONED BY MS LUPING: (Continuing)

22 Q. [9:41:15] And good morning, Mr Witness.

23 Mr Witness, I'm just going to go back to the last part of your testimony yesterday and
24 we were talking about the peace committees. And I'm going to refer to your
25 testimony in examination-in-chief when Defence counsel was questioning you on the

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1 first day, and that's transcript 249 at page 64, lines 21 to 24 and you were explaining
2 what General Kisembo had told your group in Mandro. And I quote:

3 "And he said that it was all over with the committee, the committee was a matter of
4 the past and that henceforth we would be under military service."

5 Now, sir, my question is this: Isn't it right that the peace committees were no longer
6 responsible for the defence of the villages?

7 A. [9:42:26] When the FPLC occupied the region, the peace committees no longer
8 had the role to protect the population.

9 Q. [9:42:50] And it was the FPLC then, the UPC/FPLC who had that role instead;
10 is that correct?

11 A. [9:43:04] Yes.

12 Q. [9:43:07] And the peace committees had to rely on the FPLC/UPC for
13 protection?

14 A. [9:43:26] Could you please repeat the question?

15 Q. [9:43:35] The peace committees of the different villages, they would ask the
16 UPC/FPLC for help, for protection, when they needed to; is that right?

17 A. [9:43:54] They weren't asking for protection. When the UPC was controlling
18 Ituri there was no longer anything to be asked. It was actually their voluntary work.
19 They did not have to wait for people to come and ask for protection. It was their
20 duty to do so.

21 Q. [9:44:40] And the peace committees of the villages, they reported to the
22 UPC/FPLC hierarchy?

23 A. [9:45:06] What relation, what report are you talking about?

24 Q. [9:45:16] Well, perhaps you could explain just so it's clearer, you explained
25 yesterday that the peace committees were mediators or facilitators, that was a

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1 relationship they had with the UPC/FPLC. Just to understand, is it correct that they
2 reported to the UPC/FPLC?

3 A. [9:45:45] Perhaps the question is not properly worded. The FPLC was the
4 armed branch of UPC. The peace committee were not part of the army. There was
5 no reporting at all to the military structure. Perhaps I haven't understood the
6 question, but since the peace committees were not part of the armed branch, they
7 weren't reporting to the military structure. It was basically -- it was a non-armed,
8 non-military setup.

9 Q. [9:46:50] Did the peace committees in their role as mediators or facilitators, did
10 they communicate however, would they have communicated with the FPLC in that
11 role?

12 A. [9:47:06] You see, the peace committees were an old structure before the UPC
13 occupied Ituri. Once Ituri was occupied the peace committees were transformed.
14 You had a purely political structure of the UPC branch. I forgot how it was called.
15 They were working with the politicians and not the army. In fact, the FPLC was the
16 armed branch of the UPC and it's UPC that controlled the entire structure. This
17 peace committee weren't reporting to FPLC. The FPLC wasn't reporting to the peace
18 committees either.

19 MS LUPING: [9:48:35] Mr President, for my next question I would ask that we
20 please move into private session as it may identify the witness.

21 PRESIDING JUDGE FREMR: [9:48:43] Certainly.

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

23 (Private session at 9.48 a.m.) *(Reclassified partially in public)

24 THE COURT OFFICER: [9:48:57] We're in private session, Mr President.

25 PRESIDING JUDGE FREMR: [9:49:08] Thank you, court officer.

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1 Ms Luping, please.

2 MS LUPING: [9:49:11] Thank you, Mr President.

3 Q. [9:49:13] Mr Witness, I'm just going to refer again to another passage from
4 your testimony yesterday, that's at transcript 250, realtime. This is from the first half
5 of the transcript that was split into two, it's at page 29, lines 5 to 9 and I quote, and
6 this is your information that you gave to us about (Redacted):

7 "(Redacted) is from (Redacted). I have known him for a long time. Also when we were
8 doing military service. He was also working as a secretary in the peace committee.

9 This was somebody from the same village as myself." End of quote.

10 Now, (Redacted) who you confirmed is also known as (Redacted),
11 so he was the secretary of the (Redacted) peace committee; is that right?

12 A. [9:50:18] Yes.

13 Q. [9:50:27] And is it right that the president of the (Redacted) peace committee,
14 and that's in 2002, that he was called (Redacted)?

15 A. [9:50:47] Could you please spell out the name.

16 Q. [9:50:58] Certainly, sir. So (Redacted) is spelt (Redacted). Second name
17 (Redacted) is spelt (Redacted). (Redacted). Is that a name that you recall,
18 Mr Witness?

19 A. [9:51:30] (Redacted). Yes.

20 Q. [9:51:54] And is it correct that (Redacted) was the secretary of the peace
21 committee in 2002 as well?

22 A. [9:52:20] No, that's not what I said.

23 Q. [9:52:24] Sorry, it was a question, sir. You haven't mentioned what year
24 (Redacted) was the secretary of the peace committee. Could you clarify the years.
25 Is it correct that in 2002 he was also the secretary of the peace committee?

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1 A. [9:52:55] No, it's not true.

2 Q. [9:53:00] What years was he the secretary of the (Redacted) peace committee?

3 A. [9:53:23] Perhaps you haven't understood my answer that I gave you. When
4 UPC occupied Ituri the peace committees no longer existed. Even the person you've
5 just mentioned did not work in the peace committees. You had presidents for the
6 subsections of the UPC. We were not talking about peace committees anymore. In
7 2002, (Redacted) called them agents, not peace committees. They were called (Redacted),
8 (Redacted).

9 During that time the peace committees did not exist when UPC occupied the entire
10 region of Ituri. I don't have a lot of explanations to give you because I was not a
11 politician.

12 Q. [9:54:59] And, Mr Witness, you've mentioned that the peace committees, or as
13 they were possibly renamed later with another name, that they acted as facilitators or
14 mediators with the FPLC. Is it correct that there was a secretary general and
15 coordinator of the peace committees who formed part of the UPC/RP? Were you
16 aware of that, sir?

17 A. [9:55:49] Could you please repeat the question?

18 Q. [9:55:51] Did you know that there was a secretary general and coordinator of
19 the peace committees, somebody who acted as the FPLC's liaison with the peace
20 committees? Did you know that?

21 A. [9:56:22] No, I did not know that. There was no link between the peace
22 committee and the UPC because the peace committees did not exist. How could we
23 have an agent? You are the one who is actually putting secretary general. How can
24 there be an agent, a liaison agent for a peace committee whilst the peace committee
25 did not exist?

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1 Q. [9:56:58] Mr Witness, I'm talking about the time period. You know, we may
2 differ as to when that time period was as to when the peace committees no longer
3 existed, but in the time period that you know of when the peace committees did exist,
4 were you aware that there was a coordinator who coordinated interactions between
5 the FPLC and the peace committees?

6 A. [9:57:26] I did not know, because when there were peace committees, when
7 the peace committees existed, at that point of time UPC was not there as yet.

8 MS LUPING: [9:58:00] Mr President, I would ask that the court officer bring up
9 item 31, and that's DRC-OTP-0089-0146, and I would ask that a hard copy, the court
10 usher provide the witness with a hard copy to expedite matters as well.

11 PRESIDING JUDGE FREMR: [9:58:25] Court usher, please assist and show this
12 hard copy to Mr Gosnell before giving that to our witness.

13 MR GOSNELL: [9:58:32] Mr President, as long as the Prosecution says it's not
14 marked, there's no need for that. Thank you.

15 PRESIDING JUDGE FREMR: [9:58:39] Very well.

16 MS LUPING: [9:58:41] And I can confirm that the Prosecution has not marked the
17 document. It is as it is in Ringtail.

18 PRESIDING JUDGE FREMR: [9:58:50] Thank you, Ms Luping.

19 MS LUPING: [9:59:01]

20 Q. [9:59:01] Now, you have a hard copy of a letter, sir, in front of you. I'd like
21 you turn, in fact, first of all, to the very back of the page, the back of this letter. And
22 you will see written at the very bottom, "Pour le Comité de Paix Centre de
23 liaison/(Redacted)". And you will see written there "Le secrétaire (Redacted)".
24 Now, just first looking at the name here, (Redacted), can you confirm, sir, that
25 that is (Redacted), who is also now the current defence

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1 resource person?

2 A. [9:59:52] That's him.

3 Q. [10:00:05] And the other name and the other signature there "Le président",
4 and you have the name there "(Redacted)". Can you confirm that that is the
5 person that you confirmed as the president of the peace committee of (Redacted)?

6 A. [10:00:46] Is that a question for me?

7 Q. [10:00:48] Yes, I just want you to confirm that you -- you did confirm that the
8 president of the peace committee was a (Redacted). I just want you to again
9 confirm that that is this person that we see the name on this letter.

10 A. [10:01:12] Yes.

11 Q. [10:01:14] And, sir, can I ask you now to turn the letter over so that you have
12 the front of the letter before you. And I'd like to read different bits of it to you.
13 First of all, you'll see that the -- it is written -- it's a letter written to "À Monsieur le
14 Secrétaire Général et Coordinateur des Commités de Paix".

15 And it's referred to as a "Rapport mensuel", so it's a regular report. (Interpretation)
16 Monthly report.

17 (Speaks English) And I would like to read to you part of the second sentence -- second
18 sentence, sorry.

19 (Interpretation) "In fact, it's a truce of one month which is different from a previous
20 report pursuant to the request by hierarchy on your monthly report in relation to our
21 competence."

22 (Speaks English) Now, you may or may not be aware of this, sir, but were you aware
23 that information was provided by the peace committees to the FPLC? And I will
24 explain that later on in the letter there is information about attacks being perpetrated in
25 the areas, in various locations, attacks including in (Redacted). Were you aware that

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1 type of information was being provided of the security situation in the area by the
2 peace committees to the FPLC?

3 A. [10:03:55] No. But I can explain myself. Those people did not report to the
4 FPLC. I have already told you about the content. The content was not addressed to
5 the FPLC, so it's copied for information. So this letter was not intended or destined
6 for the FPLC.

7 You see, you see up there, it is to His Excellency the President, His Excellency the
8 Secretary, to His Excellency the Governor, the AT of Djugu territory, the chiefs of the
9 Baguru chieftaincy.

10 And so you can see that this is not a letter from the peace committee to the FPLC,
11 even if you consult other documents. And this is the same thing that happens in
12 relation to this document.

13 Q. [10:05:03] I just want to ask you a question then briefly about what is the
14 address at the very top left corner, it says, "République Démocratique du Congo
15 UPC/RP," it provides the location and then it states, "Coordination: Secrétariat
16 Général Bunia, Comité de paix, Centre de liaison/(Redacted)."

17 Now, does that suggest, sir, that there was some kind of liaison between the peace
18 committees and the UPC/RP, that this was in fact some kind of centre of liaison?

19 A. [10:05:59] There was liaison between the peace committee and the UPC/RP.
20 Now, if you say that there was liaison between the peace committee and the FPLC,
21 well, let me say that there was no link between the peace committee and the FPLC.
22 The FPLC was a military structure.

23 Q. [10:06:30] I'd just like to read another sentence from this same letter and I
24 quote: (Interpretation)

25 "After the authorisation of the masses, we asked for a seminar to be organised within

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1 the committee and that that should take place at the" --

2 THE INTERPRETER: [10:06:58] Mr President, could counsel be advised to provide
3 the reference for the interpreters, please.

4 MS LUPING: [10:07:04] Certainly. For the reference for the interpreters, I am
5 reading still from the document DRC-OTP-0089-0147. I'm reading the fourth
6 paragraph of this letter. And I'm now going to continue reading it. The witness
7 also has it before him.

8 (Interpretation) "Because we support, we support the UPC/RP 100 percent and want
9 to transmit this right to the last layers of the population."

10 (Speaks English) I just understand that there may have been a misinterpretation of the
11 word "vulgarisation".

12 THE INTERPRETER: [10:08:17] Mr President, the interpreters didn't get the full
13 paragraph. If counsel would be kind enough to start all over.

14 MS LUPING: [10:08:26] I will read this one more time.

15 (Interpretation) "Regarding popularisation or information of the masses, we asked
16 for a training seminar on ideology to be organised for the leaders of the committee
17 and to the masses as soon as possible at the (Redacted) liaison centre, because we
18 support UPC/RP 100 percent and wanted even the lowest layers of the population to
19 be informed".

20 Q. [10:09:26] (Speaks English) Now, sir, were you aware of ideological training
21 that was provided to the population in (Redacted) in support of the UPC/RP?

22 A. [10:10:06] Well, it states clearly that this was a training in ideology. Now, any
23 political party, even today, including the one to which I belong today, organises such
24 seminars on ideology for all its members, and that is clear. It is a seminar on
25 ideology for the party and this happens in all parties in my country. That is how it

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1 happens.

2 Q. [10:10:41] Turning to another point in the letter, there is a reference in the letter
3 to attacks in a location, in different locations, including Risasi. Now isn't it right that
4 Risasi is a Hema location, it's part of Bahema-Baguru?

5 A. [10:11:09] Yes.

6 Q. [10:11:11] And Risasi was also the location of a UPC militia camp; isn't that
7 right?

8 A. [10:11:25] Yes.

9 Q. [10:11:30] In 2002, who was the camp commander at Risasi?

10 A. [10:12:02] I forget his name, but I think he's already dead. But all of that area
11 was under our jurisdiction. We were the ones in control of that area. And there
12 was a commander in that area, I have forgotten his name. I don't remember his
13 name. Maybe he's already dead.

14 Q. [10:12:26] In 2004, isn't it right that the commander of Risasi was Colonel
15 Kaina Innocent?

16 A. [10:12:39] No. Maybe you don't have much information about that person.
17 He could not stay in Risasi. He was a high-ranking person.

18 PRESIDING JUDGE FREMR: [10:13:03] Ms Luping, is there still a need to remain
19 in private? Because I believe that even if you are dealing with names, unless
20 mentioning of those names would reveal identity of our witness, we can move into
21 open. But it's up to you.

22 MS LUPING: [10:13:20] My next question is about (Redacted) in Risasi,
23 Mr President. I do apologise, I do accept that the previous questions could have
24 been asked in open.

25 PRESIDING JUDGE FREMR: [10:13:30] No, but this issue should be dealt with in

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1 private, so let's remain in private.

2 MS LUPING: [10:13:35]

3 Q. [10:13:36] So, Mr Witness, you described (Redacted) in Risasi. You
4 explained that Chief Bara Risasi was killed and he was decapitated. Now you
5 have confirmed that Risasi was a Hema location. Isn't it correct that Chief Bara
6 Risasi was a Hema chief?

7 A. [10:14:21] Please kindly rephrase your question so that I can understand it
8 better.

9 Q. [10:14:27] Isn't it right that Chief Bara Risasi was a Hema chief?

10 A. [10:14:35] Yes.

11 Q. [10:14:41] So (Redacted); is that
12 correct?

13 A. [10:14:51] That is not exactly the case, what you have said. We did not only
14 protect the Hema people. What you have just said is not correct.
15 When the UPC had control over the Ituri, can you say that only the Hema were
16 present in the Ituri? So your question is seeking to get me to say that we were
17 protecting only the Hema. Now, who would have protected the other tribes when
18 the UPC was controlling the entire region?

19 Q. [10:15:41] Mr Witness, I'm not trying to get you to say anything. And
20 I would ask you really just to focus on answering the precise question I have asked
21 you.

22 You described how (Redacted), and I quote,
23 "(Redacted)" and you --

24 PRESIDING JUDGE FREMR: [10:16:03] Sorry to interrupt you, Ms Luping. I can't
25 agree with you. Mr Witness responded absolutely fairly, because you put to him a

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- 1 leading question, which is your right. But this leading question if he would say "yes"
- 2 would lead to something completely different than he wanted to say. So I think it's
- 3 full right to say what he said. So please do not limit him in this.
- 4 MS LUPING: [10:16:28] Understood, Mr President.
- 5 Q. But I will rephrase my question, because I am seeking to understand,
- 6 Mr Witness, the circumstances in which (Redacted).
- 7 Now, when you testified yesterday you explained that there was one person who was
- 8 killed in Risasi and that was the chief, Chief Bara Risasi; isn't that right?
- 9 And when (Redacted)
- 10 A. [10:17:06] Yes.
- 11 Q. [10:17:07] Sorry, apologies. And when you (Redacted)
- 12 (Redacted); is that correct?
- 13 A. [10:17:30] Please proceed. I follow you.
- 14 Q. [10:17:34] Now I'm asking you if you could answer my question, sir. (Redacted)
- 15 (Redacted)?
- 16 A. [10:17:48] Yes. Yes.
- 17 Q. [10:17:51] Now, am I right in saying that the chief was killed on
- 18 11 October 2002?
- 19 A. [10:18:05] I don't know the date. I don't remember the date.
- 20 Q. [10:18:10] Is it right that he was killed after Lompondo was ousted from
- 21 Bunia?
- 22 A. [10:18:27] Yes, that is correct.
- 23 Q. [10:18:30] Now, you explained that (Redacted), you described where you
- 24 went afterwards including briefly to staff headquarters, back to your village.
- 25 And then you said you were deployed at (Redacted) temporarily as a platoon

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1 commander. Now you described how whilst you were in (Redacted) there was a
2 gathering of troops at Iga Barrière before an operation in Mongbwalu.

3 Now my question is this, sir: This operation in Mongbwalu that you mentioned, was
4 this a successful operation, one where the UPC took over Mongbwalu?

5 A. [10:19:12] Please cross-check what you took down. That is not what I said. I
6 said that I was not in Mongbwalu. I do not know what happened in Mongbwalu.
7 Please cross-check what you took down. I do not know Mongbwalu. I have
8 already told you that I was not in Mongbwalu and, therefore, I'm not aware of what
9 transpired in Mongbwalu.

10 Q. [10:19:54] Yes, Mr Witness. Indeed, that is correct, that it was correctly taken
11 down, that you were not at Mongbwalu, that you were aware of the gathering of
12 troops though at Iga Barrière. I'm just trying to understand the timing of this
13 operation in Mongbwalu when you were still at (Redacted).

14 Did you hear whether there was -- the result of the operation was successful? Did
15 you hear whether the UPC took over Mongbwalu after this operation?

16 A. [10:20:44] I have no idea about what transpired in Mongbwalu.

17 Q. [10:20:52] Now, again, just so I can understand when you were in (Redacted), were
18 you in (Redacted) still in -- when you were in (Redacted) temporarily, was this in 2002, at
19 the end of in fact of 2002?

20 A. [10:21:17] I am not able to know or remember the date. These things
21 happened such a long time ago. So when you put questions to me concerning dates,
22 I cannot be very specific in my answers.

23 Q. [10:21:37] You've explained that you were in (Redacted) after Lompondo was
24 ousted from Bunia. Do you remember if you were in (Redacted) before Christmas of
25 2002?

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1 A. [10:22:19] I don't remember. Maybe I need to sit down and think about it for
2 a long time, because right now I am not able to remember the dates and I have
3 already told you this. I might need about 30 minutes to one hour to think this over,
4 because I am not able to give you an answer off the cuff like that. It's difficult for me
5 to do that.

6 Q. [10:22:43] I understand, Mr Witness. And if you can remember subsequently,
7 I'll move topics, and if you can remember subsequently, if you could let us know.
8 Now, changing topic now, you described yesterday, and that's at transcript 250,
9 page 4, line 17, to page 5, you described whilst that you were in Blukwa, that you
10 detained a person who had been causing trouble in the neighbouring village that was
11 occupied by the Lendu.

12 Now, could you give us the full name of that person please, sir, the person you
13 detained for causing this trouble?

14 A. [10:23:28] I remember only one name. I have forgotten the other name
15 because it's such a long time ago, and we haven't seen each other again since. His
16 name is (Redacted).

17 Q. [10:24:16] And do you know his date of birth, sir, like how old he was? Was
18 he the same age as you, younger than you, older than you?

19 A. [10:24:38] I cannot offer a more specific answer on his age, but he was
20 someone of my age. But he wasn't very -- he was not a very stout person. But he
21 joined the military before me. He did his military service before, before me.

22 Q. [10:24:59] And do you know where this person is from? What was his birth
23 village?

24 A. [10:25:15] He was born in (Redacted).

25 Q. [10:25:21] And the incident that you described where you said he caused

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1 trouble in the neighbouring village, can you tell us in what year this happened?

2 A. [10:25:49] It was in 2002.

3 Q. [10:25:52] What was the name of the Lendu village, sir, where he caused this
4 trouble that you said happened?

5 A. [10:26:01] Well, I don't know if you have a map with you, but the capital of the
6 Bahema-Nord in Blukwa has a road which leads to the Kumbi Protestant -- the Kambi
7 Protestant church parish. And there are a number of areas around Lambi (phon).
8 And then you will see the Mbi parish and Lavedjo (phon), and in those areas you
9 would find some Lendu people in Ladejo, Ladejo. All of that area was occupied by
10 Lendu people.

11 Q. [10:26:57] And I'm moving to another topic now, sir, and that is relating to
12 your time in Largu where you said that you were deployed for some months, and this
13 was after your time in Lingo. Can you explain what was your role, (Redacted)
14 (Redacted) in Largu?

15 A. [10:27:23] Yes, I was the (Redacted). But I used to live in (Redacted).
16 (Redacted).

17 Q. [10:27:40] So that time period (Redacted), was this in 2002 still,
18 end of 2002?

19 A. [10:28:12] I went to Largu several times in 2002 and even after 2002. And
20 even after the war I still went to Largu.

21 Q. [10:28:30] And the time you went (Redacted), was this shortly after the
22 UPC operation in Mongbwalu that you described had taken place when
23 you were in Lingo?

24 A. [10:28:53] Don't ask me any questions about Mongbwalu. Please just ask
25 me -- even if you were to ask me any questions about Mongbwalu till evening, I will

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1 not be able to tell you anything because I don't know what happened in Mongbwalu.

2 Q. [10:29:23] I'm not asking you, sir, to talk about the events in Mongbwalu.

3 What I'm trying to do again is just to get a sense of time as to when you were

4 responsible for the area of (Redacted). And you explained chronologically that it was

5 after, it would have been after Lompondo was ousted from Bunia. I'm just trying to

6 understand if your responsibility for (Redacted) was still in 2002 or not?

7 A. [10:30:06] I have already answered that question. I said that it was in 2002

8 when the UPC had control over the entire region. That was in 2002, but not for a

9 long time. And then thereafter I went to (Redacted). Maybe you're mixing things up.

10 You probably thought that I was in (Redacted). But even after the war I still went back

11 to (Redacted).

12 Q. [10:30:38] Sir, I apologise if my question was not clear. I'm just trying to

13 understand the time that you were (Redacted) in Largu. (Redacted).

14 (Redacted)

15 (Redacted). And so this was in the time that the UPC then would have been in

16 control of Ituri as you had described it. I just want to understand what year that

17 was, sir. Do you know if that was 2002 (Redacted)?

18 A. [10:31:19] You asked the same question and I've already answered. I

19 said in 2002 (Redacted). And after that (Redacted),

20 (Redacted). I mean, you're asking the same

21 question.

22 Q. [10:31:36] So the answer as I understand it then, the answer is yes, it was in

23 2002 that you were (Redacted) Largu; is that correct, sir?

24 PRESIDING JUDGE FREMR: [10:31:47] Ms Luping, you are asking for the third

25 time.

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1 MS LUPING: [10:31:49] Mr President, I'm reading the transcript. I'm not seeing a
2 clear answer as to whether or not it was 2002. Maybe I'm missing it.

3 PRESIDING JUDGE FREMR: [10:31:59] Asked and answered.

4 MS LUPING: [10:32:01] Okay.

5 Q. [10:32:05] So, Mr Witness, in 2002 when you were responsible for the area of
6 (Redacted), before, even before you became responsible, were you receiving any kind
7 of information about the security situation in (Redacted)?

8 A. [10:32:33] I haven't understood your question. Could you please reword it.

9 Q. [10:32:37] (Redacted)

10 (Redacted), did you receive information about
11 what the security situation was like in that area?

12 PRESIDING JUDGE FREMR: [10:32:54] Hold on, Mr Witness.

13 Mr Gosnell.

14 MR GOSNELL: [10:32:57] Objection, Mr President. The question starts out by
15 asking (Redacted)

16 (Redacted) It hasn't been established that the witness was
17 (Redacted) before we went to Largu. And I distinctly recall his testimony the day
18 before yesterday that he became a company commander only when he went to
19 (Redacted). I don't have the transcript reference, but that's what I recall him saying.

20 PRESIDING JUDGE FREMR: [10:33:25] But please next time, Mr Gosnell, we have
21 to first ask Mr Witness to take off his headphones if you are objecting and you are
22 referring to previous, previous testimony.

23 Ms Luping.

24 MS LUPING: [10:33:40] Yes, I can clarify that.

25 Q. [10:33:44] Mr Witness, when did you (Redacted)?

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1 (Redacted)?

2 A. [10:34:02] (Redacted)

3 (Redacted). And this is when I arrived.

4 There was a company commander in this region, but this commander was based in

5 Lupa (phon). And I think I have given you a clear answer -- at Blukwa, Blukwa,

6 Blukwa.

7 Q. [10:34:37] Thank you, Mr Witness. I think that is clear now.

8 (Redacted)

9 you receive any information about the security situation in that area?

10 A. [10:35:04] I think the question is not properly worded. Before going there,

11 I was in Lingo. You should have asked me a question with respect to Lingo. Could

12 you please reword your question so I can answer you.

13 Q. [10:35:20] I'm just going to rephrase my question altogether. Did you ever

14 learn about any disciplinary problems with FPLC soldiers in the area of Largu?

15 A. [10:35:43] No, I did not hear of any such problems. I can't give you any

16 information about the time when I wasn't there. I can only give you information

17 about the time when I was in position.

18 MS LUPING: [10:36:05] Could the court usher please be asked to provide a

19 document to the witness. It's item 57, it's DRC-OTP-0109-0136. This is an admitted

20 document, Mr President.

21 PRESIDING JUDGE FREMR: [10:36:24] Noted.

22 And for the record, Mr Witness is provided with the hard copy.

23 MS LUPING: [10:36:55]

24 Q. [10:36:55] Mr Witness, can I get you to turn to the very last page of this

25 document at page 0142. And I'm going to read the name of the person who has

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1 written this document. It's Eric Mbabazi. It says "Commander chef G5 état-major
2 général FPLC." Now, isn't it right, sir, that Mr Eric Mbabazi was the G5 of the FPLC?
3 Did you know that?

4 A. [10:37:40] Iko.

5 Q. [10:37:46] And in that role, isn't it right that --

6 A. Yes.

7 Q. Sorry, apologies. And isn't it right that in that role he was responsible for
8 dealing with complaints from the public, from the population?

9 A. [10:37:59] I did not understand you.

10 PRESIDING JUDGE FREMR: [10:38:09] Ms Luping, in the meantime is there still a
11 need to remain in private?

12 MS LUPING: [10:38:14] The issue is it relates to his role, sir, Mr President, so I'm
13 just a little bit concerned about identifying --

14 PRESIDING JUDGE FREMR: [10:38:23] No, no. In such a case, we will remain in
15 private.

16 MS LUPING: [10:38:25]

17 Q. [10:38:26] So, Mr Witness, isn't it right that Mr Mbabazi dealt with complaints
18 from civilians?

19 A. [10:38:39] Yes.

20 MS LUPING: [10:38:42] Perhaps the court usher can assist the witness, if you
21 wouldn't mind staying there with him for the process just dealing with this document.
22 I'd like to turn to page -- him to turn to page 0139.

23 PRESIDING JUDGE FREMR: [10:38:57] Court usher, please assist as proposed by
24 Ms Luping.

25 MS LUPING: [10:39:02] Thank you, Mr President.

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1 Q. [10:39:18] I'm just going to read a passage from page 0139, and it's stated
2 (Interpretation) "Complaints received from the population or grievances of the
3 population."

4 (Speaks English) And with the -- sorry, I'm not sure if the interpreter still has the
5 microphone on. Thank you. Now I have the mic back.

6 And the first sentence (Interpretation) "Threat from soldiers, torture, rape and
7 pillaging registered at Mabanga, Barrière, Largu and Fataki." End of quote.

8 (Speaks English) Now, Mr Witness, these complaints from the population in these
9 areas, presumably you would have heard of these complaints from the population in
10 (Redacted) Largu; isn't that right?

11 A. [10:40:31] We don't -- we're not speaking about Largu here. I'm reading the
12 document. Please be aware that I'm reading the document. We are talking of Bunia
13 Mabanga road, Bunia Largu and Bunia Kasenyi. As you can see with respect to the
14 Bunia Mabanga road --

15 Q. Mr Witness --

16 A. -- I don't think I can say anything at all.

17 Q. [10:41:08] Mr Witness, I'm sorry to interrupt you, but you are reading the
18 wrong passage. You're reading the second paragraph.

19 If the court usher could please point to you, it's the sentence above that I was referring
20 to you.

21 And the places that you can see for yourself, sir, in the line above refers to
22 Mabanga, Barrière, Largu, Fataki. So now I'm going to repeat my question, sir.
23 These complaints from the population that Mr Eric Mbabazi had reported of threats,
24 torture, rape and pillaging in all of these areas, including Largu, (Redacted)
25 (Redacted). Am I correct that you must

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1 have heard of these complaints, sir?

2 A. [10:42:14] No, I wasn't aware of all this. It's the first time I'm actually
3 learning about all this here.

4 Q. [10:42:23] Now, sir, if I could ask the court usher to assist you by turning the
5 page, and it's page 0140. And this time we have information about complaints from
6 the FPLC soldiers. My first question, sir, isn't it right that Mr Mbabazi was also
7 responsible for complaints received from FPLC soldiers?

8 A. [10:43:09] Could you please repeat your question. I did not follow you.

9 Q. [10:43:17] Yes, sir. You don't need to read the document yet. I will explain
10 when I'm reading out a passage.

11 A. [10:43:22] (Overlapping speakers)

12 Q. [10:43:23] My question is this, sir, this is again about the role of Mr Mbabazi:
13 Isn't it correct that he received complaints also from soldiers of the FPLC; is that
14 right?

15 A. [10:43:39] Yes.

16 Q. [10:43:40] And I'm going to read now one line for you. And I'll ask the court
17 usher to assist by pointing out, it's the line that start with "pillage". So here I'm going
18 to read to you, it's a complaint and we have the complaint:

19 (Interpretation) "Pillaging war spoils of inferiors by superiors, so equipment, cattle
20 and others."

21 (Speaks English) Now, again, sir, (Redacted)

22 (Redacted), isn't it right that you would have heard of this complaint that essentially
23 war booty or pillaged goods that had been pillaged from areas was being stolen from
24 inferiors by their superiors?

25 A. [10:44:47] Could you please again ask your question. There are certain words

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1 that I don't understand.

2 Q. [10:45:03] Is it correct, sir, that you must have heard of this complaint that
3 lower level soldiers were complaining that their war booty, the goods they had
4 pillaged was being stolen from them by their superiors?

5 A. [10:45:42] You're asking me the question, but I really haven't followed the
6 question because I'm reading a document.

7 Q. [10:45:59] Mr Witness, I've read --

8 A. [10:46:01] In fact, I've just read it here. I have never heard about this before.

9 Q. [10:46:10] All right, Mr Witness. I'm now going to move on to a different
10 topic.

11 And the court usher can remove the document from you.

12 And for this I believe we can move into public session, Mr President, with your leave.

13 PRESIDING JUDGE FREMR: [10:46:34] For sure.

14 Court officer, let's return back into public session.

15 (Open session at 10.46 a.m.)

16 THE COURT OFFICER: [10:46:58] We're in open session, Mr President.

17 PRESIDING JUDGE FREMR: [10:47:00] Thank you, court officer.

18 Ms Luping, please proceed.

19 MS LUPING: [10:47:06]

20 Q. [10:47:06] Now, Mr Witness, you described how not long after a massacre at
21 Drodro the FPLC took over Bunia in May 2003; isn't that right?

22 A. [10:47:30] Yes, it was in 2003. But I can't give you any additional information
23 on the date, but I know it was in 2003.

24 THE INTERPRETER: [10:47:47] The Swahili booth is requesting the witness to
25 speak louder.

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1 PRESIDING JUDGE FREMR: [10:47:53] Mr Witness, there is a message from the
2 interpreters whether you could speak a bit louder. All right?

3 MS LUPING: [10:48:01]

4 Q. [10:48:02] Now, many people were killed in Drodro; isn't that correct?

5 A. [10:48:10] Yes.

6 Q. [10:48:19] And it was the Lendu who killed these Hema victims; is that right?

7 A. [10:48:37] Yes.

8 Q. [10:48:41] And even small children were killed; is that correct, sir?

9 A. [10:48:55] Yes.

10 Q. [10:48:57] In fact, there are some reports that up to 408 people were killed
11 during that attack; is that correct?

12 A. [10:49:14] I can't give you the exact figure with respect to the number of people
13 who were killed.

14 Q. [10:49:22] There would have been some who would have been angry against
15 the Lendu for this very large killing, isn't that correct, sir?

16 A. [10:49:39] Is that a question or a statement?

17 Q. [10:50:08] It's a question for you, sir.

18 A. [10:50:22] Well, interpretation is taking time to reach me. If anyone, if
19 someone, in fact, loses kith and kin, the person is going to be very sad. He'd be
20 remembering the times they spent together, they were living together.

21 Q. [10:50:49] And isn't it correct that some may also be angry, sir?

22 A. [10:50:57] Could you rephrase your question, please?

23 Q. [10:51:18] Isn't it correct that some who may have lost their loved ones may
24 have been angry?

25 A. [10:51:42] I have already answered this question. Someone who loses a loved

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1 one, a member of his family, he will be deeply sad. If you lose your child, you
2 definitely would be deeply moved. It's something natural.

3 Q. [10:52:05] Now, on the first day of your testimony, sir, you stated, that's at
4 transcript 249, page 102, line 7, to page 103, line 2, that the pillaging was by the Lendu
5 in Bunia and not the FPLC soldiers. This is the Bunia operation of 2003.

6 Is that correct, that that was your testimony, that there was no pillaging done by any
7 FPLC soldiers in Bunia during the takeover of Bunia in May 2003?

8 A. [10:52:46] Could you ask your question once again.

9 Q. [10:53:13] Well, I'm just going to refer first to your prior testimony and then
10 I'm going to ask my question. You previously stated, and I provided the transcript
11 references, that during the takeover of Bunia by the FPLC, and that was in May 2003,
12 your testimony was that it was the Lendu who were pillaging in the town and not the
13 FPLC.

14 Now, my first question is this, sir, isn't it correct that the reality is the FPLC soldiers
15 were in fact given orders to pillage, to kill when they entered Bunia during that
16 operation? Isn't that the truth, sir?

17 A. [10:54:09] You haven't asked your question properly. You said that the UPC
18 soldiers were ordered to pillage and you also said that I would have said that the
19 Lendu commanders who did the pillaging, so your question obviously is not very
20 well, not very well worded. Could you please rephrase it.

21 Q. [10:54:38] You were involved in the operation in Bunia; is that correct, sir?

22 A. [10:54:49] Yes.

23 Q. [10:54:50] Isn't it correct that you and your forces received orders to pillage
24 and to kill the enemies in Bunia?

25 A. [10:55:08] Who gave us those orders? What time? When? We don't get

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1 orders like: Go and kill people. Which army are you talking about? This is a
2 statement that I never did. You have just made it up right now.

3 Q. [10:55:33] I'm going to read to you, sir, an extract from a UN MONUC report
4 dated 13 May 2003. It's DRC-OTP-2078-0285. I'm simply going to read one part of
5 it to you and then I'm going to ask you for your comments.

6 "It is worth mentioning the UPC elements have embarked in widespread looting in
7 the town, notably at the market, where all shops have been systematically pillaged".
8 End of quote.

9 Now, sir, were you aware of these reports that UPC were also engaged in pillaging in
10 Bunia during this operation?

11 PRESIDING JUDGE FREMR: [10:56:40] Hold on, Mr Witness. And please take
12 off your headphones.

13 MR GOSNELL: [10:56:45] Mr President, it won't be a substantive objection.

14 PRESIDING JUDGE FREMR: [10:56:51] All right. So go ahead.

15 MR GOSNELL: [10:56:52] May I have a tab number and a page number? Neither
16 has been provided.

17 PRESIDING JUDGE FREMR: [10:56:56] Ms Luping, please.

18 MS LUPING: [10:56:58] The page number, and I apologise for that, is page 286,
19 and it is at tab 58.

20 PRESIDING JUDGE FREMR: [10:57:19] And in the meantime, because Ms Luping
21 is referring to MONUC report, Mr Witness, do you know what MONUC was?

22 Mr Witness, I'm asking you, because Ms Luping is referring to MONUC report,
23 whether you know what MONUC was, what kind of organisation?

24 THE WITNESS: [10:57:57] (Interpretation) Yes, I've heard of MONUC, but I don't
25 know this organisation very well.

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1 PRESIDING JUDGE FREMR: [10:58:15] All right.

2 Ms Luping, please proceed.

3 MS LUPING: [10:58:17]

4 Q. And just to repeat my question, I read to you the extract.

5 Now, you would have heard of those allegations, isn't that right, sir? (Redacted)

6 (Redacted)? You would have heard allegations of UPC pillaging

7 in the market?

8 PRESIDING JUDGE FREMR: [10:58:38] Hold on, Mr Witness.

9 MR GOSNELL: [10:58:40] Again not a substantive objection, but I would request a
10 page and line reference for the assertion that was just made about his position.

11 PRESIDING JUDGE FREMR: [10:58:52] Ms Luping.

12 MS LUPING: [10:58:54] I can ask the witness to clarify.

13 Q. [10:58:55] (Redacted), when you were involved in the operation
14 in Bunia?

15 PRESIDING JUDGE FREMR: [10:59:09] We are in private session, so let's move
16 into -- in open session. Let's move into private session at least for this response.

17 MS LUPING: [10:59:35] Whilst we're doing that, Mr President, if I could ask the
18 court usher to provide this document to save time.

19 (Private session at 10.59 a.m.) *(Reclassified partially in public)

20 THE COURT OFFICER: [10:59:45] We are in private session.

21 PRESIDING JUDGE FREMR: [10:59:49] We are in private session. And,
22 court usher, please assist.

23 MS LUPING: [10:59:50] Thank you, Mr President.

24 Q. [10:59:51] So just to repeat the question whilst the court usher is bringing you
25 a document I'd like you to look at next, not now.

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1 Court usher, if you wouldn't be so kind as just to wait there for a moment and not
2 give it quite yet. Just wait, please, sorry.

3 (Redacted) when you were involved in the operation in Bunia?

4 Is that correct?

5 A. [11:00:16] Yes.

6 Q. [11:00:17] (Redacted), isn't it right that you would have received information
7 that UPC soldiers were doing widespread pillaging including in the marketplace
8 in Bunia?

9 A. [11:00:43] No, that's not the case. I think that the way you put your questions
10 is not correct. You want me to answer the questions the way you want me to
11 according to your own intention. What you are saying, "Is that not the case? Is that
12 not the case?" It's as if you are asking me confirm what you are saying simply.

13 MS LUPING: [11:01:28] Can I ask the court usher please to provide the next
14 document, which is DRC-OTP-0021-0865. It's item 59 on the Prosecution's list. And
15 I'd ask the court also please just to show the witness the very last page.

16 Q. [11:01:47] Now, Mr Witness, this is a report from an NGO, the NGO is the (Redacted).
17 The title of the report is "Bilan des degats humains et materiels des événements de
18 Bunia".

19 THE INTERPRETER: [11:02:04] Mr President, there was an overlap in the
20 microphone. We didn't hear the French excerpt.

21 PRESIDING JUDGE FREMR: [11:02:11] Ms Luping, please repeat.

22 MS LUPING: [11:02:12] Yes, I repeat, the title of this document is (Interpretation)
23 "Statement of material loss and damage in the Bunia events".

24 (Speaks English) And at the very bottom of this report, item 12, (Interpretation)

25 "Pillaging of the following international NGO facilities".

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1 (Speaks English) And on the left you have a list of NGOs that reported pillaging of
2 their offices by Lendu groups, and on the right, and this is what I am going to refer
3 you to, sir, it's a heading (Interpretation) "By the Hema UPC groups".

4 (Speaks English) And the following are the NGOs that reported pillaging: The OMS,
5 UNICEF, OCHA, Oxfam, Save the Children and Caritas.

6 Now, isn't it correct, sir, that you would have received reports that these NGOs were
7 pillaged by the UPC?

8 A. [11:03:34] I did not receive that report.

9 Q. [11:03:40] Thank you.

10 Court usher, if you could remove the document from the witness. And I'm now going
11 to move to a different topic.

12 Now, sir, you've mentioned before that your own political party also would do
13 ideological training, not just the UPC. Am I correct in saying that your current
14 political party is called the Alliance de Force Démocratique du Congo or the AFDC?

15 A. [11:04:21] Okay.

16 Q. [11:04:32] Sorry, sir, it might be a question of interpretation. I just simply
17 heard "okay". Is that a yes?

18 A. [11:04:43] Yes. AFDC, yes.

19 Q. [11:04:53] And is it correct that (Redacted) also belongs to this same political
20 party, the AFDC?

21 A. [11:05:11] Who are you talking about? Who?

22 Q. [11:05:15] An individual called (Redacted) and I'm going to spell
23 his name. (Redacted) Is it correct that
24 this person belongs to the same party as you?

25 A. [11:05:50] (Redacted).

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- 1 Q. [11:05:52] Thank you, sir. And he belongs to the same party; is that right?
- 2 A. [11:05:59] Yes.
- 3 Q. [11:06:00] And (Redacted),
- 4 he belongs to the same political party as you as well; is that correct, sir?
- 5 A. [11:06:19] Yes.
- 6 Q. [11:06:23] (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 THE COURT OFFICER: [11:06:51] Ms Luping, you have 10 minutes left.
- 11 THE WITNESS: [11:06:55] (Interpretation) (Redacted).
- 12 MS LUPING: [11:06:56] I would ask that the court officer, so court usher, please
- 13 assist. I have one last document to show the witness. It's item 49. It's
- 14 DRC-OTP-2087-1512. And I would like to turn to 1561. And I would ask the court
- 15 usher if she can could turn to (Redacted)
- 16 (Redacted).
- 17 Q. (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)?
- 21 A. [11:08:21] (Redacted).
- 22 Q. [11:08:21] (Redacted)
- 23 (Redacted)
- 24 (Redacted)?
- 25 A. [11:08:50] (Redacted).

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1 Q. [11:08:56] (Redacted).

2 (Redacted)

3 (Redacted)

4 (Redacted)?

5 A. [11:09:19] (Redacted).

6 MS LUPING: [11:09:20] Mr President, your Honours, I would seek to have only
7 this page, this extract from this document admitted as a further Prosecution exhibit.

8 PRESIDING JUDGE FREMR: [11:09:31] Defence, your position.

9 MR GOSNELL: [11:09:32] No objection.

10 PRESIDING JUDGE FREMR: [11:09:35] In such a case this document or the extract
11 specified by Ms Luping is admitted into evidence as a further Prosecution exhibit.

12 Ms Luping, please proceed.

13 MS LUPING: [11:09:51]

14 Q. [11:09:54] Now, Mr Witness, you stated, you've confirmed that (Redacted)

15 (Redacted), he was the secretary of the (Redacted) committee.

16 (Redacted)

17 (Redacted).

18 Now, isn't it correct, sir, that (Redacted) supports the UPC/RP 100 percent; isn't

19 that right?

20 PRESIDING JUDGE FREMR: [11:10:38] Mr Gosnell.

21 MR GOSNELL: [11:10:38] Objection. Calls for speculation. No specification as
22 to time, therefore, vague.

23 PRESIDING JUDGE FREMR: [11:10:48] Ms Luping.

24 MS LUPING: [11:10:49] Mr President, could I ask that the witness remove the
25 headphones.

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1 PRESIDING JUDGE FREMR: [11:10:53] Witness, please remove your headphones.

2 MS LUPING: [11:10:54] And could I please ask, and I understand it can be difficult,
3 you want to object in the moment, that with these types of objections, that if Defence
4 counsel can please ask the witness remove his headphones before this kind of
5 objection is made.

6 I don't believe it does call for speculation, your Honours. We have a letter signed by
7 Mr Ngadjole, and the text is very clear, it states that the committee supports the
8 UPC/RP 100 per cent. It's simply a follow-up to that, sir. I'm setting my foundation.

9 PRESIDING JUDGE FREMR: [11:11:27] All right. It's just proposition, so it's fine.
10 The objection is overruled.

11 MS LUPING: [11:11:32] Yes. Thank you.

12 Q. [11:11:34] Mr Witness, you can put your headphones back on.

13 So, Mr Witness, I'm going to repeat my question. Isn't it correct that (Redacted)
14 supports the UPC/RP 100 percent?

15 A. [11:12:04] What do you mean by "support the UPC/RP 100 per cent"? You
16 know, no one can ever know what is in another person's heart.

17 Q. [11:12:17] Well, I will ask you, sir, what is in your heart. Is it correct that you
18 100 percent support the UPC/RP?

19 A. [11:12:38] I am a member of the AFDC, as you have just stated yourself a short
20 while ago. I am not a member of the UPC. I am a member of the AFDC. I used to
21 be an element of the UPC a long time ago.

22 Q. [11:13:01] And in terms of your previous membership of the UPC/FPLC, isn't
23 it correct that you 100 percent support what the UPC/RP did in that time period when
24 you were a member?

25 A. [11:13:33] To support what? I think we don't understand each other. What

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1 are we supporting here?

2 Q. [11:13:44] Would I be right in saying that you supported the goals and the
3 aims of the UPC/RP?

4 A. [11:14:05] I really do not understand the question, the manner in which it is
5 phrased. Please can you be more specific in your question?

6 Now, if the UPC had issued any orders, do you think that I would have implemented
7 those orders? So that's why I need clarification. If you are specific in your question,
8 I will be able to answer it. So please do not ask questions which may be interpreted
9 in different ways. And so be very clear and specific and simple in your questions,
10 please.

11 Q. [11:14:51] Are you testifying on behalf of Mr Bosco Ntaganda because you
12 supported the actions of the UPC/RP when you were a member of it?

13 A. [11:15:07] Please rephrase your question.

14 PRESIDING JUDGE FREMR: [11:15:28] Mr Witness, I think there's no need to
15 rephrase the question. This is clear. You say either yes or no.

16 THE WITNESS: [11:15:41] (Interpretation) I have not understood the question. If
17 the question is well put, maybe that's fine, but maybe interpretation into Swahili
18 might be different because it's --

19 PRESIDING JUDGE FREMR: [11:15:57] Mr Witness, you are an intelligent man.
20 Ms Luping is proposing or putting to you that your testimony is influenced by the
21 fact that you had been a commander of the UPC and then your testimony is
22 supporting Mr Ntaganda; is it according you true or not? It's up to you. Two
23 possibility, to say yes or no.

24 THE WITNESS: [11:16:28] (Interpretation) I am not being influenced in my
25 testimony before this Court.

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1 MS LUPING: [11:16:42]

2 Q. [11:16:43] (Redacted)

3 (Redacted)? He's someone you're close to. Would I be right in saying that you
4 have spoken to (Redacted) what you plan to say during your testimony with him
5 before you came here today?

6 A. [11:17:19] No, I don't agree with you. I never had any discussions with
7 (Redacted) on these matters. You say that (Redacted). But what we are talking
8 about here happened a long time ago, well before all these events. So at that time
9 I was in Mabanga, and (Redacted) only joined the movement later. So (Redacted)
10 (Redacted) is the one who would have -- who would call me from time to time,
11 but (Redacted) doesn't call me.

12 Q. [11:18:03] And when the (Redacted) calls you from time to time, what does
13 he say to you, sir?

14 A. [11:18:12] When I am called up because I am needed, I am then taken to the
15 place where we meet. So you can conduct your own investigations into this if you
16 have any doubts about what I am saying. I do not have or engage in much
17 discussion with them. I simply talk to Véronique and that's it, or Stéphane.

18 PRESIDING JUDGE FREMR: [11:19:01] Ms Luping, last question, if any.

19 MS LUPING: Yes, I have a last question.

20 Q. [11:19:05] Mr Witness, now, you've claimed that you know (Redacted)
21 extremely well. My question is this: Did you know that his father (Redacted) was
22 (Redacted)?

23 Did you know that, sir?

24 A. [11:19:39] Please repeat your question kindly. Please kindly repeat your
25 question.

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1 Q. [11:19:49] (Redacted) father, a well-known man, (Redacted),

2 isn't it correct that he was (Redacted)

3 (Redacted) whose name is (Redacted)?

4 A. [11:20:32] Are you saying that (Redacted) father -- are you talking about

5 (Redacted) father? Well, we were talking about (Redacted) and now

6 you have moved to (Redacted); is that correct?

7 Q. [11:20:54] That's correct, sir. I'm now referring to a different person,

8 (Redacted), who you've testified about a number of times and said that you know him

9 and that you know him well. So my last question is about his father, who is also

10 very well known, sir.

11 A. [11:21:11] (Redacted) father, I do not know whether he was (Redacted).

12 In any event, at that time I was not involved in politics.

13 I was a soldier.

14 MS LUPING: [11:21:39] Mr President, may I ask one follow-up question?

15 PRESIDING JUDGE FREMR: [11:21:43] Just one really.

16 MS LUPING: [11:21:45] As this information has just come to hand.

17 Q. You've referred to an (Redacted). Is it correct, sir, that (Redacted) is a UPC

18 politician based in -- yes, is a UPC politician? Is that correct?

19 A. [11:22:10] (Redacted), I got to know him personally when he became

20 (Redacted) representing the UPC. I did not know him before then. I did not

21 know whether or not he was a member of the UPC. I only got to know him

22 (Redacted).

23 Q. [11:22:54] Thank you, Mr Witness. I have no further questions.

24 MS LUPING: [11:22:56] Thank you, Mr President, your Honours.

25 PRESIDING JUDGE FREMR: [11:22:58] I can confirm that.

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1 Mr Gosnell, any request for re-direct?

2 MR GOSNELL: [11:23:06] Yes, I do request re-direct, a very short re-direct, one
3 that I believe I can complete in under five minutes.

4 PRESIDING JUDGE FREMR: [11:23:13] Five minutes would be fine with us.
5 Should we remain in private?

6 MR GOSNELL: [11:23:18] We can move into -- well, to be on the safe side, perhaps
7 we could stay in private session.

8 PRESIDING JUDGE FREMR: [11:23:27] All right. So please proceed, Mr Gosnell.

9 QUESTIONED BY MR GOSNELL:

10 MR GOSNELL: May we please have Prosecution tab 49, DRC-OTP-2087-1512.

11 Q. [11:23:44] Mr Witness, coming up on the screen is the document that you were
12 just shown a few moments ago by the Prosecution. At the heading, if we can stay on
13 the top of the page, please, the document is entitled République Démocratique du
14 Congo (Interpretation) "The National Independent Electoral Commission".

15 (Speaks English) If we could turn please to the page that was shown to you by
16 the Prosecution, which is page (Redacted). (Redacted)

17 (Redacted)

18 (Redacted). And then if you look three columns over we see a birth date and
19 the birth date that is given on this document, which is a document of the
20 Commission Electorale Nationale of the DRC, we see (Redacted). Is that birth
21 date accurate?

22 A. [11:25:46] No, that is not (Redacted). (Redacted). I didn't have
23 the opportunity to check the date on that document.

24 MR GOSNELL: [11:26:03] I'm done with this document, Mr President.

25 Q. [11:26:07] Mr Witness, did (Redacted) ever tell you how to answer questions

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1 posed by (Redacted) members of the Defence team?

2 A. [11:26:19] With these people I do not discuss such questions. (Redacted) to
3 contact me in order to take me to the place where I meet you, when we must meet
4 with you.

5 Q. [11:26:48] Did (Redacted) ever tell you how to answer questions posed by
6 other members of the Defence team?

7 A. [11:27:02] Whether (Redacted), whether (Redacted), we do not speak about
8 such things, never. Whatever the case, it's not possible. When members of the Defence
9 team need to see me, these two people contact me and they take me to the meeting
10 place.

11 MR GOSNELL: [11:27:41] Mr President, we can move into open session.

12 PRESIDING JUDGE FREMR: [11:27:44] Very well.

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

14 (Open session at 11.27 a.m.)

15 THE COURT OFFICER: [11:27:58] We're in open session, Mr President.

16 PRESIDING JUDGE FREMR: [11:28:02] Thank you, court officer.

17 Mr Gosnell, please proceed.

18 MR GOSNELL: [11:28:05]

19 Q. [11:28:07] Sir, you've been asked a number of questions about the killing of the
20 chief of Risasi. Can you describe briefly the nature of the attack on Risasi in which
21 he was beheaded?

22 A. [11:28:27] Even if I wasn't present at the time the events occurred, Risasi is a
23 village which borders another Lendu village and the attackers came from a
24 groupement close to Risasi. They went through Bodi and they came straight
25 through and from there there's a path that goes towards there. They came on that

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1 path. His house is next to the path and they found him there.

2 Q. [11:29:40] Did this incident occur after the UPC had taken control of Ituri?

3 A. [11:30:00] Yes. The UPC had already taken control of Ituri. But such
4 regrettable events occurred everywhere -- or occur everywhere where there are
5 human beings.

6 MR GOSNELL: [11:30:24] One last question, Mr President. And for this I will
7 need DRC-OTP-0141-009 -- excuse me, 0009. That's Prosecution tab 35. And if we
8 could turn please to page 0111.

9 Q. [11:31:14] Now, sir, the page that's coming up in front of you was shown to
10 you during your testimony by the Prosecution.

11 If we could zoom in a little bit, please.

12 And your attention was drawn to item number 53. I would like to scroll down,
13 please, to item 99.

14 Sir, do you see the name Salex Comando?

15 A. [11:31:58] On my screen this name does not appear.

16 MR GOSNELL: [11:32:04] Could we ensure that we are on channel 2, evidence 2
17 for the witness?

18 PRESIDING JUDGE FREMR: [11:32:09] Court usher, please assist.

19 MR GOSNELL: [11:32:12] I'm sorry, it should be evidence 1.

20 PRESIDING JUDGE FREMR: [11:32:15] Evidence 1, yeah, channel.

21 MR GOSNELL: [11:32:35]

22 Q. [11:32:35] Sir, it's number 99.

23 A. [11:32:49] Yes, I see Salex Comando.

24 Q. Have you ever met anyone or have you ever heard of anyone named
25 Salex Comando?

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1 PRESIDING JUDGE FREMR: [11:33:03] Hold on, Mr Witness.

2 Ms Luping.

3 MS LUPING: [11:33:05] Mr President, if I could ask that the Witness remove his
4 headphones for a moment.

5 PRESIDING JUDGE FREMR: [11:33:11] Mr Witness, yes.

6 Ms Luping.

7 MS LUPING: [11:33:13] Mr President, I have during cross-examination not asked
8 any questions relating to this individual. I do not see how this arises from the
9 cross-examination and I would object to this question as not being an appropriate
10 question for re-examination.

11 PRESIDING JUDGE FREMR: [11:33:30] Mr Gosnell.

12 MR GOSNELL: [11:33:30] Has to do, Mr President, with the reliability of the list.
13 And I can tell your Honour the question I'm going to ask him, if you wish.

14 PRESIDING JUDGE FREMR: [11:33:38] Because I believe that Mr Witness can't
15 hear it, so please.

16 MR GOSNELL: [11:33:42] The question that I will ask is whether he has in his life
17 ever met anyone named Salex.

18 PRESIDING JUDGE FREMR: [11:33:50] I think it's not a big point. Please go
19 ahead.

20 Mr Witness.

21 Mr Gosnell, please.

22 MR GOSNELL: [11:34:03]

23 Q. [11:34:03] Sir, in your life have you ever met anyone named Salex?

24 A. [11:34:13] I'm sorry, could you repeat the question? You were asking in my
25 whole life?

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1 Q. [11:34:37] Have you ever heard of someone named Salex in your entire life?

2 A. [11:34:59] Salex? I have never heard such a name where we live. Maybe

3 Alex. You do have people called Alex where I'm from. Names like Salex in our

4 area don't exist.

5 Q. [11:35:21] Thank you very much, sir, for your patience.

6 MR GOSNELL: [11:35:26] Thank you, Mr President.

7 PRESIDING JUDGE FREMR: [11:35:27] Ms Luping, any request for re-cross?

8 MS LUPING: [11:35:30] No, Mr President. No questions.

9 PRESIDING JUDGE FREMR: [11:35:32] Very well. So let's move into open
10 session -- we are in open session. Fine.

11 So, Mr Witness, it concludes your testimony. I would like on behalf of the whole
12 Chamber to thank you. I know it was a tiring experience, but we believe that your
13 testimony could assist us in our effort to find the truth. So I thank you very much
14 and we wish you safe journey home.

15 And now, court usher, you may escort Mr Witness out of the courtroom.

16 (The witness is excused)

17 PRESIDING JUDGE FREMR: [11:36:15] Mr Gosnell.

18 MR GOSNELL: [11:36:15] (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)?

22 PRESIDING JUDGE FREMR: [11:36:31] (Redacted)

23 MR GOSNELL: [11:36:31] (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted).

3 PRESIDING JUDGE FREMR: [11:36:58] All right. And the last point, unless there
4 are requests for the floor, which I would like to deal with very briefly.

5 Yes, and we will have to redact the last submission made by Mr Gosnell.

6 But otherwise we can remain in open session and I would like to deal with the recent
7 information we got in fact from Defence because before we adjourn we got via email
8 sent at 10.09 update from Defence concerning the appearance of Witness D-17. The
9 Defence indicates that due to the events beyond its control, it has been unable to
10 complete the review of evidence that can be provided by Witness D-17 and that in
11 these circumstances it is not possible to hand him over to VWU on Friday, 20 October
12 as initially planned. In view of this situation, the Defence requests leave to postpone
13 the testimony of Witness D-17 to the fifth evidentiary block.

14 Before the Chamber -- yes. So before we, before we deliberate on that, I would like
15 to hear from Prosecution and Legal Representatives their position.

16 Ms Samson.

17 MS SAMSON: [11:38:45] Thank you, Mr President. First, the Prosecution notes
18 that D-17 was intended to be called during the first evidentiary block and so the delay
19 in taking whatever necessary information it needed to take from the witness on the
20 side of the Defence is certainly surprising.

21 Secondly, the Defence has not indicated whether or not it could seek to call the
22 witness via video link and hand him over to the Victims and Witnesses Unit several
23 days after 20 October, given that this current evidence block doesn't end until
24 10 November.

25 And so it appears at first blush, having just read the email ourselves at the same time

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1 as the Chamber, that there are unexplored possibilities that may allow the witness to
2 be heard during this evidence block so as not to find ourselves in a situation where
3 we have one witness appearing in a four-week block.

4 PRESIDING JUDGE FREMR: [11:39:57] Sorry to interrupt you, because I forgot
5 also to quote one important part of the email announcing that Defence also informs
6 the Chamber that witness D-214 currently scheduled to testify in the fifth block will
7 not be called to testify and provides a witness list for the fifth block.

8 Sorry to interrupt you. Please proceed, Ms Samson.

9 MS SAMSON: [11:40:20] Thank you, Mr President. So in summary, the
10 Prosecution submits that the Chamber may seek additional information from the
11 Defence as to why October 20 needs to be the handover date and not a week later,
12 given that we still are sitting until 10 November. And why, if any travel is going to
13 be difficult, video link wouldn't be an option?

14 So those are the preliminary comments that the Prosecution can provide at this time.
15 But we certainly would seek to have a witness come this block, preferably D-17 since
16 that's the witness we've prepared. Thank you.

17 PRESIDING JUDGE FREMR: [11:40:59] Thank you, Ms Samson.

18 Legal Representatives of the victims, do you want also to comment that?

19 MS PELLET: [11:41:07] (Interpretation) Thank you, your Honour. Quite simply
20 I would like to subscribe to the position of the Prosecution and say that the list made
21 by the Defence change -- or are changing every two days and we prepare in
22 accordance with the list. Without more information it's difficult to make further
23 comment, but I would just like to express to the Chamber that we work with these
24 repeated changes and they're sent to us as well. Thank you, your Honour.

25 PRESIDING JUDGE FREMR: [11:41:52] Mr Suprun?

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1 MR SUPRUN: [11:41:54] (Interpretation) I don't have a submission to make on
2 this issue, your Honour.

3 PRESIDING JUDGE FREMR: [11:41:59] All right.

4 And, Mr Gosnell, do you want to respond to submissions made by Ms Pellet and
5 Ms Samson?

6 MR GOSNELL: [11:42:06] Mr President, I'm not sure that I'm in a position to add
7 anything to what has been conveyed in the email. Thank you.

8 PRESIDING JUDGE FREMR: [11:42:13] So it's my opinion that we will probably
9 need some further information which will allow us to decide, so we will not react
10 immediately. But as soon we will be provided with further information, then we
11 will decide and inform you in due course.

12 Are there any further requests for the floor? I don't see that is the case. So again
13 I would like to thank court reporters, interpreters and court officers that they had
14 again to spend with us more than two hours which is a normal duration of the session.
15 Thank you very much.

16 At the moment we adjourn. At the moment, as you can understand, it's not clear
17 whether we will meet still within the time planned for this evidentiary block or at the
18 time planned for the next block. Anyway, thank you very much and we, at the
19 moment we adjourn.

20 THE COURT USHER: [11:43:13] All rise.

21 (The hearing ends in open session at 11.43 a.m.)

22 RECLASSIFICATION REPORT

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