

Trial Hearing
WITNESS: DRC-OTP-P-0031

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing - Courtroom 3
7 Tuesday, 13 December 2016
8 The hearing starts in open session at 9.32 a.m.)
9 THE COURT USHER: [9:32:39] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:33:07] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:33:15] Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 We are in open session.
18 PRESIDING JUDGE FREMR: [9:33:28] Thank you, court officer.
19 Now appearances please.
20 MS SAMSON: [9:33:32] Good morning, Mr President and your Honours. For the
21 Prosecution today it's the same composition as yesterday, that is Ms Selam Yirgou,
22 Mr James Pace and myself, Nicole Samson.
23 PRESIDING JUDGE FREMR: [9:33:45] Thank you, Ms Samson.
24 Defence now, please.
25 MR BOURGON: [9:33:48] Good morning, Mr President. No change on the

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1 Defence side. Thank you.

2 PRESIDING JUDGE FREMR: [9:33:51] Thank you, Mr Bourgon.

3 And Legal Representatives of Victims, please.

4 MR ABDOU: [9:34:00] Good morning, Mr President. Good morning, your
5 Honours. Mohamed Abdou for the former child soldiers today.

6 MR SUPRUN: [9:34:07] (Interpretation) Good morning, Mr President, your
7 Honours. Myself, Dmytro Suprun, for the victims of the attack, counsel at the Office
8 of Public Counsel for Victims.

9 PRESIDING JUDGE FREMR: [9:34:20] Thank you, Mr Abdou. Thank you,
10 Mr Suprun.

11 Before we continue with the rest of testimony of our witness, I have for the record to
12 correct myself. I was told that Mr Bourgon was already informed that I was too
13 generous when I said that he still had 1 hour 49; in fact, it's just 1 hour 19 minutes.
14 In this connection, Ms Samson, do you envisage at that moment any need for
15 redirect?

16 MS SAMSON: [9:34:57] Yes, Mr President. I will ask for some time, but it will be
17 very brief. At this moment I don't expect that I would ask for more than 10 minutes.
18 In fact, it probably could be 5 minutes, depending. Thank you.

19 PRESIDING JUDGE FREMR: [9:35:12] Then I will give you a chance to update us
20 on that, but I'm asking because I would like to keep the rest of the testimony in one
21 session, so it's possible that we will a bit enlarge this session. Then we will have
22 30 minutes, 30 minutes break and we will shorten the second one.

23 So now -- and before I will give floor to Mr Bourgon, you know, Mr Witness, because
24 in fact you have some experience being a witness even in this case, so as usually I
25 have to remind you that you are still under oath, which means that you have to speak

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1 the truth and nothing but the truth. And I will not give you any details about
2 practical issues because yesterday you did it perfectly, you listened carefully to
3 questions put to you, you responded clearly and briefly, so please just proceed in the
4 same way today.

5 Now, Mr Bourgon, you have the floor.

6 MR BOURGON: [9:36:20] Thank you, Mr President. We can remain for the time
7 being in public session.

8 PRESIDING JUDGE FREMR: [9:36:26] All right.

9 WITNESS: DRC-OTP-P-0031 (On former oath)

10 (The witness speaks French)

11 QUESTIONED BY MR BOURGON: (Continuing) (Interpretation)

12 Q. [9:36:37] Good morning, Mr Witness.

13 A. [9:36:39] Good morning.

14 Q. [9:36:40] Yesterday, Mr Witness, we ended with two video excerpts on which
15 we saw Thomas Lubanga visiting a location held by the White *Father and where
16 people of various ethnic groups were assembled. My first question is as follows:
17 Do you agree with me on the basis of that video that contrary to your testimony, the
18 UPC was a multi-ethnic group which had at heart the welfare of all the population
19 without discrimination?

20 A. [9:37:35] I have understood your question. The UPC was a group which was
21 necessarily Hema, but just for masquerade purposes they associated certain people
22 who were afraid to die. Certain people who were intimidated came to participate in
23 that group. These are the people who were presented, so many people who were
24 there were there against their own will. But they couldn't do anything because
25 during the UPC activities, it was -- people were being hunted down and they did not

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1 want to go against that.

2 Q. [9:38:30] Thank you, Mr Witness. Let me move on to something else.

3 I would like document DRC-OTP-0160-0190 to be displayed on the screen. And

4 I would like page 0194.

5 MR BOURGON: [9:38:53] At this point in time it is better to move into private
6 session, Mr President.

7 PRESIDING JUDGE FREMR: [9:38:59] Understood.

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

9 (Private session at 9.39 a.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: [9:39:11] We are in private session. And I'm taking this
11 opportunity to ask if you would like to have the redacted version or the unredacted
12 version of the document being published?

13 MR BOURGON: [9:39:26] Yes.

14 PRESIDING JUDGE FREMR: [9:39:28] Yes to what, Mr Bourgon?

15 MR BOURGON: [9:39:33] (Microphone not activated) Whatever is suitable. As
16 long as the time is not taken on my time because I don't understand exactly. I want
17 the version that we can display, and we are now in private session.

18 PRESIDING JUDGE FREMR: [9:40:02] So then less redacted version, if there are no
19 objections, would be obviously better.

20 Ms Samson?

21 MS SAMSON: [9:40:08] There are no objections. I can confirm that the version
22 that has no redactions is the appropriate one.

23 PRESIDING JUDGE FREMR: [9:40:15] Thank you, Ms Samson.

24 MR BOURGON: [9:40:19] (Interpretation)

25 Q. [9:40:21] Mr Witness, on the screen here we have a page of a document which

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1 you handed over to investigator (Redacted). I asked you last

2 week, that is on Friday, transcript *175, page 29, lines 18 to 20, and you say --

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. [9:41:23] (Redacted).

8 Q. [9:41:32] Mr Witness, it is very important for you to focus on my questions.

9 (Redacted)

10 A. [9:41:43] (Redacted)

11 Q. [9:41:50] Let me move on to the next question. I also asked you relating to the

12 documents that you handed over, (Redacted)

13 (Redacted). You agree that no such information is

14 on this document, Mr Witness, isn't that true?

15 A. [9:42:18] Please kindly repeat the question. I didn't quite understand.

16 Q. [9:42:24] In the document before you, (Redacted)

17 (Redacted)

18 A. [9:42:41] I believe I told you that there is a (Redacted)

19 (Redacted)

20 Q. Mr Witness, I would like to interrupt you because my time is short. (Redacted)

21 (Redacted)

22 A. [9:43:05] (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [9:43:23] I will allow the Judges to make their determination. I will move on

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1 to the next question.

2 We have a document that was given, disclosed to us by the OTP, and it is document
3 0162-0056 and it's screening notes, and I'm referring to paragraph 3. It is stated as
4 follows, it is in English:

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Interpretation) Mr Witness, my question is as follows: Do you confirm that that
11 document was given to you (Redacted), that you were visited by (Redacted)
12 two occasions before he gave you that document?

13 A. [9:45:17] I believe you asked me that question. I talked about that and *again and
14 I said that (Redacted). Now ...

15 Q. [9:45:37] Let me interrupt you once again, Mr Witness. That is not my
16 question. My question is very, very simple. I have a paragraph here that says that
17 you received (Redacted)

18 (Redacted) visited you twice before. Is that true or not?

19 A. [9:45:59] He visited me so that we should (Redacted)
20 (Redacted).

21 Q. [9:46:09] In the same document that we received from the OTP, paragraph 4, it
22 is stated as follows. Once again, it is in English:

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 A. [9:47:19] (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 Q. [9:47:37] (Redacted)
- 8 (Redacted)
- 9 A. [9:47:51] (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 Q. [9:48:08] (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted) And these are the documents that are on the screen.
- 20 (Speaks English) DRC-OTP-0160-0002. (Speaks French) DRC-OTP-0160 and 0190.
- 21 (Interpretation) And that is the next *document we will be looking at together
- 22 (Speaks English) were the ones given to him by RU.
- 23 THE INTERPRETER: [9:49:52] Mr President, if counsel can stop moving from
- 24 English to French without warning.
- 25 MR BOURGON: [9:50:00] (Interpretation)

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1 Q. [9:50:02] Mr Witness, do you confirm that you were not in a position to give
2 the provenance and nature of documents that were given to you; is that correct?

3 A. [9:50:13] That is a bit contradictory because when you tell me that I do not
4 know the provenance and the nature, it is contradictory because the source is that it is
5 the (Redacted) which handed me the document and the nature is that it is (Redacted)
6 (Redacted)

7 PRESIDING JUDGE FREMR: [9:50:43] Mr Bourgon, just one reminder. I'm just
8 conveying message from the interpreters: If you are moving from English to French,
9 please indicate it in advance. Thank you.

10 MR BOURGON: [9:50:56] Thank you, Mr President.

11 Q. [9:51:04] (Interpretation) I conclude that the information in the investigator's
12 report is not correct. Is that your testimony?

13 A. [9:51:13] What I am saying is that regarding the nature of the document, I
14 explained it and I also explained the origin of the document, so I cannot contradict
15 myself and say that I do not know the nature or provenance and yet I have said that
16 (Redacted) gave me the documents and it deals with (Redacted)
17 (Redacted).

18 Q. [9:51:46] Mr Witness, now I would like to display another document on the
19 screen. It is DRC-OTP-0160-0190. If I can have that on the screen, please, and
20 specifically page 0015. Mr Witness, it is the second document --

21 THE COURT OFFICER: [9:52:31] Could you please repeat the page number
22 because this is not possible.

23 MR BOURGON: [9:52:49] (Interpretation) Maybe the first page of the document
24 was not a good one. It is actually 0160-0002 and I would like, specifically,
25 page 0160-0015.

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1 Q. [9:53:23] (Redacted)

2 (Redacted). The document will be displayed on the

3 screen before you. My question is the same: Are you in a position to confirm that

4 this document, one, (Redacted)

5 (Redacted) Is that

6 correct?

7 A. [9:54:09] Counsel, let me come back to my answer. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. [9:55:01] Mr Witness, I will now refer to your statement of (Redacted). I will

13 mention paragraph 80, the number of the first page of the statement is 0162-0002, and

14 the page I'm referring to is page 0027. In paragraph 80, you say as follows, and it is

15 not one of the documents in the record:

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Do you confirm that information in your statement?

22 A. [9:56:39] It is my statement. I said it before --

23 PRESIDING JUDGE FREMR: [9:56:45] Hold on, Mr Witness, hold on.

24 Ms Samson.

25 MS SAMSON: [9:56:48] Thank you. Yes, if the sentence will be read partially, I

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1 ask that the remainder of the sentence be read for the -- in fairness to the witness.

2 Thank you.

3 PRESIDING JUDGE FREMR: [9:56:58] Mr Bourgon.

4 MR BOURGON: [9:57:00] I disagree, but I will read the rest of the sentence. The

5 rest of the sentence has nothing to do with whether he was there or not, but I will

6 read it.

7 PRESIDING JUDGE FREMR: [9:57:13] Appreciated.

8 MR BOURGON: [9:57:14] (Interpretation)

9 Q. [9:57:15] The end of the sentence, Mr Witness, is as follows: (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. [9:57:52] In my statement it is clear. As --

16 Q. [9:57:58] Mr Witness, I would like to interrupt you. Is it true or false, were

17 you present or not? The question is simple.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. [9:58:36] My question was not whether you were aware or not. Did you

24 attend, yes or no, (Redacted)? Or are you changing your statement in

25 that paragraph "I have never been present"; yes or no?

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1 A. [9:58:53] I did not change anything. I did not change anything.

2 PRESIDING JUDGE FREMR: [9:58:56] I would like to say, Mr Witness, one of the
3 privileges of the non-calling party, which is now Defence, is that such a party is
4 allowed to put so-called leading questions, which means that the answer in fact is
5 proposed by the examiner. So then it should be in most cases easy for the person
6 examined to say either "yes" or "no." Please try to do that and only in cases that
7 really it's not possible, it's not so easy to say "yes" or "no," then you can elaborate.
8 But, if possible, please, without any explanation, just say "yes" or "no." Do you
9 understand?

10 THE WITNESS: [9:59:45] (Interpretation) I understand. Thank you, your Honour.

11 PRESIDING JUDGE FREMR: [9:59:47] Mr Bourgon, please proceed.

12 MR BOURGON: [9:59:50] (Interpretation) Thank you, your Honour.

13 Q. [9:59:56] Witness, I'm now going on to the subject of the determination of the
14 age of the child soldiers under 18. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 MR BOURGON: [10:12:11] Mr President, we circulated around a larger version of
23 this picture on paper. Everybody should have it, but we have additional copies for
24 distribution.

25 PRESIDING JUDGE FREMR: [10:12:23] All right, if you find it necessary.

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1 MR BOURGON: [10:12:25] And I would like maybe to give a copy to the witness
2 which is without -- without any annotations, which should be helpful to him.

3 Mr President, it is item 98, nine-eight, in the documents we distributed.

4 If possible, I would like to, if we could enlarge the picture on the screen also.

5 PRESIDING JUDGE FREMR: [10:13:16] But, Mr Bourgon, just to understand your
6 idea how to proceed, so if you want Mr Witness to make some annotations I would
7 still prefer even he could also work with his paper or hard copy, but to make
8 annotations on the screen by red pen because then we all can see what he is doing at
9 the moment.

10 MR BOURGON: [10:13:39] I don't have sufficient time to make annotations. I
11 will just use a marker, point to a face, and ask him a question based on his statement.

12 PRESIDING JUDGE FREMR: [10:13:52] All right.

13 Ms Samson.

14 MS SAMSON: [10:13:53] Yes, it's just so we have a record of which faces are being
15 pointed to. It can be very difficult with this type of photograph to specify, and an
16 annotation using the Elmo or some way for us all to visualise it would indeed be the
17 better way to memorialise what is happening.

18 PRESIDING JUDGE FREMR: [10:14:14] Really, because, Mr Bourgon, I believe it
19 will be maybe even less time-consuming if you will just describe, tell me. So
20 Mr Witness even could, if the idea is to identify unidentified persons, you can just
21 even put it to Mr Witness, he can even start annotating, number one, number two,
22 number three, and say this, number one is. Because if you will just try to describe
23 what person you will have in mind, it will take more time. So consider that. And
24 we will really need some clear evidence what person --

25 MR BOURGON: [10:14:50] I will move on, Mr President.

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1 I remove, I cancel all this. I don't have enough time for this. I'm sorry.

2 PRESIDING JUDGE FREMR: [10:14:59] No problem.

3 MR BOURGON: [10:15:01] We will move to the next issue.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

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8 MS SAMSON: [10:17:54] Mr President, we will never know in one year's time

9 when we're writing the closing brief which face Ms Martineau has circled.

10 PRESIDING JUDGE FREMR: [10:18:08] Mr Bourgon, really I have some doubts

11 with the relevance of such an exercise conducted in such a way.

12 MR BOURGON: [10:18:17] (Interpretation)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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13 (Redacted)

14 (Redacted)

15 (Redacted)

16 MS SAMSON: Mr President.

17 PRESIDING JUDGE FREMR: [10:37:37] Ms Samson.

18 MS SAMSON: [10:37:38] Yes. It is just that the question does not reflect the

19 information in the statement. It was the opposite.

20 PRESIDING JUDGE FREMR: [10:37:49] Mr Bourgon.

21 MR BOURGON: [10:37:50] I'll move on.

22 PRESIDING JUDGE FREMR: [10:37:52] All right then.

23 MR BOURGON: [10:37:53] There's no time to do proper work, Mr President.

24 PRESIDING JUDGE FREMR: [10:37:56] But, you know, if there's really some

25 difference either you have to quote or really to summarise precisely. If not, it's such

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1 a risk.

2 MR BOURGON: [10:38:05] (Interpretation)

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11 PRESIDING JUDGE FREMR: [10:49:57] Mr Bourgon, those words really seems --

12 MR BOURGON: [10:50:03] I will put the document on the screen, Mr President.

13 PRESIDING JUDGE FREMR: [10:50:05] Yes, it would be ideal.

14 MR BOURGON: [10:50:07] And that's the document that I called --

15 PRESIDING JUDGE FREMR: [10:50:17] I guess you will have to repeat the number

16 because it was some overlappings. So please repeat the number.

17 MR BOURGON: Yes --

18 PRESIDING JUDGE FREMR: And in the meantime, Mr Bourgon --

19 MR BOURGON: [10:50:29] -- the --

20 PRESIDING JUDGE FREMR: [10:50:31] Yes, please go ahead.

21 MR BOURGON: [10:50:32] -- document number is 1008-0083, I would like to have

22 the first -- the page 0087.

23 PRESIDING JUDGE FREMR: [10:50:46] And in the meantime, Mr Bourgon, you

24 have last 5 minutes and don't take it as encouragement to speed up.

25 MR BOURGON: [10:50:55] (Interpretation)

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13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 PRESIDING JUDGE FREMR: [10:56:25] Mr Bourgon, your time is over. I am
23 giving you just a chance to put last question.

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 This is information that we are already aware of.

5 My question is as follows: In your testimony you also mentioned having been

6 arrested by certain members of the UPC after a flight that you tried to organise for

7 children to be sent out of Bunia. My last question to you, Mr Witness, is: I'm

8 putting it to you that your testimony is not true. It is based on two considerations.

9 The first one is that you have something against the UPC (Redacted)

10 (Redacted) and secondly, it is because you have a bias in favour of

11 Lendu and against the Hema. Do you agree?

12 A. [10:58:13] That is very serious, Counsel. I have no problem either with the

13 Hema or the Lendu. I went to live in Bunia because of (Redacted).

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted). I cannot have a bias in favour of the Lendu and I cannot have anything

18 against the Hema.

19 The situation is very clear here. (Redacted)

20 (Redacted)

21 (Redacted). Many people in humanitarian work were threatened and some even

22 driven out by the UPC. Even yesterday you also mentioned the aspect of Father

23 Denecker and also Félix Ntumba. And that is not all. Many humanitarian workers

24 left because they were threatened or driven out. Each person tried to protect their

25 lives.

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1 I do not have any bias in favour of Lendu. I do not know any Lendu. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted). So what happened in Bunia is that if you serve only one side, the other

7 side will consider you as an enemy. If you leave the Lendu and you go and serve the

8 Hema, the Lendu will consider you as enemy. That is the polarization. Thank you.

9 Q. [11:00:43] Thank you, Mr Witness. These are all my questions.

10 MR BOURGON: [11:00:48] Mr President, all I have is a few requests for some

11 documents to be admitted. Should I do it now or after the re-direct?

12 PRESIDING JUDGE FREMR: Sorry, I haven't heard you. What did you say at the end?

13 MR BOURGON: [11:00:57] I would like to ask for a few documents to be admitted

14 in evidence, but I'm finished with my questions, of course.

15 PRESIDING JUDGE FREMR: [11:01:02] But also the request and process of

16 admission of documents also should be part of your time. For next time.

17 But anyway just allow me one personal comment, Mr Bourgon, but it doesn't concern

18 just you, it also concerns some other counsels here.

19 Maybe in the process with jurors it's part of the tactics and probably efficient tactics to

20 come with some very serious questions at the very end of examination to make some

21 impression, but I would like to highlight that we are three professional Judges so that

22 the effect of such questions with serious outcome would be same if you come with

23 such questions even 30 minutes before the end of your time.

24 And it's not only just now but we also faced those problems with some Prosecution

25 counsels, that you really used to come at the very last minute with something really

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1 significant.

2 Please don't do that because, as you can see now, you got under time pressure and
3 even the answers which could be very relevant were made in a hurry, they are
4 shortened and could be. So please both parties I would like to encourage you don't
5 follow this tactic.

6 Now, Mr Bourgon, please your request for admission.

7 MR BOURGON: [11:02:33] Thank you, Mr President. I would like to have
8 admitted in evidence the document which I referred on numerous occasion which the
9 witness contradicted during his testimony. This is DRC-OTP-0162-0056.

10 PRESIDING JUDGE FREMR: [11:02:59] Please one by one because we also have to
11 hear Prosecution.

12 MR BOURGON: [11:03:05] The first one, the first one, this is the document which
13 refers to the chain of custody and the manner in which the documents were received
14 by the Prosecution from the witness and the document was referred to on some
15 occasion during the cross-examination. And this document of course is necessary
16 for the Chamber to evaluate the testimony of the witness who on some occasions of
17 course did not agree with the content of this document. But also this document
18 contains specific information concerning the documents he gave to the Prosecution
19 which are now part of the record.

20 PRESIDING JUDGE FREMR: [11:03:45] And again, I don't really find ideal to put
21 such a request in a remote time from the use of the document, but we will do it now.
22 But next time, please, I would like to avoid that.

23 Ms Samson.

24 MS SAMSON: [11:03:57] No objection, your Honour.

25 PRESIDING JUDGE FREMR: [11:03:59] This document is admitted into evidence

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1 as a further Defence exhibit.

2 Please proceed, Mr Bourgon.

3 MR BOURGON: [11:04:07] Mr President, the next document is the document

4 which is the last one that was used with the witness. It refers to the investigation

5 that was conducted. We don't know who conducted the investigation. It's a

6 document that was disclosed by the Prosecution just on Thursday of last week. The

7 document bears the number DRC-OTP-1008-0083. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted).

12 So for all these reasons we believe that this document is necessary in order to allow

13 the Judges to fully assess the testimony of the witness.

14 PRESIDING JUDGE FREMR: [11:05:13] So the purpose is for the purpose of

15 impeachment?

16 MR BOURGON: [11:05:16] For impeachment, yes, Mr President.

17 PRESIDING JUDGE FREMR: [11:05:19] Ms Samson.

18 MS SAMSON: [11:05:20] We object to the admission of document, your Honour,

19 because the portions that Defence sought to use with the witness for impeachment

20 purposes were read out into the record. In fact, at least two paragraphs were read

21 out twice. And to the extent that there may have been other areas of that report that

22 Defence counsel did not canvass, they should not be -- those should not be admitted.

23 Thank you.

24 PRESIDING JUDGE FREMR: [11:05:45] Mr Bourgon.

25 MR BOURGON: [11:05:46] Mr President, the witness was given the opportunity to

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1 comment on the allegations contained in this document. The paragraphs were not
2 all read to the witness. This document is important for the Chamber to fully assess
3 his testimony in light of what he says happened at his residence.

4 Mr President, it's simply not possible during cross-examination to read all portions of
5 the document. The thing is, was he given the opportunity to answer what is in there?
6 He was given this opportunity and for this purpose the Chamber should have the
7 benefit of this document in order to assess his testimony.

8 PRESIDING JUDGE FREMR: [11:06:25] Ms Samson, briefly, please.

9 MS SAMSON: [11:06:26] Yes, your Honour. What Defence counsel is indicating
10 now confirms that he wishes to use the document to argue areas of the document that
11 were not squarely put to the witness and this Chamber has found that to be unfair
12 and inappropriate and has not permitted admission of evidence for that purpose.
13 Thank you.

14 PRESIDING JUDGE FREMR: [11:06:46] Objection sustained. Really this
15 document, as I said, it could be really very important, that is why the witness should
16 really have a chance to comment on any part of this. You read important part of
17 document in details, you quoted, he provided relatively extensive answer. It should
18 be fine with us. So objection is sustained.

19 Any further document?

20 MR BOURGON: [11:07:12] Yes, Mr President. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted).

3 Mr President, I wish to make it clear the position of the Defence that when we have a
4 document like this, when the witness is able and is given the opportunity to answer,
5 it's not because a few lines were not read to him that the document should not be
6 admitted. This is his own letter and he said he recalled the letter.

7 Mr President, with this letter the Chamber is in a much better position to assess.

8 This is what we're here for. We are here to assess the truth, to get to the truth, get to
9 the bottom of things, and the credibility of this witness is one major issue in this case.

10 This document is necessary and we ask that it be admitted in evidence for the
11 purpose of impeachment.

12 PRESIDING JUDGE FREMR: [11:08:44] Ms Samson.

13 MS SAMSON: [11:08:45] No objection to the admission of the document for
14 impeachment, but we will certainly object in written argument if Defence counsel
15 seeks to expand into areas of the document that have not been put to the witness.

16 Thank you.

17 PRESIDING JUDGE FREMR: [11:08:57] Well-noted. So document specified by
18 Mr Bourgon is admitted for the purpose of impeachment as a further Defence exhibit.

19 MR BOURGON: [11:09:09] The next document, Mr President, is the item 197 on
20 our list, which does not have an ERN number. (Redacted)

21 (Redacted). This document was of course put on the screen for the witness. Three
22 paragraphs were summarised for the witness because of language requirements.

23 The witness clearly contradicted the information found in this document, (Redacted)

24 (Redacted)

25 (Redacted)

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2 (Redacted)

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5 (Redacted)

6 (Redacted) was referred to on numerous occasions during

7 cross-examination, is necessary in order to assess the credibility of this witness. So

8 we ask that it be admitted for impeachment purposes.

9 PRESIDING JUDGE FREMR: [11:10:40] Ms Samson.

10 MS SAMSON: [11:10:41] No objection, your Honour, with the same caveat as with
11 the last document. Thank you.

12 PRESIDING JUDGE FREMR: [11:10:46] All right. Again well-noted.

13 This document is also admitted into evidence for the purpose of impeachment as a
14 further Defence exhibit.

15 MR BOURGON: [11:10:54] The last thing, Mr President, is the two extracts from
16 the video that was played yesterday along with the transcript and translation. So
17 with respect to the video material, the first is item 192, which bears the number
18 DRC-D18-0001-2488 and it includes information or at least the video from 30.00 to
19 32.44.

20 The second one is item 193, DRC-D18-0001-2489, and this is video extract which goes
21 from 33.58 to 37.40.

22 As for the transcript, it is transcript item 194, which bears the number D18-0001-2490.

23 And it is a transcript, of course this one should be marked for identification until

24 Prosecution has been able to verify the transcription.

25 And the same for the translation item 195, DRC-D18-0001, again marked for -- 2597,

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1 sorry, again marked for identification until Prosecution confirmation of the accuracy
2 of the transcript.

3 And I have one last document which is the picture, Mr President, which comes from
4 the --

5 PRESIDING JUDGE FREMR: [11:12:58] Sorry, we will have to decide about this
6 first.

7 Ms Samson.

8 MS SAMSON: [11:13:03] Yes. We object to the admission of the videos. This
9 witness was not asked any questions to authenticate the video. He was shown it and
10 the only question that was asked was: Does this not show that the UPC was
11 multi-ethnic? To which he said yes, but it was effectively a sham.

12 So in our submission there is insufficient relationship between the witness and the
13 document -- the video to have it admitted. Thank you.

14 PRESIDING JUDGE FREMR: [11:13:38] The objection --

15 MR BOURGON: Mr President --

16 PRESIDING JUDGE FREMR: The objection is overruled because I think the
17 Chamber finds important to have context for the answer made by Mr Witness that
18 was everything masquerade, so I think we need it.

19 MS SAMSON: [11:13:57] Just a clarification, your Honour. Is the admission for
20 impeachment on that particular issue? The impeachment --

21 PRESIDING JUDGE FREMR: [11:14:03] Yes, it was my understanding.

22 MS SAMSON: [11:14:05] And only on the issue of the multi-ethnicity of the UPC.
23 Thank --

24 MR BOURGON: [11:14:10] No, it's not just on this issue. It has to do with
25 credibility of the witness because the question that was put to him was a question

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1 related --

2 PRESIDING JUDGE FREMR: [11:14:19] I think the purpose of impeachment

3 covers --

4 MR BOURGON: Impeachment, yes.

5 PRESIDING JUDGE FREMR: -- credibility.

6 MS SAMSON: [11:14:23] My concern, so I'm clear, is that the video purported to

7 depict Mr Lubanga's visit to a priest as well and it followed a series of questions

8 related to the priest's visit. However, following the video, Defence counsel chose not

9 to ask the witness any questions about that, and so I think it would not be fair to seek

10 to impeach the witness in any way using a video upon which he was asked no

11 questions on that topic. So that's why I want to be clear that we're confining the

12 impeachment value to the portion of the video upon which he was asked questions,

13 which was the multi-ethnicity of the UPC.

14 PRESIDING JUDGE FREMR: [11:15:07] I think it would be fair, yes.

15 MR BOURGON: [11:15:09] Mr President, I respectfully disagree with my colleague.

16 If we look at the questions that were put before and especially the questions that were

17 put after, I made sure that my question related to the fact that it was an event where

18 we see Thomas Lubanga, we see Thomas Lubanga visiting Père Blanc's location. We

19 see Thomas Lubanga visited Père Blanc's location where people from various

20 ethnicities are being -- are staying and then I put my question to him. If he had

21 wanted to provide any information to contradict the existence or the fact that this

22 event did not take place, he could have said so. That's not what he said. He

23 recognized the veracity, but he said it was a sham.

24 So for this reason this has to do with the credibility of the witness, and if we took all

25 the questions before that I put concerning Père Blanc and this issue.

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1 PRESIDING JUDGE FREMR: [11:16:05] Please, I don't want to be too formal. As I
2 said, it's again common law, common law approach. We will simply take this as we
3 were provided this. We listened to and we saw the video. There were questions
4 asked to Mr Witness, he focussed on this aspect of the video, so we also in our
5 evaluation focus on this aspect of the video.

6 Now the video is admitted, is admitted into evidence for the purpose of impeachment
7 of the witness as a further Prosecution exhibit -- Defence exhibit, while the transcripts
8 and translations are marked for identification in accordance with our decision on
9 conduct of proceedings.

10 Mr Bourgon, any else?

11 MR BOURGON: [11:16:52] Well, Mr President, I wish first to apologise maybe
12 for -- but maybe, I apologise for --

13 PRESIDING JUDGE FREMR: [11:16:59] You should, Mr Bourgon. And I will
14 comment on that further. Please go ahead.

15 MR BOURGON: [11:17:03] -- asking for admission of these documents at the end
16 of the cross-examination. However, I must and it is important to note for the record

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 When the Prosecution initially envisaged the testimony of this witness without 68(3),
22 they had planned for 8 hours. Arbitrarily we were cut down to 6 hours and trying to
23 do the best to shorten my time I only asked for 30 additional minutes. It is in these
24 conditions, Mr President, that yes, I do apologise for doing it at the end, but we are
25 not getting sufficient time to do our work, Mr President. Thank you.

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1 PRESIDING JUDGE FREMR: [11:18:04] It's a bit different, different view on how
2 much time is necessary to cover everything, what seems really relevant. But for
3 future, it's not again valid to Mr Bourgon only, I would like to really strongly
4 discourage you from using this conduct of proceeding just to -- in fact, I find it as a
5 circumvention of our time limit because now we used 20 minutes just for admission
6 of those documents.

7 Moreover, as I said, we all would prefer if you come with those requests just after use
8 of those documents. So next time -- really it's the last time I am tolerating that.

9 Next time I will not give you any additional time, in fact, just for the purpose of
10 admission of those documents.

11 I don't want to repeat myself. You can see the time needed for cross-examination in
12 a different way, but as you know, the final decision about the allocation of time is up
13 to us. I can assure you that we really strongly consider all your objections on that
14 issue.

15 Now, Ms Samson, how much time you would like to get?

16 MS SAMSON: [11:19:16] I seek 10 minutes, although it actually might be a bit
17 shorter than that. I have one question which could shorten the re-examination.

18 There was a date on the video, a time date on the video. If Defence counsel
19 stipulates to the date on the video, then I don't need to ask the witness a question
20 about that. Thank you.

21 PRESIDING JUDGE FREMR: [11:19:38] Mr Bourgon.

22 MR BOURGON: [11:19:39] I do, Mr President. 11 February 2003.

23 MS SAMSON: [11:19:45] Yes, it was 8 February 2003.

24 PRESIDING JUDGE FREMR: [11:19:49] All right.

25 MR BOURGON: [11:19:51] On the video, I mean, on the --

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1 MS SAMSON: [11:19:54] It was a timestamp taken by the cameraman or
2 camerawoman, I assume. It said 8/2/2003.

3 PRESIDING JUDGE FREMR: [11:20:07] Mr Bourgon.

4 MR BOURGON: [11:20:07] We missed this on the video itself, but I do stipulate
5 that if it says, we have no problem, Mr President. Thank you.

6 PRESIDING JUDGE FREMR: [11:20:17] Fine.

7 MS SAMSON: [11:20:18] In that case, Mr President, I would need only
8 five minutes. I have two or three questions.

9 PRESIDING JUDGE FREMR: [11:20:24] Please go ahead.

10 MS SAMSON: [11:20:25] Thank you.

11 QUESTIONED BY MS SAMSON:

12 Q. [11:20:31] Mr Witness, you were asked questions -- the very last question that
13 you were asked you provided an answer and a few days ago you were also asked
14 questions and you provided answers about the white priest who was expelled. And
15 today you said the name, but it wasn't captured in the transcript at page 41, line 7.

16 What was the name of the white father that was expelled by the UPC?

17 A. [11:20:59] Marc Denecker.

18 Q. [11:21:02] Thank you. And now I have another question. It's about the
19 letter that you were shown. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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3 (Redacted)

4 Q. [11:22:14] Thank you very much, Mr Witness.

5 MS SAMSON: Mr President, I have no further questions.

6 PRESIDING JUDGE FREMR: [11:22:20] Thank you.

7 And, Mr Witness, I also have two questions for you, but please try to respond as
8 briefly as possible. The first one --

9 Sorry, I omitted to ask Mr Bourgon whether he would like to get some chance for
10 recross.

11 MR BOURGON: [11:22:35] Technical matters, Mr President. I don't want to
12 interrupt.

13 PRESIDING JUDGE FREMR: [11:22:39] All right. So then my first question is:

14 You said during the first day of your testimony, I'm referring to page 49 of the
15 transcript, line 3, (Redacted)

16 (Redacted)

17 (Redacted). Do you remember that?

18 THE WITNESS: [11:23:12] (Interpretation) Yes, I remember that, your Honour.

19 PRESIDING JUDGE FREMR: [11:23:15] Could you just briefly tell me what was
20 the aim or goal of (Redacted)?

21 THE WITNESS: [11:23:25] (Interpretation) (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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6 PRESIDING JUDGE FREMR: [11:24:18] It's enough. Mr Witness, it's enough.

7 I'm rather interested in the message. (Redacted)

8 (Redacted)

9 THE WITNESS: [11:24:34] (Interpretation) (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 PRESIDING JUDGE FREMR: [11:24:51] Very well. That was perfect and brief

14 answer.

15 And my second issue: (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 THE WITNESS: [11:25:29] (Interpretation) (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

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- 2 PRESIDING JUDGE FREMR: [11:26:12] (Redacted)
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- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 PRESIDING JUDGE FREMR: [11:27:34] Thank you, Mr Witness.
- 19 MS SAMSON: Mr President.
- 20 PRESIDING JUDGE FREMR: Ms Samson.
- 21 MS SAMSON: [11:27:36] (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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- 9 (Redacted)
- 10 PRESIDING JUDGE FREMR: [11:28:47] All right.
- 11 THE INTERPRETER: [11:28:48] That's as the French transcript currently stands. Of
- 12 course it might be amended later.
- 13 PRESIDING JUDGE FREMR: [11:28:53] So there is some different. Okay. Now
- 14 we corrected that.
- 15 So, Mr Witness, it concludes your testimony. You spent quite a long time with us.
- 16 Mr Bourgon.
- 17 MR BOURGON: [11:29:03] I just wanted to confirm the spelling of the name of the
- 18 Père Blanc, which was on page 53, line 19, the spelling, because I heard something
- 19 different yesterday with an L and --
- 20 PRESIDING JUDGE FREMR: [11:29:15] Go ahead.
- 21 MR BOURGON: [11:29:16] -- today there is no L.
- 22 QUESTIONED BY MR BOURGON: (Interpretation)
- 23 Q. [11:29:18] Witness, could you spell the name of the person who was known as
- 24 Père Blanc, the White Father, could you spell that person's name?
- 25 A. [11:29:34] D-E-N-E-C-K-E-R, Marc. Denecker Marc.

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1 PRESIDING JUDGE FREMR: [11:29:56] All right. So now I can again repeat,
2 Mr Witness, that it concludes your testimony. As I said to you, you spent quite a
3 long time with us. I can imagine that it was really a demanding experience. I guess
4 that the number of questions put to you reflects the fact how important both parties
5 found your testimony. And I believe that your testimony will assist the Chamber in
6 our effort to find the truth. So I would like to thank you, Mr Witness, and we wish
7 you safe journey home.

8 (The witness is excused)

9 PRESIDING JUDGE FREMR: [11:30:46] And now let's move into open session.

10 (Open session at 11.30 a.m.)

11 THE COURT OFFICER: [11:30:52] We're in open session, Mr President.

12 PRESIDING JUDGE FREMR: [11:30:54] Thank you, court officer.

13 We will take now our regular 30 minutes break and then the second session will last
14 just from 12 to 1 o'clock.

15 THE COURT USHER: [11:31:06] All rise.

16 (Recess taken at 11.31 a.m.)

17 (Upon resuming in open session at 12.02 p.m.)

18 THE COURT USHER: [12:02:14] All rise.

19 Please be seated.

20 PRESIDING JUDGE FREMR: [12:02:42] Good afternoon, everybody.

21 I see many changes in composition of the parties' teams, so I will ask for update.

22 Prosecution first.

23 MS MORRIS: [12:03:00] Good afternoon, your Honours. My name is Laura Morris.

24 With me today, Selamawit Yirgou, Janine Ensing, Marion Rabanit, Eric Iverson, and

25 Nicole Samson.

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(Open Session)

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1 PRESIDING JUDGE FREMR: [12:03:14] Thank you, Ms Morris.

2 Defence, please.

3 MR BOURGON: [12:03:19] For the Defence, Mr President, Mr Jules Guillaumé,

4 Mademoiselle Margaux Portier, and myself, Stéphane Bourgon. Merci.

5 PRESIDING JUDGE FREMR: [12:03:31] Thank you, Mr Bourgon.

6 As to the Legal Representatives of Victims I see no changes, so Mr Abdou and

7 Mr Suprun are with us from the morning.

8 Now before we move to the testimony itself, I would like to remind parties that the

9 Chamber has already indicated that the examination-in-chief of this witness should be

10 completed

11 in two hours and the Defence will have equal time.

12 Further, the Chamber has taken note of Defence notice of objections both to the use or

13 admission of certain documents and, as usually, we will address any such objections

14 if and when they arise.

15 And finally, on 12 December the Chamber received the VWU's vulnerability

16 assessment for the forthcoming witness, Witness P-868, and as recommended by the

17 VWU, the Chamber will allow additional breaks, if necessary.

18 And now we can turn to the scheduled testimony.

19 Mr Witness, good afternoon. Can you hear me?

20 WITNESS: DRC-OTP-P-0868

21 (The witness speaks Swahili)

22 THE WITNESS: [12:05:08] (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: [12:05:11] Very good.

24 Mr Witness, on behalf of this Chamber, I would like to welcome you to the courtroom.

25 You are called to testify in the case against Mr Bosco Ntaganda. You will be soon

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1 asked questions both by the Judges and lawyers in the courtroom, and in this
2 connection I would like to guide you as follows:

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

9 Do you understand all this, Mr Witness?

10 THE WITNESS: [12:06:38] (Interpretation) So far I have understood you very well.

11 PRESIDING JUDGE FREMR: [12:06:47] All right.

12 Mr Witness, protective measures are put in place to ensure that your identity is not
13 revealed to the public. This means that public cannot see your face and that your
14 voice is being disguised so that the public cannot recognize it. We will refer to you
15 as "Mr Witness" only and ensure that your name and any other information that risks
16 revealing who you are is not broadcast to the public. Therefore, whenever you need
17 to describe anything that might reveal your identity, we will do so in so-called private
18 session so that no one outside the courtroom can hear your answer.

19 Do you understand, Mr Witness?

20 THE WITNESS: [12:07:46] (Interpretation) Yes.

21 PRESIDING JUDGE FREMR: [12:07:53] Good. Now, Mr Witness, you should find
22 a piece of paper in front of you. Can you see it?

23 Or, court usher, rather would be better to assist Mr Witness.

24 So now, Mr Witness, you have with you the text of solemn undertaking, so please
25 now make your solemn undertaking to tell the truth by reading out the declaration

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1 you have in your hands.

2 THE WITNESS: [12:08:42] (Interpretation) I solemnly declare -- I solemnly declare
3 that I shall speak the truth, the whole truth, and nothing but the truth.

4 PRESIDING JUDGE FREMR: [12:09:16] Very well, Mr Witness.

5 So now you are under oath and you need to be aware that it is an offence within the
6 jurisdiction of this Court to give false testimony.

7 Do you understand that?

8 THE WITNESS: [12:09:36] (Interpretation) Yes.

9 PRESIDING JUDGE FREMR: [12:09:40] Fine.

10 And finally, a few practical matters you should have in mind when giving your
11 testimony. It's important to speak into the microphone, to speak clearly, and to
12 speak at a slow pace to allow the interpreters to translate everything.

13 What is also very important, you should only start speaking when the person asking
14 you the question has finished. So when a question is asked, please do not respond
15 immediately but, rather, please count in your head to 3 -- 1, 2, 3 -- and only then give
16 your answer, because this pause between the question and your answer is essential
17 for us to properly translate and record what you are saying.

18 If you have, Mr Witness, any questions during your testimony or if you would need a
19 break, do not hesitate to let us know by raising your hand. We will then give you
20 the opportunity to speak.

21 Mr Witness, have you understood all that?

22 THE WITNESS: (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: [12:11:11] All right. Then we can start with your
24 examination, and it will be started by Prosecution, by Ms Morris. Sorry, madam.

25 Please go ahead.

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(Private Session)

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1 QUESTIONED BY MS MORRIS:

2 Q. [12:11:40] Good afternoon, Mr Witness. We have already met but I'll remind
3 you, my name is Laura Morris and I will be asking you questions today on behalf of
4 the Office of the Prosecutor. Before I start, I want to say that if you don't understand
5 any of my questions, please let me know and I will do my best to clarify.
6 Since my first questions are of an identifying nature and this witness has been granted
7 protective measures, I would like to move into private session.

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

9 (Private session at 12.12 p.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: [12:12:20] We are in private session, Mr President.

11 PRESIDING JUDGE FREMR: [12:12:23] Thank you.

12 Ms Morris, please proceed.

13 MS MORRIS: [12:12:26]

14 Q. [12:12:27] What is your full name?

15 A. [12:12:41] My name is (Redacted)

16 Q. [12:12:57] Were you born on (Redacted)?

17 A. [12:13:17] Yes, that is my date of birth.

18 Q. [12:13:20] Thank you. Were you born in (Redacted)?

19 A. [12:13:32] I was born in (Redacted)

20 Q. [12:13:35] And what is your ethnicity?

21 A. [12:13:52] I am Lendu.

22 Q. [12:13:53] What is your current occupation?

23 A. [12:13:59] For the time being, (Redacted)

24 Q. [12:14:19] For how long (Redacted)?

25 A. [12:14:43] I started (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. [12:17:49] Mr Witness, you said war broke out in 2003. My question is: Who
13 was the war between?

14 A. [12:18:14] The war had started initially between two ethnic groups, that is my
15 ethnic group, the Lendu, against the Hema ethnic group.

16 Q. [12:18:39] Who attacked Nyangarai?

17 A. [12:19:01] Those who came and chased us out of Nyangarai were troops -- well,
18 what I want to say is that those who carried out that attack at Nyangarai were Hema.
19 They were together with their leader, who was well known.

20 Q. [12:20:03] You say that there were troops. Do you know what group the troops
21 belonged to?

22 THE INTERPRETER: [12:20:22] The Swahili booth interpreters point out that they
23 have a technical problem. One of the consoles is not working.

24 And from the witness: Can you kindly repeat your question, please.

25 PRESIDING JUDGE FREMR: [12:20:39] Mr Witness, could you repeat kindly your

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1 last response.

2 THE INTERPRETER: [12:21:07] From the Swahili booth: The problem has now
3 been resolved.

4 THE WITNESS: [12:21:13] (Interpretation) What I said was: Can you kindly
5 repeat your question.

6 MS MORRIS: [12:21:26]

7 Q. [12:21:26] Certainly. Mr Witness, you say that there were troops that came.
8 Do you know what group these troops belonged to?

9 A. [12:21:57] To my knowledge, the person who was the leader of that group, in
10 fact, I know that person because we heard his name and we were told that it was
11 Bosco who was the leader of that group.

12 Q. [12:22:43] What were Bosco's other names, if you know?

13 THE INTERPRETER: [12:23:03] From the Swahili booth: Once again, we have a
14 console problem.

15 THE COURT OFFICER: [12:23:12] Message to the Swahili booth: The technician
16 has just arrived.

17 PRESIDING JUDGE FREMR: [12:23:18] Should we repeat? It's not possible to
18 continue, court officer, or what is the situation? And in the meantime, one question
19 to you, Ms Morris: Don't you think it would be possible to move at least for a while
20 to the public session? Because if you are -- I don't know what kind of, what is the
21 kind of your next question, but if the questioning would be about the general issues.

22 MS MORRIS: [12:23:52] Yes, your Honour, I can move to open session for the next
23 few questions.

24 PRESIDING JUDGE FREMR: [12:23:56] Thank you. So it seems we can continue,
25 but before that, let's move into open session.

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1 (Open session at 12.24 p.m.)

2 THE COURT OFFICER: [12:24:21] We are in open session, Mr President.

3 PRESIDING JUDGE FREMR: [12:24:23] Mr Witness, Ms Morris will put to you

4 questions that shouldn't reveal your identity, but if you would feel that some answer

5 requires to mention some detail that could reveal your identity, just raise your hand

6 and we will return back into private session. Do you understand?

7 THE WITNESS: [12:24:57] (Interpretation) Yes.

8 PRESIDING JUDGE FREMR: [12:24:58] Ms Morris, please proceed.

9 MS MORRIS: [12:25:00]

10 Q. [12:25:00] Mr Witness, I'll repeat my last question since I don't believe there was
11 an answer. My question was what were -- my question is: What were Bosco's other
12 names, if you know?

13 A. [12:25:28] The other names, I do not know them. The name that I have given
14 you is the name that I knew.

15 Q. [12:25:44] Thank you. You just said that those who carried out the attack at
16 Nyangarai were Hema and that they were together with their leader, Bosco. My
17 question is: Do you know the name of this group that Bosco led?

18 A. [12:26:15] The group that he led was known as UPC; that is the name of the
19 group that he was the leader of.

20 Q. [12:26:36] Thank you. You said that you fled. Do you recall the date that you
21 fled Nyangarai?

22 A. Regarding the date on which I fled, it was in 2002, I remember that year.

23 Q. [12:27:32] Mr Witness, I'd like to read back what you said about 2003 earlier. I
24 asked you, "Can you tell the Chamber what happened in February 2003?" You
25 answered, "During that period, we were living -- we were still living in that village.

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1 War broke out there, and when the war started, we fled that locality, *that village in a
2 hurry." My question is: Did you flee -- where did you flee to in 2003?

3 A. [12:28:31] When we fled, we went and hid in the bush. This was a location
4 where the armed group could not find us. So we were hiding in the bush.

5 Q. [12:29:14] You said that those who -- you said that those who carried out the
6 attack were Hema. Do you recall, were they dressed in any particular way?

7 A. [12:29:51] Talking about the clothes they were wearing, they were green in
8 colour.

9 Q. [12:30:03] Were the Hema armed?

10 A. [12:30:17] They were armed. In the locality where we were, there were trees,
11 normally referred to as eucalyptus, so those people opened fire and up to this day the
12 shell penetrated the tree, went into the tree, and that tree is at the very centre of that
13 locality.

14 Secondly, they opened fire on a Protestant church and that place has -- or was
15 destroyed. So these are the types of guns that they had to come and kill us with.

16 Q. [12:31:50] Do you know what kind of guns these were?

17 A. [12:32:06] In my opinion, well, I cannot really distinguish between the types of
18 weapons, but the guns that they used -- or the bullets used had this shape. They
19 were longer, elongated shapes, and the front part of this bullet hit the tree. *It was a
20 bullet shaped like a cocoyam that had struck the tree. But I cannot tell you the type
21 of weapon that was used. That is why I said that, to this date, you can see the marks
22 made by that bullet on the eucalyptus tree.

23 Q. [12:33:13] Thank you. Mr Witness, where were you when the attack started?

24 A. When the attack started, it was on a market day in that locality, so I myself was
25 at the market on that day. I therefore fled without even returning to my house.

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1 Q. [12:34:09] You say you fled. Who did you flee with, if anybody?

2 A. [12:34:38] At that time each person had to take their own precautions to save
3 themselves. Later on, we all found ourselves together in a locality. We met other
4 people there, and I know two of the names of those people. (Redacted)

5 Q. All right, Mr Witness, please stop for one second.

6 MS MORRIS: Sorry, your Honours, we may have to go into private session.

7 PRESIDING JUDGE FREMR: [12:35:35] Now, court officer, let's move into private
8 session.

9 (Private session at 12.35 p.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: [12:35:51] We are in private session, Mr President.

11 PRESIDING JUDGE FREMR: [12:35:53] Thank you, court officer.

12 Ms Morris, please proceed.

13 MS MORRIS: [12:35:59]

14 Q. [12:35:59] Mr Witness, before I interrupted you, you were saying that you met
15 other people when you fled and you said you know the names of those people.

16 Now that we are in private session, you can state the names of those people.

17 A. [12:36:18] very well. When we fled, we met the people that I'm going to
18 mention. The first was (Redacted) Another was (Redacted) The latter was (Redacted)
19 (Redacted) I think that that's the name of some of the people who
20 I can mention for the moment.

21 Q. [12:37:26] Mr Witness, for the transcript, can you please spell the names of the
22 people you just mentioned.

23 A. [12:37:53] The first name is spelt as follows: (Redacted)

24 Q. [12:38:37] And how do you spell (Redacted)?

25 A. (Redacted) is spelled as follows: (Redacted)

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1 Q. [12:39:30] Mr Witness, I'd like to take you back for a moment when the Hema
2 attacked (Redacted) Do you know what direction they came from?

3 A. [12:39:56] When (Redacted) attacked, the troops took the road
4 Kilo-Kabakaba-Buangwe (Redacted)

5 Q. [12:40:46] Do you know if anybody was killed during the attack by the Hema (Redacted)
6 (Redacted)

7 A. [12:41:16] When (Redacted) attacked, we fled. Those who died amongst us
8 are those who went to the pacification meeting.

9 Q. [12:42:03] You said that you fled to the bush. Does -- does this bush have any
10 name, or -- ?

11 A. [12:42:37] Could you put your question again so I can better understand it.

12 Q. [12:42:44] Certainly. You said when you were attacked, you fled to the bush.
13 Is there a specific name to the area that you fled to?

14 MS MORRIS: [12:43:00] Your Honour, we can be in open session for this.

15 PRESIDING JUDGE FREMR: [12:43:03] All right. Court officer, please return back
16 into open session.

17 (Open session at 12.43 p.m.)

18 THE COURT OFFICER: [12:43:21] We are back in open session, Mr President.

19 PRESIDING JUDGE FREMR: [12:43:24] Thank you, court officer.

20 Ms Morris, please proceed.

21 Mr Bourgon.

22 MR BOURGON: [12:43:30] Thank you, Mr President. I mean, I don't know how
23 many people went to that place, but I think this has a risk of identifying the witness,
24 more than -- more than anything else. I don't think very few people went to that
25 location.

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1 MS MORRIS: [12:43:50] Your Honour, out of previous caution, we can remain in
2 private session. I apologise.

3 PRESIDING JUDGE FREMR: [12:43:55] All right. It's better always if we are in
4 doubt to choose private session in order to protect our witness, so sorry, we have to
5 return back into private session again.

6 (Private session at 12.44 p.m.) *(Reclassified partially in public)

7 THE COURT OFFICER: [12:44:26] We are back in private session.

8 PRESIDING JUDGE FREMR: [12:44:28] Thank you.

9 Ms Morris, please proceed.

10 MS MORRIS: [12:44:34]

11 Q. [12:44:35] Mr Witness, shall I repeat my question?

12 A. [12:44:42] Yes.

13 Q. [12:44:45] When the Hema attacked (Redacted) in 2003 and you fled to the bush,
14 did this bush have any name?

15 A. [12:45:05] Yes. The bush we fled to was called (Redacted)

16 Q. [12:45:26] Do you know roughly how many kilometres (Redacted) is from
17 (Redacted)

18 A. [12:46:02] On foot it takes two and a half hours if we go to the place where we
19 were hiding.

20 Q. [12:46:22] Thank you. You say, "where we were hiding." How many of you
21 were hiding (Redacted)

22 A. [12:46:56] There were a lot of people who fled to that place. Personally, I didn't
23 count the number of people who were there.

24 Q. [12:47:14] Can you estimate? Between 50 and 100? 1 to 50?

25 A. [12:47:53] I can give an estimate but it wouldn't be the exact number. I think

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1 that there were more than 60 people, however, I don't have an exact figure.

2 Q. [12:48:22] That estimate is fine, thank you. What age was the youngest person
3 who fled in the bush with you?

4 A. [12:49:04] Among the children, some were of a very low age. Some of them
5 were still drinking milk, some of them were just starting to walk, others were
6 *older.

7 Q. [12:49:32] And how old was the oldest person in (Redacted) forest -- bush?

8 A. [12:49:56] Among the older people, oldest people, some were over 60.

9 Q. [12:50:09] What gender were these people?

10 A. [12:50:27] They were mixed, there were men and there were women.

11 Q. [12:50:44] Mr Witness, can you describe for the Chamber what life was like for
12 your family living in (Redacted)?

13 A. [12:51:06] When we arrived in that place, the conditions, living conditions, were
14 getting worse and worse. We abandoned our farms where we lived. That's where
15 we were driven from. We had a lot of difficulties in finding food, particularly salt.
16 That's the reason why I say that the living conditions had got worse and worse.

17 We could go out and leave to find something to eat, but unfortunately one of us, a
18 person from our community, was also a victim of this situation. This person went to
19 get some food, and when he arrived in our village where we had been driven from by
20 the enemy, they arrested him.

21 Having arrested him, they started talking between them. Some of them said he
22 should be executed immediately. The others said that he had to be executed later.

23 Afterwards, the victim, *the mama fled and came back to us, where we were hiding in
24 the bush, and told us it's very dangerous to return to our village because she herself
25 had just escaped death.

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1 That's what we mean when we say that the conditions of life -- that's what I mean
2 when I say that the conditions of life or living conditions had become very difficult.

3 Q. [12:55:30] Can you clarify? You said that they were arrested. Who arrested
4 them when they went back to get food?

5 A. [12:56:01] The persons who arrested this woman were those who attacked this
6 locality. Those are the people who arrested her.

7 Q. [12:56:24] Do they have a name, this group?

8 A. [12:56:42] Yes. Their group is called UPC.

9 (Redacted)

10 A. [12:57:35] When we stayed in the place where we took refuge, we underwent
11 more and more difficulties. Afterwards, the people who came to dominate us, they
12 started to look for the inhabitants of the locality who were hidden in the bush. They
13 did that so that they could go and kill them. When they were looking for the
14 inhabitants in the forest, at that time they weren't firing because they said, if they shot,
15 the villagers who had fled would continue to remain hidden. That's the reason why
16 they started looking for the villagers in the different forests where they were hiding.
17 And that's why the living conditions were getting worse and worse. And it was at
18 that time that they started looking for ethnic Lendu inhabitants. Among them, some
19 of them didn't know how to save themselves and there were others who had
20 particular difficulties, particularly those with children. There were others too who
21 fell into pits, gold pits, and that's the conditions in which -- those conditions were
22 making it more and more difficult for us in the place that we were hiding.

23 Q. [13:01:12] Thank you, Mr Witness.

24 MS MORRIS: Mr President, I can see the time is now 1 o'clock.

25 PRESIDING JUDGE FREMR: [13:01:18] Yes, but I would like to just repeat it, what

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1 you asked.

2 Mr Witness, do you remember how much time you spent in the bush?

3 Again, estimation would be fine. We don't need any exact time, but weeks?

4 THE WITNESS: [13:02:05] (Interpretation) You know, it was a lot of -- it was a long
5 time ago, this conflict. I therefore can't tell you exactly the number of months that
6 we spent there where we were hiding.

7 PRESIDING JUDGE FREMR: [13:02:33] Never mind. No problem, Mr Witness.

8 Now let's move into open session for remainder of the session.

9 (Open session at 1.02 p.m.)

10 THE COURT OFFICER: [13:02:52] We are in open session, Mr President.

11 PRESIDING JUDGE FREMR: [13:02:55] Thank you, court officer.

12 So we now take our regular lunch break. We will reconvene half past 2.

13 And for information of Ms Morris, so far, according to our measuring, you used
14 49 minutes.

15 MS MORRIS: [13:03:15] Thank you.

16 THE COURT USHER: [13:03:17] All rise.

17 PRESIDING JUDGE FREMR: [13:03:19] Sorry, Mr Bourgon?

18 MR BOURGON: [13:03:20] Yes, Mr President, I have a quick request to make
19 concerning the timing of the next witness. I just wanted to know when the Trial
20 Chamber would like me to make this request, now or maybe at the beginning of the
21 next session.

22 PRESIDING JUDGE FREMR: [13:03:33] Make it now, but please be brief anyway.

23 MR BOURGON: [13:03:36] Yes, thank you, Mr President.

24 In all likelihood, we will finish with this witness either this afternoon or early
25 tomorrow morning. We can of course then immediately begin with Witness 453. I

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1 spoke with my colleague earlier today. I guess the Prosecution is ready to begin
2 immediately after this witness tomorrow morning. However, on the Defence side,
3 my colleague Mr Gosnell is scheduled to cross-examine this witness, but he is
4 presently busy in some hearings in another case which will terminate tonight. We
5 don't intend to delay the proceedings, but I would like to have the possibility for
6 Mr Gosnell to sit through the examination-in-chief tomorrow, but not to begin his
7 cross-examination until Thursday morning. That will give him a few hours to be
8 ready for his cross-examination. So that is the request we would like to make at this
9 time, Mr President.

10 PRESIDING JUDGE FREMR: [13:04:34] So, to sum it up, no problem to start with
11 examination-in-chief, but in fact you request to start with cross-ex on Thursday
12 morning?

13 MR BOURGON: [13:04:45] That is correct, Mr President. And just for the record, of
14 course I believe this is the last witness for the week.

15 PRESIDING JUDGE FREMR: [13:04:52] Prosecution, any position?

16 MS SAMSON: [13:04:55] Well, we would prefer to continue with the
17 cross-examination immediately following the examination-in-chief, but we do
18 understand that counsel has been busy in a different hearing, so we will leave it to the
19 Chamber to determine how best to organise the proceedings, but finishing earlier on
20 Thursday or even Wednesday would be preferable to extending. Thank you.

21 PRESIDING JUDGE FREMR: [13:05:18] We will deliberate on that during the lunch
22 break and then we will inform you.

23 Now we adjourn until 2.30.

24 THE COURT USHER: [13:05:26] All rise.

25 (Recess taken at 1.05 p.m.)

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(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0868

1 (Upon resuming in open session at 2.32 p.m.)

2 THE COURT USHER: [14:32:53] All rise.

3 Please be seated.

4 PRESIDING JUDGE FREMR: [14:33:26] Before we continue with further part of

5 testimony of our witness, I would like to issue briefly a ruling, Chamber's ruling on

6 request made by Defence before the end of the previous session and, in the meantime

7 also, joined by request from Prosecution asking to postpone even not only

8 cross-examination but also direct examination of our last witness till Thursday

9 morning.

10 Our decision is that we are granting just request submitted by the Defence and we are

11 not granting, we are rejecting request made by Prosecution.

12 Just briefly, we considered all time scheduling consequences and we preferred this

13 option.

14 So now we can proceed with further part of direct examination.

15 And, Mr Witness, just to remind you, you are still under oath, you have to speak truth

16 and nothing but the truth. And I also appreciate that you perfectly followed my

17 guidance, you listened carefully to questions, you spoke slowly, you also observed

18 those pauses between question and answer, so please proceed in the same way.

19 Okay?

20 Ms Morris, you have the floor.

21 MS MORRIS: [14:35:27] Thank you, Mr President. If we could return to private

22 session, please.

23 PRESIDING JUDGE FREMR: [14:35:32] Certainly.

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

25 (Private session at 2.35 p.m.) *(Reclassified partially in public)

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WITNESS: DRC-OTP-P-0868

(Private Session)

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1 THE COURT OFFICER: [14:35:48] We are in private session, Mr President.

2 PRESIDING JUDGE FREMR: [14:35:50] Thank you, court officer.

3 Ms Morris, please proceed.

4 MS MORRIS: [14:35:54] Thank you.

5 Q. [14:35:56] Mr Witness, earlier I asked you what happened Nyangarai in
6 February 2003. You told the Chamber that the war broke out on market day and you
7 fled immediately. My question is: Can you recall the exact date in February 2003
8 that the UPC attacked Nyangarai?

9 A. [14:36:43] I'm sorry, could you repeat your question so that I can understand it
10 well?

11 Q. [14:36:51] Certainly.

12 Earlier this afternoon I asked you what happened in February 2003 in Nyangarai.
13 You told the Chamber that on market day the war broke out and you fled
14 immediately. Can you remember the exact day in February that there was an attack
15 by the UPC?

16 A. [14:37:37] The exact date was 17 February of the year that we are speaking
17 about.

18 Q. [14:38:02] Thank you. Earlier you mentioned that there was a pacification
19 meeting. How did you first hear about the pacification meeting?

20 A. [14:38:33] Where we were hidden, well, life was becoming more and more
21 difficult. Those who had driven us out of our village, they saw that it was difficult to
22 get the inhabitants of the villages to come back -- of the village to come back, and so
23 they promised to hold a pacification meeting, as there were inhabitants of our ethnic
24 group in the village. The inhabitants of the Lendu and the Hema, they could no
25 longer live together. Inhabitants who were Lendu and Hema could no longer live

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1 together. There was only the members of other tribes who could live together.
2 Even those who carried out commercial activities only belonged to other ethnic
3 groups and that's the reason why a letter was sent so that the two tribes that I'm
4 speaking about would come and participate in a pacification meeting.

5 Q. [14:40:37] Thank you. Did you ever see this letter?

6 A. [14:40:57] Personally, I didn't see the letter. But the inhabitants who went to
7 the village came back and they spoke about it to us, but I didn't see that letter myself.

8 Q. [14:41:20] Thank you. Do you know who the letter was from?

9 A. [14:41:42] The letter was from the armed group, the UPC. It was UPC troops
10 who wanted relations to become normal again. That's the reason why they sent the
11 letter.

12 Q. [14:42:30] Thank you. Where was this pacification meeting set to take place?

13 A. [14:42:54] The meeting *took place in a *village called Kobu.

14 Q. [14:43:06] How did you feel about the invitation to attend the pacification
15 meeting?

16 A. [14:43:32] When we received the invitation for the pacification meeting, first of
17 all we were happy because we had spent a lot of days suffering. We had left our
18 houses, we had left our villages. Life had become difficult. It was difficult to find
19 any food. It was difficult for us to cloth ourselves properly. So when we got the
20 invitation, we were happy because we thought that would be an opportunity for us to
21 return home.

22 Q. [14:44:34] Thank you. Do you recall the date you departed for the pacification
23 meeting?

24 A. [14:45:02] It was several years ago. These events took place a long time ago.
25 I don't have an exact date in mind at the moment. This happened a long time ago.

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3 A. [14:45:55] When it comes to how many people went to participate in the
4 pacification meeting, I would say that some people felt ready to go, for example, the
5 chief. These chiefs would go into contact with these people and they, the leaders
6 went to take part in this meeting, but I don't have the exact numbers in mind.

7 Among the people, I could tell you the names of two people who also went, but I
8 have forgotten other names because the meeting took place a very long time ago.

9 Q. [14:47:17] I understand. Could you tell the Chamber the names of the two
10 people that you do remember?

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [14:48:44] Thank you. What ethnicity were these men?

15 A. [14:49:01] The names that I have just given to you are the names of people of the
16 Lendu ethnic group.

17 Q. [14:49:20] Thank you. Now, going back to the decision to participate in the
18 pacification meeting, did you go in one group or several groups?

19 A. [14:49:49] There were several groups, several different groups that went to the
20 meeting, the pacification meeting.

21 Q. [14:50:18] With regards to your group, in your group, what was the age of the
22 youngest person who attended -- who, sorry, departed for the pacification meeting?

23 A. [14:51:00] I don't know the exact age. By the size of the people who went there,
24 their height, I think the youngest could have been 17 years old.

25 Q. [14:51:31] And what gender were the people who departed for the pacification

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1 meeting?

2 A. [14:51:52] Those who went to the pacification meeting, among them there were
3 women and men.

4 Q. [14:52:11] Thank you. Do you remember any names of people in your group?

5 (Redacted)

6 (Redacted)

7 Q. [14:53:11] Thank you. What ethnicity were these people?

8 A. [14:53:30] The people whose names I have given are of the Lendu ethnic group.

9 Q. [14:53:40] Thank you. On the day you departed for the pacification meeting,
10 was anyone in your group carrying weapons?

11 A. [14:54:01] In our group we didn't have any rifles, not one, because we knew that
12 we were going to take part in a peace meeting, a pacification meeting and we were
13 really thirsty for that. We really wanted to return home. That's why we didn't take
14 any rifles or guns.

15 Q. [14:54:41] Did you and your group reach the pacification meeting location?

16 A. [14:55:00] I and my group didn't get to the place of the meeting, the meeting
17 location, the pacification meeting location.

18 Q. [14:55:25] Do you know what happened to those who did reach the pacification
19 meeting location?

20 A. [14:55:53] Yes. Those who arrived at the meeting, the pacification meeting,
21 when the first group arrived at the meeting location, things changed. The situation
22 deteriorated. Every time a person arrived at the meeting location, the security
23 officers who protected the place no longer wanted for the people who had come to
24 leave the place, even to go to the toilet, not even to go to the toilet.

25 Q. [14:57:25] What happened to the people in the first group that were kept in this

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1 location?

2 A. [14:57:55] When the first group arrived to the house where the pacification
3 meeting was meant to take place, this is what happened: Firstly, two people who
4 were there, when they saw that the situation wasn't clear, one of these people asked
5 for permission to go and buy cigarettes. He asked for permission to the chief who
6 called the meeting and the chief gave him permission to leave. And after that, after
7 some time, the second person saw that the situation was becoming suspicious and he
8 asked permission also, saying that he had spoken to the chief who was responsible for
9 security and he said that he was going to get *drinking water for the chief and the
10 guard or the security guards gave him permission to leave because in the village the
11 water sources were far away. So they gave him permission and he left. Other
12 people who were there who remained weren't able to leave the place of meeting.

13 Q. [15:00:36] What happened to the people that weren't able to leave?

14 A. [15:00:42] The people who were not able to leave were suddenly beaten up.
15 They used some rifles *with bayonets and used the bayonets to injure them.
16 Actually, they used those daggers to stab them. The eldest member of our family
17 (Redacted)
18 (Redacted)

19 PRESIDING JUDGE FREMR: [15:02:53] Mr Witness, do you want to make a short
20 break just to allow you to recover?

21 I'm still waiting for translation.

22 THE WITNESS: [15:03:11] (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: [15:03:12] Yes, all right. So we will break for
24 10 minutes.

25 THE COURT USHER: [15:03:19] All rise.

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(Private Session)

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1 (Recess taken at 3.03 p.m.)

2 (Upon resuming in open session at 3.19 p.m.)

3 THE COURT USHER: [15:19:07] All rise.

4 Please be seated.

5 PRESIDING JUDGE FREMR: [15:19:30] Before we continue with examination of our

6 witness, just for the record, the Chamber decided to break for 10 minutes. It took

7 a little bit more, but the reason was that we, even in accordance with recommendation

8 by VWU, we wanted to give some time to Mr Witness to recover.

9 Now, Mr Witness, are you feeling okay to continue with your testimony?

10 THE WITNESS: [15:20:06] (Interpretation) Yes.

11 PRESIDING JUDGE FREMR: [15:20:10] Very well. And if, in future, the same

12 problem would repeat, no problem, just raise your hand and we can take another

13 break, if necessary.

14 Now, Ms Morris, I suppose you would like to continue in private session?

15 MS MORRIS: [15:20:27] Yes, Mr President.

16 PRESIDING JUDGE FREMR: [15:20:30] Understandable.

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

18 (Private session at 3.20 p.m.) *(Reclassified partially in public)

19 THE COURT OFFICER: [15:20:39] We are in private session, Mr President.

20 PRESIDING JUDGE FREMR: [15:20:47] Thank you, court officer.

21 Ms Morris, please proceed.

22 MS MORRIS: [15:20:53] Thank you.

23 Q. [15:20:55] Mr Witness, I understand it is painful to discuss these events, but I

24 want you to know that it is important that we hear your testimony on these issues.

25 (Redacted)

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5 burnt down. As for the secondary school, it was also torched. And even the church,
6 the Protestant church was demolished. So the members of that church went ahead
7 and built another church nearby. That church which was built is still standing, but
8 the conflict continues. Furthermore, the harvests in our farms were looted and that
9 is the range of problems that I encountered when I returned to the village where I
10 used to live in.

11 Q. [15:58:52] Who caused the destruction of the church, the school, the crops, your
12 home, if you know?

13 A. [15:59:17] Those who destroyed all that were those who had power. They were
14 the people from the UPC. They were the ones who had power and who destroyed
15 all that.

16 (Redacted)

17 (Redacted)

18 PRESIDING JUDGE FREMR: [16:00:27] Ms Morris, gentle caveat, three minutes left.

19 MS MORRIS: [16:00:33] Thank you, Mr President.

20 Q. [16:00:36] Mr Witness, have you ever heard the phrase "shika na mukono"?

21 A. [16:00:55] Yes.

22 Q. Can you tell the Chamber what it means?

23 A. [16:01:13] Shika na mukono means the following: You have to find all the
24 Lendu and if you capture them, you have to kill them because if you shoot bullets
25 with a rifle, a Lendu can hear it, they can hear the gunfire and can flee, and that's why

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1 you have to find the Lendu without shooting, without firing weapons, you have to
2 take them and kill them. That's what shika na mukono means.

3 Q. [16:02:27] Who used this expression?

4 A. [16:02:56] It was the group called the UPC. That group came to find the Lendu
5 inhabitants. That was during their communications that they would use the
6 expression shika Malendu na mukono.

7 Q. [16:03:31] My last question: Do you know who led the UPC in this shika na
8 mukono operation?

9 PRESIDING JUDGE FREMR: [16:03:39] Mr Bourgon.

10 MR BOURGON: [16:03:43] The witness did not talk about any shika na mukono
11 operation. He described what it means, but he never said there was a shika na
12 mukono operation. Thank you.

13 PRESIDING JUDGE FREMR: [16:03:53] Ms Morris.

14 MS MORRIS: [16:03:56] At page 79, line 12, when I asked who used this expression,
15 the witness answered "the group called the UPC." I was simply asking who led the
16 UPC in the context of shika na mukono.

17 PRESIDING JUDGE FREMR: [16:04:18] Give me a second, I will just double-check
18 our transcript.

19 Objection is overruled. Please proceed -- or repeat the question, rather.

20 MS MORRIS: [16:04:36] Thank you, Mr President.

21 Q. [16:04:39] Mr Witness, you said the UPC led the -- sorry, let me go back. You
22 said it was a group called the UPC who used the expression "shika na mukono."
23 My question is: Do you know who led the UPC at the time you heard shika -- of
24 shika na mukono?

25 PRESIDING JUDGE FREMR: [16:05:05] Mr Bourgon.

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1 MR BOURGON: [16:05:07] The witness never said he heard it. He explained it.
2 He never said he heard it. So, please, she has to get the basis before asking this
3 question. Thank you.

4 PRESIDING JUDGE FREMR: [16:05:18] Objection is overruled. Please leave
5 Mr Witness to answer this question and we will, we will finish this part of testimony.
6 So probably repeat for the third time the question.

7 MS MORRIS: [16:05:41]

8 Q. [16:05:42] Mr Witness, when you speak of the UPC and shika na mukono, do
9 you know who led the UPC?

10 A. [16:06:02] At that time we knew that their leader or supreme chief was Bosco.
11 That was their leader at that time.

12 MS MORRIS: [16:06:20] Thank you, Mr President. No further questions. Thank
13 you.

14 PRESIDING JUDGE FREMR: [16:06:24] Before we move to request of Mr Suprun, I
15 would like also to appreciate the way how this examination was conducted,
16 regarding of the last issue, the issue of objections made. But the pace and the way of
17 questioning, in my view, was very well adjusted to the capability of the witness,
18 which allow him to provide all of us with clear and apposite answers, which I believe
19 all of this benefit from. So I think it was the first questioning I think you, you
20 conducted before this Chamber; am I right?

21 MS MORRIS: [16:07:09] You are correct, Mr President. Thank you.

22 PRESIDING JUDGE FREMR: [16:07:11] Appreciated. And I would -- it's also in
23 accordance with recommendation made of VWU, so the next examiners I would
24 recommend to proceed in the same way.

25 Now, Mr Suprun, you already specified four areas you would like to question the

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1 witness on. In the light of the questioning conducted by Ms Morris, do you maintain
2 this request or do you want to amend that in any way?

3 MR SUPRUN: [16:07:43] (Interpretation) Thank you, your Honour. With regard to
4 point A, I would like to ask certain questions concerning the psychological harm
5 suffered due to the death of members of his family.

6 And the second point, I won't go back into the circumstances of the displacement of
7 the witness and the conditions under which he was in the bush, but I would like to
8 ask some questions concerning his family because he hasn't mentioned his family.

9 And with regards to point three, because my colleague from the OTP has partially
10 covered that issue on material harm suffered by the witness, I will just ask some
11 questions concerning the economic situation of the witness subsequent to the events.

12 The last point was not covered by the OTP. I wanted to ask certain questions on that
13 issue. I would need 15 minutes, your Honour.

14 PRESIDING JUDGE FREMR: [16:08:45] Prosecution, your position, please?

15 MS PORTIER: (Interpretation) Defence, your Honour.

16 PRESIDING JUDGE FREMR: [16:08:54] Sorry, sorry. Defence. Sorry.

17 MS PORTIER: I'm Margaux Portier. I will present the objections of the Defence to
18 the questions of the Legal Representatives concerning points A and D mentioned in
19 the application 1674 where they are limited to the harm suffered by the victim and his
20 family, as mentioned in paragraph *5 of the paragraph, we have no objections, but
21 where it concerns points B and C the Defence objects on the basis of the fact that these
22 subjects have already been dealt with during the examination-in-chief by
23 the Prosecutor.

24 And finally where it concerns points B more specifically, the Defence objects on the
25 basis that this subject goes beyond the questions allowed by the Chamber, questions

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1 which are formed in such a way as to get answers relating to the actual harm suffered
2 by the witness.

3 Thank you very much.

4 PRESIDING JUDGE FREMR: [16:09:54] Mr Suprun, any reaction from your part?

5 MR SUPRUN: [16:10:00] (Interpretation) Your Honour, I think that it would be
6 better for the witness to be asked to take off his headphones and then I would address
7 the Chamber in English.

8 PRESIDING JUDGE FREMR: [16:10:09] All right. Mr Witness, could you kindly
9 take off your headphones.

10 But just briefly, Mr Suprun, please.

11 MR SUPRUN: [16:10:16] Thank you, Mr President. In relation to the objection by
12 the Defence to the point 2, the witness mentioned this morning the names of several
13 persons who were with him in the bush, but he didn't explain whether those persons
14 were from his family or not. What I want to explore with the witness, because he
15 didn't mention his family at all, so I would like to ask him whether any members of
16 his family were with him in the bush and in which conditions they were in the bush.

17 In relation to point C, indeed the Office of the Prosecutor covered in part the harm,
18 material harmed suffered by the witness. What I would like to know, in which

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 PRESIDING JUDGE FREMR: [16:11:27] All right. So objection is overruled, and
23 actually I agree even with Defence that some areas were partially covered by
24 Prosecution, but it's up to you not to put any repetitive question. If yes, we will
25 prohibit to proceed with such a question.

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1 So you have your 15 minutes.

2 MR SUPRUN: [16:11:48] (Interpretation) Thank you, your Honour. If I could have
3 a moment to set up.

4 PRESIDING JUDGE FREMR: [16:11:54] Yes, take your time, yes.

5 And please, court usher, assist Mr Witness to get his phones.

6 MR SUPRUN: [16:12:21] (Interpretation) Thank you, your Honour.

7 PRESIDING JUDGE FREMR: [16:12:25] Just a minute. We will allow Mr Witness to
8 get to the toilet for a minute and then we can still continue.

9 (Pause in proceedings)

10 PRESIDING JUDGE FREMR: [16:14:21] The witness is back, so Mr Suprun, please
11 proceed.

12 MR SUPRUN: [16:14:25] (Interpretation) Thank you, your Honour.

13 QUESTIONED BY MR SUPRUN: (Interpretation)

14 Q. [16:14:29] Witness, good afternoon. We already know each other, but I am
15 going to give my name for the record. My name is Dmytro Suprun and I represent
16 the victims of the attacks of against the civilian population who participated in this
17 trial against Bosco Ntaganda and I am going to ask you certain questions concerning
18 this to clarify certain aspects of your testimony and to go into further detail on your
19 own experience as well as the experience of your family.

20 (Redacted)

21 (Redacted)

22 A. [16:15:25] Among the people who I mentioned, some are members of my family,
23 the others aren't. Where we were, there were people who came from different
24 families.

25 Q. [16:15:52] Were your children with you in the bush, Witness?

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1 A. [16:16:01] Yes. I had my child next to me. Even during the difficulties we
2 were there with our children.

3 Q. [16:16:17] If you remember, how old was your youngest child?

4 A. [16:16:27] I can't give you the exact age, but I can estimate it at approximately
5 one year old, because at that time my child was still very young.

6 Q. [16:17:06] You mentioned that you were in very difficult conditions in the bush
7 and my question is as follows: Did you have difficulties or problems related to your
8 health?

9 A. [16:17:19] We had difficulties. We didn't have access to health care because we
10 were surrounded by the enemy. That made the living conditions very bad.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 very confused. I was very saddened by it. The people who were killed were those
16 who helped me during my schooling, those people who met a lot of my needs.

17 That's why I was very confused. Afterwards, I fell ill, an illness that I couldn't have,
18 but I suffered. I suffered from high blood pressure.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 MR SUPRUN: [16:26:29] (Interpretation) Your Honour, I think for my last question

2 we can go into open session, if you would be so kind.

3 PRESIDING JUDGE FREMR: [16:26:35] Certainly.

4 Court officer, please let's move into open session.

5 (Open session at 4.26 p.m.)

6 THE COURT OFFICER: [16:26:47] We are in open session, Mr President.

7 PRESIDING JUDGE FREMR: [16:26:49] Thank you, court officer.

8 Mr Suprun, please proceed.

9 MR SUPRUN: [16:26:55] (Interpretation)

10 Q. [16:26:57] Witness, as a victim of the war in Ituri 2002 to 2003 what do you

11 expect from the International Criminal Court in this trial against Bosco Ntaganda?

12 A. [16:27:36] If I have understood your question well, I would say the following to

13 the ICC: May it continue to do its work according to the law.

14 Q. [16:27:54] If Bosco Ntaganda is declared guilty following this trial, would you

15 wish to have reparations?

16 A. [16:28:16] Yes. That will depend upon what the law provides in accordance

17 with your text.

18 Q. [16:28:46] But can you give your opinion, in what should -- or what should

19 reparations consist of for you? What do you understand by way of reparations for

20 the harm that you suffered during the war?

21 A. [16:29:19] I experienced difficulties. My house was destroyed and I would ask

22 that a house be built for me so I could live in it again.

23 Q. [16:29:47] Thank you very much, Witness, for your answer.

24 MR SUPRUN: I have no more questions, your Honour.

25 PRESIDING JUDGE FREMR: [16:29:51] And I thank you, Mr Suprun, for your

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1 punctuality.

2 Now, Mr Witness, it concludes your testimony for today. Roughly we are in the half

3 of your testimony so with the second half we will proceed tomorrow morning at 9.30.

4 And it is my duty to remind you that in the meantime till tomorrow morning you

5 must not discuss your testimony with anybody else. Do you understand,

6 Mr Witness?

7 THE WITNESS: [16:30:37] (Interpretation) Yes.

8 PRESIDING JUDGE FREMR: [16:30:38] So, very well, Mr Witness. We adjourn and

9 we reconvene tomorrow, 9.30.

10 THE COURT USHER: [16:30:47] All rise.

11 (The hearing ends in open session at 4.30 p.m.)

12 RECLASSIFICATION REPORT

13 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,

14 the public reclassified and lesser redacted version of this transcript is filed in the case.