

Trial Hearing

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
 2 Trial Chamber VI
 3 Situation: Democratic Republic of the Congo
 4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
 5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
 6 Trial Hearing - Courtroom 3
 7 Friday, 9 December 2016
 8 (The hearing starts in open session at 9.34 a.m.)
 9 THE COURT USHER: [9:34:28] All rise.
 10 The International Criminal Court is now in session.
 11 Please be seated.
 12 PRESIDING JUDGE FREMR: [9:34:56] Good morning, everybody.
 13 Court officer, call the case.
 14 THE COURT OFFICER: [9:35:01] Thank you, Mr President.
 15 The situation in the Democratic Republic of the Congo, in the case the Prosecutor
 16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
 17 We are in open session.
 18 PRESIDING JUDGE FREMR: [9:35:15] Thank you, court officer.
 19 Now appearances, if changed compared to yesterday.
 20 Prosecution.
 21 MS SAMSON: [9:35:21] Good morning, Mr President and your Honours, there is no
 22 change in the composition of the Prosecution team today.
 23 PRESIDING JUDGE FREMR: [9:35:27] Thank you, Ms Samson.
 24 Defence, please.
 25 MR BOURGON: [9:35:32] No change, Mr President. Thank you.

1 PRESIDING JUDGE FREMR: [9:35:37] Legal Representatives.

2 MS PELLET: [9:35:41] (Interpretation) Thank you, Your Honour. No change for the
3 child soldiers. Thank you.

4 MR SUPRUN: [9:35:47] (Interpretation) Good morning, your Honour. For the
5 victims of the attacks, there's no change.

6 PRESIDING JUDGE FREMR: [9:35:53] So I thank Mr Bourgon, Ms Pellet and
7 Mr Suprun.

8 And before we invite Mr Witness into the courtroom, the Chamber was told that
9 Mr Bourgon would like to address the Chamber.

10 Mr Bourgon. Mr Bourgon, don't take it wrong, but you almost make it as a regular
11 part of our schedule that always in the morning you address the Chamber. No, no,
12 go ahead.

13 MR BOURGON: [9:36:19] Thank you, Mr President. I would have liked to do this
14 in writing but at the time that we were working on this, there was no point in doing it
15 in writing, Mr President.

16 Yesterday we asked for disclosure of some documents and my colleague agreed to
17 disclose some documents concerning the security concerns and the security situation
18 of the witness P-0031.

19 If we can move into private session, Mr President, please.

20 PRESIDING JUDGE FREMR: [9:36:50] For sure.

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

22 (Private session at 9.36 a.m.)

23 THE COURT OFFICER: [9:37:02] We are in private session, Mr President.

24 PRESIDING JUDGE FREMR: [9:37:04] Thank you, court officer. Mr Bourgon,
25 please proceed.

1 MR BOURGON: [9:37:07] Thank you, Mr President.

2 Mr President, first I want to express of course my appreciation to the Prosecution for
3 providing these documents. On the same token, however, it must be said that these
4 documents, in our submission, should have been provided to the Defence a long time
5 ago and that this is -- constitutes a disclosure violation. These documents are clearly
6 material to the preparation of the defence.

7 Mr President, these documents, we received four of them. We do not have numbers
8 for some of them. One is called an (Redacted), probably
9 prepared (Redacted), although there is no specific date. One

10 document is called an (Redacted) conducted by the

11 Prosecution concerning Witness P-31. The document, unless I fail to see a date, is
12 undated, (Redacted)

13 (Redacted)

14 (Redacted). We have another

15 document for this one. We do have a number and it is DRC-OTP-1008-0083. It is a
16 document dated (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted).

21 The fourth document is dated (Redacted)

22 (Redacted)

23 (Redacted). Mr President, we take the view that

24 these documents uncover information which needs to be further explored before

25 proceeding before with the testimony or the cross-examination of the present witness.

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9 All these bits and pieces put together, Mr President, along with the names of persons
10 that we were aware of uncover areas that need to be explored. Once again, I
11 contacted my colleague this morning. She will argue that all of this information was
12 known to the Defence. The only way to find out, Mr President, is for the Chamber to
13 look at these four documents and to determine whether it was not. We say that
14 these documents uncover serious areas in which we want to explore with the witness

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 All of this, Mr President, we say is definitely not only -- not only relevant but could
24 have a definite impact on the Trial Chamber's assessment of the credibility of this
25 witness.

1 I spoke to my colleague this morning. I understand that we are pressed for time.
 2 That is why what I suggest, Mr President, is to proceed with the cross-examination
 3 this morning, to do one or two sessions, probably two sessions, and to stop and to
 4 continue on Monday. And to avoid any waste of time, we would propose to proceed
 5 immediately with the examination-in-chief or the Prosecution examination-in-chief of
 6 Witness 810 this afternoon so that no time is wasted.
 7 Again, it is subject to the Trial Chamber's assessment of these four documents, and
 8 basically I know my colleague will argue otherwise and the Trial Chamber can
 9 determine if they indeed raise new issues, and we respectfully say that these
 10 documents do raise such issues that require such a remedy at this time. Again,
 11 there's no prejudice neither to the Prosecution nor to the proceedings, nor to the Legal
 12 Representative of Victims. The trial will continue nonstop, but it will give us time
 13 over the weekend to assess this information and to have a full cross-examination
 14 which will be important for the Chamber's assessment of the credibility of Witness
 15 P-0031.

16 Thank you, Mr President.

17 PRESIDING JUDGE FREMR: [9:47:13] Thank you, Mr Bourgon.

18 Ms Samson.

19 MS SAMSON: [9:47:16] Thank you, Mr President.

20 As the Defence has indicated, the Prosecution opposes this request. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted). And these documents are, in principle, not disclosable because (Redacted)

24 (Redacted).

25 Now, there are four documents that we disclosed yesterday. One document is two

1 pages. (Redacted). And it contains information that has
2 been disclosed to the Defence previously. There is as well a one -- what would
3 amount to about three quarters of a page (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted). All of the information in that three
9 quarters of a page is already known to the Defence. (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted). So this information has been known

1 to the Defence for quite some time.

2 Now, that's two of the four documents. Another document is a two-page document

3 where during the meeting in (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 So the information here shouldn't be new (Redacted)

14 (Redacted)

15 (Redacted). And a credibility issue on contacts that this witness may

16 have had with (Redacted) is certainly something the Defence must have

17 incorporated into their cross-examination plan well before yesterday.

18 And lastly, there is a (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted). And so the main submission that I wish to make today is that

10 these are issues known to the Defence for some time. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted), it wouldn't be so difficult to incorporate this into

14 cross-examination today if it weren't already incorporated to some degree.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 These documents were provided to the Defence yesterday by e-mail so that we could

23 give them quickly. We indicated that they would thereafter be disclosed once

24 registered. That does take a day or so. In the interests of time, I can forward the

25 documents to the Chamber so the Chamber can have a look, (Redacted)

1 (Redacted), and then reach a decision

2 on this, if that's helpful. And I'm available for any other questions that your

3 Honours may have.

4 PRESIDING JUDGE FREMR: [9:56:07] Thank you.

5 Mr Bourgon, but please briefly.

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

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Here are two issues here: Are these documents relevant and should they have been

11 disclosed to the Defence? That is the first question, are they material to the

12 preparation of the Defence? We say they are, and we would not be arguing this this

13 morning if we had received these documents ahead of time. The second issue is, is

14 there enough information in these documents to warrant delaying the

15 cross-examination of this witness without any waste of time to the conduct of trial

16 proceedings? We say there are.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted) there are a number of other issues raised in these

22 documents which are, in our view, highly material to the preparation of the defence.

23 Thank you, Mr President.

24 PRESIDING JUDGE FREMR: [9:57:34] Thank you. We will deliberate outside the

25 courtroom. I would like just to check a quick question for Prosecution: The expert

1 witness, we were told that he is ready to testify they afternoon. In case of some
2 changes, could we even, will he be ready to testify earlier.

3 MS SAMSON: [9:58:04] In terms of the Prosecution's side he's ready and we are
4 ready to proceed at any time so he could come earlier, absolutely.

5 PRESIDING JUDGE FREMR: [9:58:12] Okay, thank you.

6 THE COURT USHER: [9:58:17] All rise.

7 (Recess taken at 9.58 a.m.)

8 (Upon resuming in private session at 10.01 a.m.)

9 THE COURT USHER: [10:01:39] All rise.

10 Please be seated.

11 PRESIDING JUDGE FREMR: [10:02:01] We are in private session but let's move into
12 open session for the delivery of our ruling.

13 (Open session at 10.02 a.m.)

14 THE COURT OFFICER: [10:02:17] We are in open session, Mr President.

15 PRESIDING JUDGE FREMR: [10:02:19] Thank you, court officer.

16 So after deliberation our ruling is that we will solve this issue by change of our
17 schedule, because at the moment we have no knowledge of the documents concerned,
18 that it would also take some time to get acquainted with them, but we believe that the
19 concern of both parties could be satisfied by the change of the schedule in fact
20 proposed by Defence, by Mr Bourgon. So we will continue with testimony of this
21 witness until 1 o'clock for this session and the next one. Then we will break this
22 testimony and during the lunch break we can make preparations which are relatively
23 demanding for testimony of our expert witness, which will start at 2.30 and will
24 continue on Monday morning. And then we will return back to the rest of
25 cross-examination of the current witness. We believe that this solution will avoid

1 any further dispute and will satisfy the concern of both parties.

2 So now -- Ms Samson.

3 MS SAMSON: [10:03:45] Yes, thank you, Mr President. I have a question related to
4 a different witness. I understand that Witness P-773 will be heard during the eighth
5 block rather than during this evidentiary block, and the question that I have is:

6 Would the Chamber be minded to ensure that we have Witness 453 ready to testify
7 immediately following Witness 868? I assume so, but I just would like to be sure.

8 PRESIDING JUDGE FREMR: [10:04:16] Yes, looking at our schedule, as you are
9 recently aware we had to in fact postpone testimony of Witness 773, even if we
10 are -- we know that it's not ideal solution, but for some logistic reasons and the
11 current problematic situation in the DRC, we had to make this decision, which means
12 that in fact after -- now we change the schedule a bit, so after expert witness, we will
13 finish Witness 0031 and then we'd like to continue with Witness P-0453 without any
14 break. Am I right?

15 MS SAMSON: [10:05:05] I think there might be one witness in between, Witness 868.

16 PRESIDING JUDGE FREMR: [10:05:11] 863.

17 JUDGE CHUNG: [10:05:12] 868.

18 PRESIDING JUDGE FREMR: [10:05:14] 868. Sorry, sorry, sorry. So after 0031, it
19 should be 868 and then the last one - sorry for this fault - the last one should be 453.

20 MS SAMSON: [10:05:26] Thank you. I just wanted to ensure that we have the
21 witness's travel arrangements set to come a bit earlier. Thank you.

22 PRESIDING JUDGE FREMR: [10:05:33] Thank you, Ms Samson.

23 And now we can invite Mr Witness into the courtroom.

24 (The witness enters the courtroom)

25 PRESIDING JUDGE FREMR: [10:06:35] Good morning, Mr Witness.

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WITNESS: DRC-OTP-P-0031

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

2 (The witness speaks French)

3 THE WITNESS: [10:06:43] (Interpretation) Good morning, your Honour.

4 PRESIDING JUDGE FREMR: [10:06:44] Mr Witness, welcome back. We will

5 continue with the next part of your cross-examination, so it's my duty to remind you

6 first that you are still under oath, which means that you have to speak the truth and

7 nothing but the truth. And the second remainder, it's pretty possible that some

8 questions put to you by Defence will not -- you will not like, if I may say, but still I

9 have to remind you that both parties have to be treated equally. It's part of the game

10 here, that the Defence is trying to find some discrepancies, if any, in the testimony of

11 the witness or the previous statement and testimony of the witness, so please take it

12 as a fact and remain patient. All right?

13 THE WITNESS: [10:07:37] (Interpretation) Thank you.

14 PRESIDING JUDGE FREMR: [10:07:38] Now, Mr Bourgon, you have the floor. Do

15 you want to proceed in open or in private session?

16 MR BOURGON: [10:07:44] Private session, Mr President, please.

17 PRESIDING JUDGE FREMR: Court officer, let's move into --

18 MR BOURGON: Actually, Mr President, I think we can remain in open session.

19 PRESIDING JUDGE FREMR: [10:07:50] All right. So we will remain in open, but

20 please, Mr Bourgon, remain vigilant.

21 QUESTIONED BY MR BOURGON: [10:08:09] (Continuing) (Interpretation)

22 Q. [10:08:09] Good morning, Witness.

23 A. Good morning, Counsel.

24 Q. [10:08:12] I would like to start by reading to you a paragraph of your statement,

25 DRC-OTP-0162-0002. And I'm going to quote it from paragraph 22, page 0162-0006.

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1 In paragraph 32 you say what follows in your statement.

2 MR BOURGON: We have to go into private session, Mr President.

3 PRESIDING JUDGE FREMR: [10:09:08] So we will have to redact the last sentence --

4 MR BOURGON: [10:09:18] For the future sentence. So far there's been no damage
5 so far, but the next sentence would have been.

6 PRESIDING JUDGE FREMR: [10:09:23] All right. So we will have to move into
7 private.

8 MR BOURGON: [10:09:26] Yes, please, Mr President.

9 PRESIDING JUDGE FREMR: [10:09:27] Now I understand. So let's move into
10 private session.

11 (Private session at 10.09 a.m.)

12 THE COURT OFFICER: [10:09:43] We are in private session, Mr President.

13 PRESIDING JUDGE FREMR: [10:09:46] All right. Mr Bourgon, please proceed.

14 MR BOURGON: [10:09:50] Thank you, Mr President.

15 Q. [10:09:53] (Interpretation) Witness, I'm referring to your statement, paragraph
16 32. I've already given the page, so this is what you say in this paragraph: "Since the
17 start of 2000 until May 2003, (Redacted)

18 (Redacted) and adding thereto the figures relating to persons under the

19 age of 18 who, (Redacted)

20 (Redacted): 80

21 percent of these minors were enlisted by Hema militia known later under the name of

22 UPC; 15 percent by PUSIC and the FAPC and then 5 percent by the Lendu militia,

23 known later by the name of FNI."

24 Do you remember having given this information in the statement?

25 A. [10:11:15] Yes, I remember.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [10:11:33] My question is as follows: When you say that 80 percent of these
5 minors were enlisted in the Hema militia, later known as UPC, I would like to know,
6 UPC, what does that refer to as far as you're concerned?

7 A. [10:11:57] UPC, that's initials Union des patriotes Congolais, Union of Congolese
8 Patriots, the organisation created by Thomas Lubanga and his group. They had an
9 armed wing.

10 Q. [10:12:23] So, Witness, I would like to know if we try to put a time frame to the
11 name of the UPC, as far as you're concerned, when does the UPC come into being,
12 when does it begin?

13 A. [10:12:43] The UPC started when Hema controlled Bunia and when Thomas
14 Lubanga promulgated his government in 2002.

15 Q. [10:13:03] So if the UPC started when Bunia was taken, you've said, was it
16 August or September -- I thought you said August or September, but if it starts with
17 the time when the government was created, Thomas Lubanga's government, that is to
18 say that if a child, a minor under the age of 18 is recruited before that date, you
19 wouldn't have (Redacted) UPC (Redacted); is that correct?

20 A. No. What I'm saying is as follows, because I'm asked a question concerning
21 the time frame here: Now, the name UPC is something we heard about in 2002 after
22 Bunia was taken. However, the Hema had a militia from 2001. (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 These children were re-enlisted. And during this time 2002, the UPC started, and that's
4 the children who were deserting, we heard that they were UPC children.

5 MS SAMSON: [10:15:14] Apologies.

6 PRESIDING JUDGE FREMR: [10:15:15] Ms Samson.

7 MS SAMSON: [10:15:16] It's just for the transcript. At page 19, line 15, the witness
8 said on the basis of (Redacted). Thank you.

9 PRESIDING JUDGE FREMR: [10:15:29] Noted.

10 MR BOURGON: [10:15:32]

11 Q. [10:15:34] Witness, I'm trying, with a view to assisting the Judges when they
12 read the documents, if I understand your answer, if a child and here we talk about a
13 minor, as you said in paragraph 32, if a minor (Redacted) and the child had been in
14 the Hema militia before 2002, you would (Redacted) UPC; is that correct?

15 A. [10:16:07] The UPC started informally, which wasn't declared, it was the Hema
16 militia, and when they took control, they set up the government, the UPC name came
17 back with its armed wing. These children were UPC children. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Now in 2002, when that child *was re-enlisted (Redacted), then he was
2 under the UPC banner, having been re-enlisted, enlisted for the second
3 time.
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. [10:21:01] Yes, but children were re-enlisted, it happened on several occasions.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

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1 (Redacted)

2 Q. [10:33:40] I put it to you, Witness, because it is my role to tell you what our
3 position is on this, and I'm saying to you that that event - and this is the Defence
4 position - is a fabrication on your part. Would you like to comment on that?

5 A. [10:34:03] I cannot fabricate anything. I cannot fabricate things.

6 Q. [10:34:11] We're going to move on to something else. The next point I'd like to
7 raise with you is what you said yesterday concerning Kiza's death. Do you recall
8 having testified to that effect yesterday?

9 A. [10:34:38] Yes. Please speak.

10 Q. [10:34:47] When you spoke about Kiza's death, you said at the same time that
11 that event allegedly occurred on the same day where Monseigneur Mosengo was
12 allegedly abducted or captured; is that correct?

13 A. I said that monseigneur was passing through Bunia at that time. It was in
14 April 2002.

15 Q. [10:35:18] I'm going to refresh your memory as to what you said yesterday
16 concerning the person who went by the name Mosengo. It's on 174, transcript 174,
17 page 34, line 27 on page 35, line 3.

18 You said the following: "It's the same thing that he did, Mr Kasongo, in front of TV5,
19 he killed him on that day. It was the day when Mosengo was supposed to plead the
20 case. He was sent to Ituri to take a look at the situation of the Catholic church which
21 was involved in the conflict."

22 Do you recall having said in yesterday?

23 A. There's something I don't understand in what you've read out. I didn't say it
24 was the same day that Kasongo was killed, that's not right, so it's not been correctly
25 noted.

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1 Q. I believe in this paragraph you were talking about Claude Kiza and you alluded
2 to Kasongo, and we'll come back to Kasongo. *I think you said that it was on the
3 same day that – Claude Kiza was killed.

4 A. I didn't say that it was --

5 Q. You said that it was the same day that Claude --

6 THE INTERPRETER: [10:36:50] Overlapping speakers. Could the witness please
7 start again.

8 PRESIDING JUDGE FREMR: [10:36:52] Mr Witness, I know that you are under
9 some emotions, but still you are too fast. So please, as I reminded you, please
10 always wait at least three seconds before you give a response to Mr Bourgon. So
11 now, please, repeat kindly your last response.

12 THE WITNESS: [10:37:17] (Interpretation) Thank you, Your Honour. I was
13 saying in the transcript there it's not come out exactly. I didn't say it was the same
14 day that he killed Kiza -- no, Kasongo. No. I said it was the time when
15 monseigneur was coming through Bunia to take a look at the situation of the Catholic
16 church, which was involved, presumed to be involved in the conflict. On the
17 afternoon of that same day there was that incident, Kiza's death. It occurred on Ituri
18 avenue. That's what I said yesterday.

19 MR BOURGON: [10:38:10] (Interpretation)

20 Q. [10:38:10] Witness, we're going to take a look at what you say about this in your
21 statement, but if I've correctly understood your last answer, Kiza was not killed on
22 the same day as the Mosengo events but rather in the same time frame, at the same
23 time period; is that what you're saying?

24 A. I said *that Mosengo was coming through Bunia, and Mosengo was to have a
25 meeting at the Catholic church, and it was in the afternoon of that day that that event

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1 occurred on Ituri avenue, *not far from our office.

2 Q. [10:38:54] My question is very simple: Did the two events occur on the same
3 day? Because you say that you were there.

4 A. [10:39:00] In April Mosengo was there. Mosengo was there in April.

5 Q. [10:39:12] Okay, let's take a look at your statement. It's still that of (Redacted),
6 0162-0002, and I refer to paragraphs 30 and 41. Let's start with what you say in
7 paragraph 30. You say:

8 (Redacted)

9 (Redacted)

10 (Redacted). Such was the case of the bishop of Bunia,

11 Léonard Dhedju, who was accused of being involved into the interethnic conflict and
12 later, even of having concealed weapons in the bishopric, whereas in April 2002, the
13 Vatican, which was concerned about the church's credibility, sent an emissary to
14 Bunia, the person of Monseigneur Mosengo to force the bishop to resign. Other
15 Protestant ministers of Hema ethnic origin belonging to the Emmanuel community
16 and the Anglican community of Bunia had also taken part in the interethnic conflict in
17 Ituri."

18 Do you recognize these words in your statement?

19 A. [10:41:08] I recognise them.

20 Q. [10:41:12] Now, this is what you said in paragraph 41 of your statement.

21 Starting from line 5, you're talking, I believe, about Bosco Ntaganda and you say, "At
22 the time the latter" --

23 No, sorry, I'll take this further because I don't want to mix subjects up. Let's begin
24 with:

25 "His act led to a wave of further crimes such as Commander Kiza, who was in charge

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1 of security in Bunia for Mbusa Nyamwisi, followed by the taking hostage of
2 Monseigneur Mosengo sent by the Vatican following the accusations leveled against
3 Bishop Dhedju, that he was involved with the Hema militia and inter alia that he had
4 concealed weapons as mentioned earlier."

5 Do you recognise your words in your statement?

6 A. Yes.

7 Q. [10:42:43] If I correctly understand paragraph 41, you've got Monseigneur
8 Mosengo, who is taken hostage; is that correct?

9 A. [10:43:00] That's what I said.

10 Q. [10:43:04] I'm not entirely sure that I understood what you said. Are you
11 confirming?

12 A. [10:43:09] Yes, I said I confirmed because on that day when there was the
13 disorder, the troubles, he stayed at the bishopric.

14 Q. [10:43:26] And in the same paragraph you say: "Kiza, who had been sent to
15 free Mosengo, held at Mudzipela, allegedly was killed with his bodyguards." So
16 you're saying that it's Claude Kiza who was sent to free Bishop Mosengo, who had
17 been sent by the Vatican to Mudzipela; is that correct?

18 A. [10:44:00] Kiza wasn't sent by the Vatican. Kiza was there for Mbusa's security,
19 and Mbusa controlled the town of Bunia at the time when the UPC had cut off the
20 town and he took the northern part. It was Kiza who was there to negotiate and he
21 was sent to negotiate for that and that's why -- that's how Kiza came to be killed there.
22 I stated that at the outset and I stated it yesterday.

23 Q. [10:44:37] Witness, I'm interested in what you have to say about Mosengo. You
24 confirmed that Mosengo was sent by the Vatican. That is your testimony.

25 A. [10:44:48] That was the information that we had, yes.

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1 Q. [10:44:52] Where did that information come from?

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. [10:45:52] I'm putting it to you, Witness, that what you're saying here -- well,

11 explain the information that you had as regards the hostage taking, how was he taken

12 hostage?

13 Did you hear my question?

14 A. [10:46:32] Please repeat it. I would like to fully understand the question.

15 Q. [10:46:36] You say that Monseigneur Mosengo, who was sent by the Vatican,

16 was taken hostage. What happened? What do you know about that event?

17 A. [10:46:49] As regards that event, he went to Mudzipela and he was prevented

18 from coming back, and then the things happened in the centre of Bunia. He had to

19 be able to finish things and to be able to leave, but he was stuck in Mudzipela and the

20 information was that he was taken hostage, and he had to be freed.

21 Q. [10:47:24] If I correctly understand your testimony, you're saying that what you

22 know is based on information that was spread at the time; is that correct?

23 A. [10:47:36] That's the information that we received.

24 Q. [10:47:41] You were not in Mudzipela?

25 A. [10:47:43] I was not in Mudzipela.

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1 Q. [10:47:49] Witness, I put it to you that the event that you are talking about, well,
2 indeed there was something that happened at Mudzipela at that time when
3 Monseigneur Mosengo attempted to get into the Catholic parish at Mudzipela, but
4 rather than being taken hostage, he was prevented from getting into the church,
5 following which, with the assistance of Claude, he left to go back to Kinshasa. Does
6 that refresh your memory? Do you agree with my version of the events? Does this
7 refresh your memory as to the events that occurred?

8 A. [10:48:49] That is your version, that is the version you've just given me. Yes,
9 that is the version that you have given that with the assistance of Claude, he went to
10 Kinshasa. But why was Claude killed on the same day?

11 Q. [10:49:10] We come now to Claude. So you're now going to confirm that it was
12 the same day, the abduction and the death of Claude occurred on the same day; is
13 that correct?

14 A. That's what I said.

15 Q. [10:49:27] In your statement you say that Kiza, our friend Claude, he was in
16 charge of security in Bunia for Mbusa Nyamwisi. You know that that is not correct
17 because 2002 Mbusa Nyamwisi was no longer there.

18 A. [10:49:49] Until April before -- well, I would go as far as August, until the UPC
19 took control, there was the RCD-K/ML or something like that that had control over
20 Bunia, and Bunia, well, the situation that starts to degenerate was cut into two parts,
21 one part towards the south with Governor Molondo Lompondo and another part
22 towards the north with the UPC group.

23 Q. [10:50:30] I stop you there, Witness. We will explore the question of the north
24 and the south, but at that time did you know that Kiza was in charge of security in
25 Bunia for Governor Molondo?

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1 A. [10:50:48] It was Molondo who had placed him in that post. And then he went
2 ahead with the dialogue and --

3 THE INTERPRETER: [10:50:59] Could the witness be asked to repeat. He started
4 while the question was still being put to him. The interpreters apologise, but it's
5 very difficult when speakers are overlapping.

6 PRESIDING JUDGE FREMR: [10:51:08] Sorry, again I just got a message from the
7 interpreter, there is again some overlapping. Could you kindly, Mr Witness, repeat
8 your last response.

9 THE WITNESS: [10:51:27] (Interpretation) In my last answer I was saying, because
10 he asked me the question, Kiza Claude, was working for RCD-K/ML, in other words,
11 Nyamwisi Mbusa, although he was absent during that period in Bunia, Molondo
12 Lompondo was the governor, he was in Bunia, and Bunia was cut into two parts:
13 One part towards the north and the other part the RCD, *the RDC had control of the
14 southern part up to Bralima. It wasn't possible to cross to the other side of the market.

15 MR BOURGON: [10:52:24]

16 Q. [10:52:25] Witness, what I'd like to explore with you is the description of Claude
17 Kiza's death. You said in your testimony yesterday as regards the death of Claude
18 Kiza, transcript 174, page 33, starting at line 23 going to page 34, line 18 the important
19 thing at the time (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. [10:53:51] On page 34, straight afterwards, you say it was the same day that the
2 event involving the bishop occurred and you repeat, and this is page 34, line 19 to
3 page 35, line 11, and you say the following: "It was the same day that Bosco, his
4 office was at the level of the Bralima, he tracked him. He killed Mr Kiza.
5 Everybody was there. When calm returned, people came out and we saw the
6 situation and everybody was *talking about it."

7 Do you recall having said that yesterday?

8 A. Yes, I do.

9 Q. And when you were asked the following question, and this is still the same
10 transcript, page 35, line 17 to page 35, line 25, you were asked, if I understand
11 correctly, that Bosco Ntaganda had planned or given the order and you said the
12 following on page 35, line 24 to line 25: "When someone plans something and he
13 plans with his team, he gives the order to kill, that means that he killed."
14 And it's on that basis that you implicate Bosco Ntaganda in the events; is that correct?

15 A. [10:55:42] I'm not implicating him. This is how events actually occurred.
16 After that event there were people, it was around about, if I'm not mistaken, 1600
17 hours, it was light and we were in the office and we heard gunfire. And when
18 things calmed down we went out, and when we went out people -- well, there were
19 crowds of people, people had gone to see where people *had been killed. And that's
20 what was said *even by the militia who were there. It was said that it was Bosco
21 who was behind this. I didn't say that I was implicating him. This is actually what
22 happened on that day. Because even the militia said the chief, the boss, carried out
23 his work. That was the same day.

24 Q. [10:56:35] Did people say they'd seen Bosco there?

25 A. [10:56:42] If it was the militia who were talking, he was there because they were

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1 with him. He was issuing the orders, he was the one.

2 Q. [10:56:51] This is an important question because the information that you
3 obtained, was it the fact that Bosco Ntaganda was there, or are you deducing this?

4 A. [10:57:07] I'm not deducing things. This was the information when we went
5 out to see what had happened. That is what we were told in situ. And in order not
6 to mix things up, let me say it's not the first time. When they had their
7 problems -- well, I'm not a soldier. I'm not a member of an armed group. We
8 correctly pass on information in a neutral fashion, as we received it and as we
9 experienced the situation.

10 Q. [10:57:45] Witness, you say you're not a soldier. I accept that. In your
11 statement in paragraph 41 you say the following: "Kiza allegedly was killed with his
12 bodyguards by a missile that was fired at him by the militia who were guarding
13 Bosco's residence." Can you confirm this?

14 A. Well, I think it's in the same order of ideas. When I say planned, ordered, it's
15 the same thing.

16 Q. It's not really what I'm interested in. I want to know whether these words, in
17 other words, that it was the bodyguards that killed Kiza by firing a missile at him, I
18 want to know whether that is your testimony. That's what you said in your
19 statement, did you not?

20 A. [10:58:54] When I say "planned" or "issued an order" or "participate" it's the
21 same thing. I'm not mixing things up. It's one and the same thing.

22 Q. [10:59:09] I'll try my question again for one last time. The information that you
23 have in this statement to the effect that Claude was killed by a missile fired at him, is
24 that something that you saw, that you heard, and that you are maintaining, or are you
25 changing your testimony?

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1 A. I'm not changing anything in my testimony (Redacted)

2 (Redacted). We heard the gunfire and after the end of the situation, we went out.

3 I wasn't the only one, there were a lot of people who went out to where it had

4 happened and that is what we saw. Even the militia themselves only cited one name,

5 the name of their commander, (Redacted)

6 (Redacted).

7 Q. [11:00:09] You, Witness, when you arrived, did you see Bosco Ntaganda?

8 A. [11:00:15] We saw the militia who were there. We didn't see Bosco Ntaganda.

9 Q. [11:00:25] Did you confirm that Bosco Ntaganda was killed by a missile?

10 A. It wasn't Bosco who was killed, it was Kiza who was killed and Bosco was there.

11 Q. [11:00:39] You're quite right. It was my question that was the wrong way

12 around. Sorry about that.

13 Were you able to confirm that Claude Kiza was killed by a rocket?

14 A. [11:01:05] That's what was said when we arrived there.

15 Q. In your statement you say that "I myself saw the body before it was evacuated

16 (Redacted). What does a dead

17 body which died as a result of a rocket launch look like?

18 A. [11:01:25] Kiza's body did not have a head, it was headless. There were other

19 bodies there. There was also a bodyguard who was only simply injured and who

20 was asking for forgiveness from the militia in addition to that.

21 MR BOURGON: [11:01:40] Mr President, I have five minutes to finish this topic if

22 you allow me or we can break right now.

23 PRESIDING JUDGE FREMR: [11:01:46] Please, proceed and we will shift the break

24 accordingly.

25 MR BOURGON: [11:01:49]

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1 Q. [11:01:50] Mr Witness, I put it to you, first of all, that Claude Kiza was not killed
2 as a result of a rocket being launched. Would that be possible, going by the
3 information available to you?

4 A. [11:02:04] You have other information. It's up to you to give that to the Court
5 and to tell us how he was killed.

6 Q. [11:02:13] In your testimony you explained that Claude at that time was -- what
7 he had done and that he had crossed the *line, so to speak, and I am quoting from
8 your testimony of yesterday, page 36, transcript 174. This is the question that was
9 put to you:

10 "What I would like to know is how you became aware that it was Bosco Ntaganda
11 who coordinated the killing of Mr Kiza."

12 Your answer was the following:

13 "first of all, they were in that conflict *and that "he", that must be Bosco, was on Thomas
14 Lubanga and Mbusa's side while Kiza was on Mbusa Nyamwisi's side. They could not
15 cross the border or limit or red line. The town was split into two and they couldn't cross
16 the limit, but Kiza crossed the limit, the border going to the other side."

17 That was your testimony, isn't it?

18 A. Yes. I was saying that while UPC *... Bosco Ntaganda and Thomas Lubanga
19 had occupied the other side, namely, the northern part, while Mbusa through
20 governor Molondo Lompondo only had control of part of the town, the demarcating
21 line was simply the avenue that leads to the Mukao bridge. Now, when you cross
22 that road, that was already a problem. Anyone who crossed that road was already
23 in a problem. So it was not the first time that bullets were flying in that area. Even
24 in front of Ciné Azanga there was some crackling of bullets and that was the
25 demarcating line between the two groups.

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1 Q. [11:04:26] Mr Witness, I put to you first of all that the demarcation line that you
2 are referring to arose or resulted from Claude's *death; do you agree with me?

3 A. [11:04:42] I cannot agree with you because you were not in Bunia, but I know
4 that this is the information that you may have received. However, Thomas Lubanga
5 and Bosco belonged initially to the RCD. They retrenched to an area and for that
6 reason the northern part could not be crossed by the APC or RCD. And this
7 happened in April before the death of Kiza.

8 Q. [11:05:25] What was Claude doing at the time he was killed?

9 A. [11:05:35] What do you mean, doing what?

10 Q. [11:05:37] According to the information available to you, how did it happen?

11 A. [11:05:43] Sorry, I've not understood your question.

12 Q. [11:05:52] You say that Claude was killed by a rocket or a missile. You say that
13 Claude had crossed the border or the limit. What was he doing there?

14 A. [11:06:05] He was in charge of security and he could go anywhere. Maybe he
15 was going for some kind of negotiation.

16 Q. [11:06:11] So you do not know that at that time Claude had given an ultimatum
17 on behalf of Lompondo so that APC mutineers, including Bosco Ntaganda, Kisembo
18 and others should surrender? You don't have any such information, do you?

19 A. Well, I hear you say so.

20 Q. [11:06:40] Mr Witness, I put it to you that Claude Kiza was killed near the
21 cinema *Arkanza, which you just referred to, and that it was when he went to deliver
22 an ultimatum and that Bosco Ntaganda was not present and that Claude's death was
23 not planned and that everything that you have put in your testimony is only intended
24 to disturb the APC or the Hema militia, as you refer to them -- the UPC or the Hema
25 militia as you refer to them?

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1 A. I have no reason, no interest in bothering the Hema or the UPC. *I am not a
2 militiaman myself. I am not a politician, *I am the church in the middle of the village
3 and I have no interest in causing trouble for any party, one party or the other. I just
4 want to state fairly what I know. If you know that he went to deliver an ultimatum
5 and he was killed, well, then he must have been killed by Hema militia. How can it
6 be then that within your own very party, one part has to subtract itself to create
7 problem within the town, ending up in a split in the town? *That's the issue.
8 So what you are actually saying is in line with what I was saying, in that he was killed
9 in a power struggle for the control of Bunia. So I am not an advocate for one party
10 or the other, I am simply presenting the facts as clearly as I can.

11 MR BOURGON: [11:08:15] Thank you, Mr President. I think we can break here.

12 PRESIDING JUDGE FREMR: [11:08:18] All right. Let's now move into open
13 session.

14 (Open session at 11.08 a.m.)

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

16 PRESIDING JUDGE FREMR: [11:08:34] Thank you, court officer. We take our
17 regular break now and we will reconvene at 11.40.

18 (Recess taken at 11.08 a.m.)

19 (Upon resuming in open session at 11.43 a.m.)

20 THE COURT USHER: [11:43:14] All rise.

21 Please be seated.

22 PRESIDING JUDGE FREMR: [11:43:34] We will now continue with the next part of
23 cross-examination of our witness, but since the witness is protected one and there is a
24 risk that his identity could be revealed, we will have to move into private session.

25 Am I right, Mr Bourgon? Yes.

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1 MR BOURGON: [11:44:04] Yes, Mr President.

2 PRESIDING JUDGE FREMR: [11:44:05] So, court officer, let's move into private
3 session.

4 (Private session at 11.44 a.m.)

5 THE COURT OFFICER: [11:44:15] We are in private session, Mr President.

6 PRESIDING JUDGE FREMR: [11:44:19] Thank you, court officer.

7 Mr Bourgon, please proceed.

8 MR BOURGON: [11:44:24] (Interpretation) Thank you, Mr President.

9 Q. [11:44:30] Good morning once more, Mr Witness. We will continue from
10 where we stopped.

11 At that time we were talking about Claude's death and the circumstances in which he
12 lost his life. But we will hop back a little bit more, a little bit further to talk about
13 Kasongo. You talked about Kasongo yesterday in your testimony, transcript 174 at
14 page 34. And this is what you said at lines 26 to 28, in fact, you were talking at the
15 time about Wamba on the major boulevard that he had trapped or tricked Kiza. It's
16 the same thing that he had done, Mr Kasongo, in front of TV5, he had killed him. Do
17 you remember saying that yesterday?

18 A. [11:45:38] Yes, that's what I said. Yes, yes, I did. Thank you.

19 Q. [11:45:47] In your statement you also deal with this matter and I'm looking at
20 your statement 0162-0002 at paragraph 30 -- paragraph 41, rather.

21 You say the following: "From the year 2000 the security situation in Bunia and
22 generally in the rest of the Ituri started to deteriorate gradually until getting to its
23 very worse in April 2002 when the events were precipitated with the assassination of
24 Commander Kasongo of Mbusa Nyamwisi's group by UPC Commander UPC Bosco's
25 group."

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1 Now, we looked for commander Kasongo and can you give us a little more
2 information about who he -- or who is being talked about and at what period?

3 A. [11:47:12] I think there must be a problem in the transcription. I said the
4 situation deteriorated with the assassination of Kiza who was killed around Azanga,
5 as I said, and I acknowledged that. I also wanted to hop back to something else
6 before providing information about Kasongo. Now, those who killed Kiza, Kiza was
7 a leader and he had to have a discussion for orders to be issued that militia should
8 surrender, that's the first thing.

9 Secondly, how were the -- who killed him? So from -- from that angle I can provide
10 a little more interpretation in that -- in that -- to that matter.

11 Q. [11:48:17] I left you to answer about Kiza, but that's not who I am talking about,
12 I am talking about Commander Kasongo of Mbusa Nyamwisi's group. Is this
13 something else or is it a different issue?

14 A. [11:48:39] What I am saying is that that paragraph, there has been
15 a mistranscription because I talked about the events peaking with the assassination of
16 Kiza, not Kasongo. So I was referring to Kiza, not Kasongo, that part has to be
17 corrected.

18 Then I went on to say that in the past and something that had happened before, you
19 see, Bosco was the man in charge in Bunia. Everybody knew that Bosco was the one
20 who called the shots in Bunia. That's why they referred to him as Terminator. And
21 he is aware of it. He had to be aware that someday we are all going to die. It's
22 important. Even though we may defend ourselves today.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 So I am pointing out that that segment should be changed. The events peaked with
3 the assassination of Kiza and I said that in the past the same thing happened to
4 Kasongo. I didn't say Kasongo was a commander at that time. I talked about
5 Commander Kiza. So that part has to be changed. And what I said should stand.

6 Q. [11:50:27] Mr Witness, I don't want to question the statement which you had an
7 opportunity to reread, but my question is: Did you know Commander Kasongo
8 who was killed by Commander Bosco, or you don't know anything about, all you
9 know is about Kiza?

10 A. [11:50:48] I would like that part of the statement to be changed first because it is
11 poorly transcribed, otherwise we will not make much progress. So that should be
12 changed. The events peaked in April with the murder or assassination of
13 Commander Kiza. If that could be changed, please.

14 Q. [11:51:05] Mr Witness, my question is very simple. Here the word "Kasongo"
15 has been mentioned. Is this a mistake, whether you are talking about Kiza, or is it
16 about another event?

17 A. [11:51:20] When I talk about the events peaking in April, it was in relation to the
18 murder of Commander Kiza. I didn't mention Commander Kasongo. But I
19 referred to Kasongo in relation to something else that had happened before. So there
20 was a problem in transcribing the statement as you have read it. So I need that part
21 to be changed. I referred to Commander Kiza, who was killed when the events
22 reached their summit, that is Commander Kiza was killed when the events peaked.

23 Q. [11:51:58] Please listen carefully. Was there any issue relating to Kasongo at
24 any time. I am not talking about Kiza. Was there anything in relation to Kasongo,
25 any event, any incident relating to Kasongo at any time whatsoever?

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1 A. [11:52:17] Counsel, I have understood your question. But, first of all, reread
2 that question and correct the section that I am referring to. There is something that I
3 have said before, but when it comes to the specific sentence we need to correct it.

4 When I talked about the events peaking, it was not in relation to Kasongo in
5 April 2002. It was in relation to the murder of Commander Kiza, not Kasongo.

6 MR BOURGON: [11:52:42] Mr President, I will have to seek your assistance. I just
7 want to know if there is -- I have a statement here that we are talking about the name
8 Kasongo. All I want from the witness is to know whether there is an event with
9 somebody called Kasongo or not, because I can't find any. All he has to do is to
10 confirm that there is no event, but I would just like to know that and he doesn't
11 appear to understand my question.

12 PRESIDING JUDGE FREMR: [11:53:06] Ms Samson.

13 MS SAMSON: [11:53:07] I have no objection if Defence counsel wants to clarify, but
14 my understanding -- well, without repeating what the witness has said, my
15 understanding is that he is making a correction to paragraph 41. Thank you.

16 PRESIDING JUDGE FREMR: [11:53:29] Mr Witness, it seems that either you
17 misunderstood what you were asked for. The issue seems easy. Does the name
18 Kasongo say anything to you?

19 THE WITNESS: [11:54:00] (Interpretation) Mr President, with all due respect to
20 your Honour, please let him reread that sentence and correct it, to begin with.

21 I didn't say that the events reached their apex with the assassination of Kasongo. I
22 said it peaked with the murder of Commander Kiza. Now, if we make that
23 correction, then I can answer his question. So may he kindly read the sentence and
24 correct it.

25 PRESIDING JUDGE FREMR: [11:54:32] You know, it's not the role of Mr Bourgon to

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1 correct statement that he even hasn't recorded. So, please, Mr Witness, focus now on
2 the issue which is in front of us and it is -- forget about this. And now please tell us
3 does the name Kasongo say anything to you? If yes, what, please. It's my question,
4 so take it in this way.

5 THE WITNESS: [11:55:08] (Interpretation) Mr President, once again, with all due
6 respect to your Honour, that sentence, let him read it over, because that's the same
7 sentence that was mentioned yesterday. Let that sentence be corrected. When it
8 says the events peaked in April with the assassination of Commander Kiza, that's
9 what should be written, not commander Kasongo. That's what I said yesterday.
10 That part should be corrected. As the events peaked in April 2002.

11 PRESIDING JUDGE FREMR: [11:55:49] All right. But anyway, take it that it is
12 corrected, but still please could you tell me whether the name Kasongo say anything
13 to you? Forget about this part of the transcript. If I would ask you does name
14 Kasongo say anything to you?

15 THE WITNESS: [11:56:15] (Interpretation) Mr President, everybody has their right
16 when it comes to matters of justice. So he should read that part again. When it
17 comes to the peak of the events, as I mentioned yesterday, let him make that
18 correction first and then we can look at the other matter and that part should be
19 transcribed properly.

20 PRESIDING JUDGE FREMR: [11:56:42] Mr Witness, and please respect my -- now
21 it's an order: You are not person who will govern this proceedings; do you
22 understand that? So stop requesting that. You are obliged to follow my order. So
23 now I am asking you don't speak any more about this correction. It's my job, not
24 your job. And tell me what the name Kasongo says to you? If not, I will fine you.

25 THE WITNESS: [11:57:18] (Interpretation) Thank you, Mr President. Kasongo is

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1 another event, another event which has nothing to do with Kiza's death. But this
2 thing was poorly transcribed. Now Kasongo is an entirely different issue which
3 happened on the major boulevard in front of TV5 where someone else was killed.
4 That's what I wanted to explain to the Court. Now, I am insisting, with all due
5 respect, Mr President, I cannot run the matters of this major august institution that
6 you are running. I came here to shed light on things. Now, if I have not
7 understood something properly, at least I have -- I should at least review that issue.
8 Kasongo is a completely different matter.

9 PRESIDING JUDGE FREMR: [11:58:33] But you did it. We noted that you are
10 making correction. But you can't force Mr Bourgon to read something, correct him
11 to do something.

12 Mr Bourgon, please proceed.

13 MR BOURGON: [11:58:49] Thank you, Mr President.

14 Q. [11:58:53] (Interpretation) The event involving Kasongo in front of TV5, when
15 did it happen and where?

16 A. [11:59:04] In Bunia.

17 Q. [11:59:07] What information do you have in this regard concerning the
18 involvement of Bosco Ntaganda?

19 A. [11:59:19] *To begin with, TV5 was a bar or a hotel where many people gathered
20 *and it is also located there. Kasongo's incident happened in front of TV5 in the evening,
21 he was shot in the evening. But Bosco did not carry out his incursions in hiding. He
22 did it point-blank in front of everybody. So what happened was that there was an issue
23 and *he killed Kasongo. He was killed there. So in order not to involve everybody in this
24 matter, there are many dimensions to it. If I were to talk, for example, about the current
25 minister in Kinshasa, so I am giving you the situation in which Kasongo was killed.

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1 Commander Kasongo was killed in front of TV5 in Bunia in front of the major
2 boulevard or avenue.

3 Q. [12:00:36] Mr Witness, if in relation to Kasongo I mentioned the name César,
4 would you confirm that Kasongo and César are one and the same person?

5 A. [12:00:51] The name is Kasongo. Now, if his first name is César, all I know is
6 that his surname is Kasongo.

7 Q. [12:01:00] The person you are referring to, was he the commander of the Bunia
8 battalion under Wamba Dia Wamba?

9 A. [12:01:08] Now you are referring to a completely different case. What I am
10 talking about is in relation to the death of Kasongo. Now, César was another case.
11 Now I remember. César was another case which did not happen in front of TV5 but
12 which occurred right in front of the entrance to hotel Okapi. That is where there is
13 a road between the MONUC current building and the sous-région. How can I
14 describe that now. You have hotel Okapi right there and that is another case of
15 someone who was in charge of Wamba Dia Wamba's security, so to speak. But let
16 me go back to 2002 with the death of Kasongo.

17 Q. [12:02:08] We will move on to something else. Well, not about César, but
18 rather about the period involving César. Mr Witness, I take it that you are aware of
19 the creation of a group known as the Chui Mobile Force?

20 A. [12:02:33] No, it doesn't ring a bell. I don't know it.

21 Q. [12:02:40] Mr Witness, I put it to you that you are aware that towards the end of
22 the year 2000 a group of youth was sent for training in Uganda. Are you aware of
23 that?

24 A. [12:03:01] That's what I was referring to when I talked about youth who had
25 been demobilised following moves by UNICEF, people from Hema, and Tchakwanzi

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1 who were demobilised and handed over to SOS Grands Lacs for follow-up and
2 monitoring. That's what I was talking about.

3 Q. [12:03:26] Mr Witness, what I am interested in is about people who left Bunia to
4 go for training, who was in that group? I put it to you that that group was made up
5 of *some *APC soldiers, mutineering soldiers who had deserted the APC and who
6 were with Bosco Ntaganda and they formed a group known as the Chui Mobile Force
7 and that was the very first group that took the plane to Uganda. Are you aware of
8 that or you have no knowledge of it, you have no knowledge of this information?

9 A. [12:04:04] I don't have that information.

10 Q. [12:04:07] So you do not know that Chui Mobile Force was made up of APC
11 soldiers who had deserted?

12 A. [12:04:16] You are the one providing me with that information.

13 Q. [12:04:26] What do you know about persons other than that group who
14 travelled by plane to Uganda to be trained and who would they be?

15 A. [12:04:37] I have testified here that young Hemas went for training and returned
16 in 2001. And UNICEF moved towards their demobilisation and handed them over
17 to SOS. Now, for any other matter I am learning these things from you. I have told
18 you what I know in relation to the situation of those young people, those young
19 people who had gone for training in Tchakwanzi.

20 Q. [12:05:16] Those young people who went for training in Uganda, who do you
21 know about those who organised their trip?

22 A. [12:05:30] I think in all my statements I indicated that the youth who went there
23 were Hema youth who had been organised by Hema traders and leaders who had
24 taken their children there for training as they prepared to form their group.

25 Q. [12:06:03] You would agree with me, wouldn't you, that at that time the UPC as

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1 an armed group, or the FPLC was not in existence yet; isn't it so?

2 A. [12:06:17] *When it comes to the training of these young people, it must
3 presuppose that there was a birthing or a designing or *a building up of something.
4 That is, the idea of their camp which would subsequently become the UPC.

5 Q. Let me move on to another line of questioning. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [12:09:34] Let me move on to the events of 6 to 9 August 2002. You know what
7 I am talking about, don't you?

8 A. [12:09:42] 6 to 9 August 2002, that is when Bunia was captured by the Hema
9 militia and the UPDF.

10 Q. [12:09:56] You dealt with that issue yesterday, transcript 174, page 38, lines 4 to
11 15. And again at transcript 174, page 40, lines 26 to page 41, line 24.

12 You said, among other things, the following, and I am at page 38, you said the
13 following: "From the 6th there was an effort to take control of the city." Do you
14 remember saying that?

15 A. [12:10:44] Now, they or "on" in French, "on" in French is not a good word.

16 THE INTERPRETER: It's difficult for the interpreters too.

17 THE WITNESS: (Interpretation) "On", what does "on" refer to?

18 MR BOURGON: (Interpretation)

19 Q. [12:10:58] Mr Witness, I am going to read out exactly what you said, starting
20 from line 6 on page 38 -- line 8, rather. The question was put to you as follows:

21 "Do you have any information about who was killed and buried in those areas and
22 who killed them?"

23 Your answer: "What I say is that it was the control of the UPC. UPC controlled
24 Bunia from 9 August along with the preliminary action that started on 6 and 7 August.

25 So from 9 August 2002 to 6 March 2003 the UPC was in control."

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1 Do you remember saying that yesterday?

2 A. [12:11:57] Yes.

3 Q. [12:11:57] You also said further on, and I am at page 41 of the transcript,

4 yesterday's transcript, you said the following from line 6:

5 "Thank you very much, madam. I will explain that from the 6th that you were

6 seeking to control the city with the support of the Ugandan army. In that connection,

7 from Mandro, the UPC troops that came out started on the 6th and the 7th because"

8 again, then the transcript is not very clear "because the Mudzipela massacre was one

9 where non-natives were attacked in Simbiliabo in Sayo neighbourhood in Bigo near

10 the hospital. That is how many people fled their residences."

11 Do you remember saying that yesterday?

12 A. [12:13:19] Yes, I said that from the 6th there was a manhunt and the massacres

13 started. They were triggered by the Hema militia *from Mudzipela, Simbiliabo and

14 Sayo to Bigo and that is how it came about that many people fled from their homes to

15 seek refuge in other neighbourhoods such as Yambi-Yaya, *and the governor's

16 residence known as *Sous-région. People went to seek refuge there. Then on the

17 9th, the UPC through its Hema militia, took control and attacked Governor

18 Lompondo's residence. By the way, Lompondo had fled. Those who were at that

19 residence were children and women and they were all massacred.

20 Q. [12:14:24] That is the confirmation I required from you.

21 Then in your statement on the same issue this is what you had to say, 0162-002,

22 paragraph 42 and you say the following and these are your words in your statement:

23 "On 9 August 2002 the UPC militia organised around Lubanga with the support of

24 Ugandan troops of the UPDF launched an offensive against the RCD-K/ML attacking

25 even the residence of governor Lompondo with three combat tanks, forcing him to

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1 leave the town. On the same day, the UPC killed with machete, firearms and other
2 bladed weapons almost 80 people, including women and children who had sought
3 refuge there. It's an unforgettable date. Virtually nobody came out of that house
4 alive and there were corpses absolutely everywhere. Subsequently, they were
5 buried in situ. Up until now, the place is known as being a mass grave. I recall that
6 event in particular, (Redacted)
7 (Redacted)
8 (Redacted). On the basis of investigations that were subsequently carried out by the
9 local NGOs and MONUC, and following what was reported by eyewitnesses, the
10 UPC militia were those who had carried out the operation in Lompondo's residence
11 and it was the UPDF that provided to it the logistic support."

12 Witness, do you recognise your words?

13 A. [12:17:01] I don't think there is anything to change in my statement. On the 9th
14 the UPDF and the Hema militia, which then became --

15 Q. [12:17:13] Let me interrupt you, Witness. I have read your statement out to
16 you. We are going to put it on the screen so that you can see the paragraph. And I
17 would just like you to confirm yes or no whether you want to change anything.

18 Could we display on the screen the first page of the statement is 00 -- no, sorry,
19 0162-0002. And this is paragraph 42, which is found on page 0162-0013.

20 Witness, the paragraph is going to be displayed, paragraph 42.

21 Witness, I understand from what you are saying that according to you it's the UPC
22 that initiated the attacks as of 6 and 7 August; is that correct?

23 A. [12:18:19] Yes.

24 Q. [12:18:22] According to your testimony on 6 and 7 August the UPC attacked the
25 Lendu in Mudzipela, is that your testimony?

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1 A. [12:18:33] I said yes, because they attacked not just the Lendu and the Hema,
2 they also attacked Bira and the non-natives, those who didn't follow their ideology.
3 That's what I stated.

4 Q. [12:18:52] According to your testimony it's then the UPC that attacked
5 Lompondo's residence on the 9th?

6 A. [12:19:00] On the 9th it is the UPC and the UPDF, I stated this yesterday as well
7 and I am saying it again, it's the UPC and the UPDF, it's a coalition that attacked
8 Lompondo's residence and killed people.

9 Q. [12:19:17] And you obtained confirmation of that following an investigation
10 carried out by inter alia MONUC; is that correct?

11 A. [12:19:30] That's what I stated, and the same day that the UPC started to take
12 control over the city of Bunia.

13 Q. [12:19:39] Witness, where were you between 6 and 9 August 2002?

14 A. [12:19:48] From 6 to 9 I was in Bunia, (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
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6 (Redacted)
7 (Redacted)
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14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)

25 Q. [12:23:03] Witness, I put it to you that the events did not unfold in the way that

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1 you describe them. First of all, I put it to you, Witness, that it was not the UPC that
2 attacked Mudzipela, it was the APC with the Lendu commanders and they
3 slaughtered Hema in Mudzipela; do you have any information about that?

4 A. [12:23:25] (Redacted)

5 (Redacted). On the 6th, the 7th, the Lendu were attacked,

6 *in Mudzipela and Sayo. There is a majority of Hema in those neighbourhoods.

7 Lendus and others are in the minority. And during that time, first of all, the town

8 was already cut into two parts, it was split in two. The APC could not carry out

9 incursions there because there was the UPDF that was with the Hema on that side, the

10 north. So it's clear what I have said. And that is how they carried out the attack.

11 On the 6th and the 7th and on the 9th, that was the peak, the apogee, and they took

12 over Bunia on the 9th.

13 Q. [12:24:31] Witness, are you aware of the existence of a mass grave full of Hema
14 in Mudzipela, the result of the attacks on 6 and 7 August 2002?

15 A. [12:24:49] Counsel, when a situation occurs very often people tend to falsify
16 history. You are trying to falsify history here. We are talking about a collective
17 memory of people who have been massacred, it shouldn't be possible to falsify
18 history. We have to understand what happened on the 6th and the 7th and not
19 attribute it to any other explanation. I cannot accept that.

20 Q. [12:25:24] Witness, could you answer yes or no, are you aware of the existence
21 of a mass grave resulting from attacks that occurred between the 6 and 7 August in
22 Mudzipela?

23 A. [12:25:39] On other dates. But on the 6th and the 7th what I am saying is very
24 clear, there were events, there were slaughters directed at the non-natives, the Lendu
25 and the Bira. And that is the origin of the mass graves, if there are mass graves,

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1 because all parties committed errors, but on the 6th and the 7th it was a manhunt, as I
2 have described to you. The Lendu, the non-natives, the Bira were massacred on
3 those dates, on the 6th and it continued until 9 August 2002. That could well be
4 Lendu, Hema, mass graves, but what I am saying is that the mass grave that exists on
5 6th and 7th to the 9th is as I have stated before this Court.

6 Q. [12:26:43] Witness, you see before you the statement, your statement to the effect
7 that on the same day, the 9th, and I am here on line 4, using firearms, machete, the
8 UPC killed 80 people, women and children in Lompondo's house. Did you witness
9 this? Did you see the corpses? Did you see the events?

10 A. [12:27:13] I am telling you that after the hostilities on the 9th the bodies had not
11 yet been removed. (Redacted)

12 (Redacted) a child killed next to its mother, so the mother and child were killed
13 together.

14 Q. [12:27:35] Did you see in the house, perhaps?

15 A. [12:27:39] Whether it's in Lompondo's house or on the road, *that passes through
16 Yambi-Yaya School, people died there. I cannot invent something (Redacted).

17 Q. [12:27:58] Still on the basis of your testimony in paragraph -- on your statement
18 in paragraph 42 you say that on the basis of the investigations carried out by MONUC,
19 so you know that investigations were carried out by MONUC?

20 A. [12:28:14] I tell you that it was the Red Cross that buried people. MONUC and
21 the human rights office had to carry out its investigations.

22 Q. [12:28:28] It was the Red Cross that buried people, *or UPC people in mass graves?

23 A. [12:28:38] The bodies that were there, the Red Cross contributed to or helped in
24 burying people. It made its contribution under the control of those who were in
25 charge of the town.

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1 Q. [12:28:53] And where do you get the information that concerns the logistic
2 support provided by UPDF?

3 A. [12:29:01] It wasn't concealed, everybody knew. That's what happened at the
4 time. The UPDF supported the militia, the Hema militia. At that time the UPDF,
5 the Ugandans supported the Hema militia, provided support to the UPC. In training,
6 in preparation, the UPDF was very active. They had already broken with
7 Lompondo, who they had forced to leave the town.

8 Q. [12:29:34] And in the third line, the three tanks, did you see them?

9 A. [12:29:41] You are talking about the mass graves?

10 Q. [12:29:43] No, the tanks.

11 A. [12:29:45] We saw the tanks, *they drove around the town and in front of the primary
12 school... the football ground at Yambi Yaya school, the tanks were there. When you see a
13 tank, it's not something invisible, you can see it. The tanks were there. And they were
14 shelling.

15 Q. [12:29:50] What did you say?

16 A. [12:29:55] I can go on. The tanks were there, whether it was the night of the 9th or the
17 night of the 8th, the tanks were firing. And even on the day they took the town, they were
18 present, you could see them.

19 Q. [12:30:40] If I understand your testimony there was intense fighting over two
20 days and the tanks were firing their munitions; that's what you're saying?

21 A. [12:30:54] I said that during the fighting the tanks were firing their munitions,
22 and subsequently Lompondo fled and his group and that's how they entered.

23 Q. [12:31:08] Witness, I am going to read some information that comes from the
24 MONUC concerning the events that according to them occurred at that time. It's
25 a document that's in English, so I will read it to you and you will hear the translation.

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1 It is a report, a weekly report, for the period 5 to 11 August of the year 2002. The
2 report itself is dated 12 August 2002. I will read to you two paragraphs, first of all
3 paragraph 8, this is what it says. And it starts on line 3.

4 PRESIDING JUDGE FREMR: [12:32:04] Sorry, Mr Bourgon.

5 Ms Samson, please.

6 MS SAMSON: [12:32:06] Yes, it's just to get the registration number of the document,
7 please.

8 MR BOURGON: [12:32:12] My mistake, I should have given the number.

9 PRESIDING JUDGE FREMR: [12:32:16] Even my mistake.

10 MR BOURGON: [12:32:20] It is DRC-OTP-0049-0461. And I will be reading from
11 paragraph 8 on page 0463 as well as from paragraph 15 on page 0464.

12 Q. [12:32:51] (Interpretation) Witness, please pay attention to what the report says.

13 (Speaks English) "On 7 August, the Lendus attacked the Hemas in retaliation at Mudzipela (3
14 kilometres from Bunia) and burnt a large number of houses. The governor of Bunia
15 reported that 10 Lendus were *killed in attack. One APC personnel was killed and another
16 was injured when booby traps *exploded at Camp Ndromo near Bunia."

17 (Interpretation) That was paragraph 8. Now we move it to paragraph 15.

18 (Speaks English) "On 9 August, a MONUC team visited Mudzipela in Bunia, and found
19 38 bodies (including 21 men, 13 females and 4 children), mainly of Hemas. The bodies
20 were later buried in a mass grave in Mudzipela. The deputy force commander and the
21 political officer visited Bunia on 9 August to review the situation, and met with the UPDF
22 sector commander who informed that the governor of RCD-K/ML had left Bunia town
23 due to pressure from the local population. The UPDF sector commander also confirmed
24 that UPDF had regained control of the town and that they would further reinforce their
25 presence with an additional company from Djungu. He stated that the UPDF would

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1 not allow the presence *of the APC in the town and will secure the town by force. The
2 UPDF sector commander also informed the team that he had directed the militia to move
3 to Camp Ndromo and set a deadline of *24 hours at noon on 11 August 02 to leave the
4 town. *However, they have not respected the order."

5 Paragraph 16:

6 "On 11 August, the MONUC team visited the area of the governor's house to confirm
7 the alleged massacre and was able to confirm 15 dead bodies."

8 (Interpretation) Witness, on the basis of this information collated by the MONUC, on
9 the events that occurred, I would put it to you that your report, your testimony that
10 we find in paragraph 42 of your statement, and to which you added things yesterday,
11 is quite simply not the truth; is that not correct, Witness?

12 A. [12:36:29] My testimony is the truth. It is the truth. That is what happened
13 from the 7th to the 9th.

14 Q. [12:36:41] I move on to something else.

15 Witness, I would like quickly to move to the question of the Ituri pacification
16 commission. Obviously, you are aware of that commission.

17 A. [12:37:01] Yes, I know it.

18 Q. [12:37:06] I refer to your statement, paragraph 68, the first page of -- it is
19 0162-0002, and paragraph 68 is to be found on page 0023.

20 Could we please have paragraph 68 displayed on the screen.

21 Witness, we are going to read what you stated in paragraph 68 on this matter.

22 (Speaks English) Should I repeat the numbers?

23 (Interpretation) For the transcript we are going to read the paragraph:

24 "Once the clashes were over, a feeling of calm returned to the town and initiatives on
25 the front towards stabilisation of the security situation and pacification were resumed

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1 apace: Preparatory work for the establishment of the Ituri pacification commission
2 began, and with a view to that, I learned of the existence of a coalition among the
3 armed groups PUSIC FAPC, FNI and FPDC, the Unenchan group," I apologise for the
4 pronunciation "of which I no longer recall the name, the coalition was called Front for
5 Integration and Peace in Ituri (FIPI). This coalition was allegedly established in
6 Uganda shortly before. Before the CPI work began, the FIPI members had signed
7 the ceasefire, except for the UPC that had refused to do so. Subsequently, following
8 the work carried out by the CPI, the CPI to which it had sent observers, the UPC
9 refused to acknowledge the legitimacy of the organs that stemmed from there such as
10 the assembly and the special administration which were interim bodies."

11 Is that your statement, Witness?

12 A. [12:40:52] Yes, it's my statement.

13 Q. [12:40:55] Let's begin with the FIPI. You know that the FIPI, in practical terms,
14 has pretty well never existed in actual fact, it dissolved in fact before it even came into
15 being; is that not correct?

16 A. [12:41:20] It didn't dissolve before coming into being. It did exist and then it
17 was disbanded.

18 Q. [12:41:29] And how did you obtain this information?

19 A. [12:41:33] I was in Bunia, I was in Bunia and things were happening either
20 before the court in Bunia, the -- well, it was like being on a stage in Bunia. This was
21 a coalition and we were rather surprised to see the coalition there. There was
22 a conference that was organised by the commission, the special commission for
23 pacification in Ituri, that that did exist. It existed for a time and then it was
24 disbanded. It wasn't just something that existed pro forma, it did really exist.

25 Q. [12:42:24] We have already dealt with the security situation in that period and

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1 I don't intend to go back over it again, but I would put it to you that one of the
2 reasons for the FIPI disbanding was because the Lendu combatants carried out
3 a number of attacks and the PUSIC could not accept such attacks on the part of the
4 Lendu combatants, would you agree?

5 A. [12:42:50] I said FIPI existed until the period of pacification, the commission for
6 pacification of Ituri, in other words, the CPI. It existed. And it was subsequently
7 that it was disbanded.

8 Q. [12:43:07] The work of the pacification commission, I would imagine that you
9 followed its work, did you not?

10 A. [12:43:13] Yes.

11 Q. [12:43:18] So you know that the pacification commission met in April between 4
12 and 14 April? Do you have that information?

13 A. [12:43:30] I know that it was in April 2003.

14 Q. [12:43:37] (Redacted)

15 (Redacted)

16 (Redacted).

17 A. [12:43:56] The commission for pacification for Ituri was primarily to stabilise
18 Ituri, it was a framework within which people could have -- could exercise legitimate
19 authority. That's the important thing to know. For pacification of Ituri, the people
20 of Ituri could come together, speak the same language and build Ituri. And that's
21 what led to the meeting that led to peace in Ituri and that's why it was called the
22 commission for pacification. (Redacted), it was to do with
23 peace in Ituri, with the bodies that were established, the executive organ and the
24 legislative body, which was the special assembly for Ituri under Mama Waweka, and
25 the executive was led by Leku Apobu.

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1 Q. [12:45:09] You are probably aware that after the pacification commission, an
2 organisation known as the human rights observatory was born?

3 A. [12:45:24] I know that there were two vice commissioners, two vice
4 *commissioners, one in charge of administration, if I am not mistaken, and then there
5 was a commissioner in charge of human rights, finance and human rights, something
6 like that.

7 Q. [12:45:50] The organ itself known as human rights observatory, do you know of
8 the existence of that human rights observatory? Do you know that body?

9 A. [12:46:16] What I know is that there was one governor in charge of human rights.
10 And I forget his name. So there was a vice governor or deputy assistant
11 commissioner in charge of human rights.

12 Q. [12:46:42] In order to avoid any confusion, let me show you the report of the
13 observatory so that you can confirm whether or not you know about its existence.
14 Item 57 on our list, DRC-OTP-0086-0086. That document will be displayed for you,
15 the first page of that document, it will appear on your screen and then I will put a few
16 questions to you.

17 Can you see the document?

18 A. [12:47:38] Yes, I can.

19 Q. [12:47:43] Here we read "Report of activities of the interim human rights
20 observatory." Period: August to September 2003.

21 First question: The body or organ itself, interim human rights observatory, are you
22 familiar with that body or do you know it?

23 A. [12:48:10] What I know is that there were two organs set up, the executive and
24 the legislative organs. In the executive organs there were two vice governors, one in
25 charge of all matters pertaining to human rights.

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1 Q. [12:48:32] Did you know that the purpose of this organ was to collect complaints
2 and allegations about human rights violations?

3 *A [12:48:50] Yes.

4 Q [12:48:55] Now during your testimony on several accounts you talked about
5 allegations of rape by UPC; do you remember that?

6 A. [12:49:01] Yes, I do.

7 Q. [12:49:05] Did you report those cases or incidents that you testified about to the
8 interim observatory on human rights?

9 A. [12:49:21] I am sorry to interject without observing the three seconds rule, but
10 Counsel, this organ which was set up by the Ituri pacification commission, all those
11 organs so to speak did not become effective. Why? Because as soon as they were
12 set up, all of its authorities were sort of cut off, they could not move about in the city,
13 they could not do anything. They needed to be protected by MONUC if they had to
14 do anything whatsoever. So in a nutshell they were not able to work. They were
15 stuck. You see, when the organs were set up in May, thereafter there were incursions
16 and the UPC took control of the city. So these people could not do their work.
17 The day on which the flag of the DRC was hoisted in Bunia was in October (Redacted)
18 (Redacted). Apart from that,
19 those organs did not have an opportunity to do their job.

20 Q. [12:51:07] Mr Witness, my question was not whether the organs were able to
21 work or not. My question was whether you reported the incidents which you
22 testified about here in court, whether you pointed those instances out to the human
23 rights observatory?

24 A. [12:51:28] Well, these organs were present at all MONUC meetings and they
25 were aware of all the reports submitted by civil society organisations at such

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1 meetings.

2 Q. [12:51:42] My question is the following: Did you yourself process these
3 incidents and submit reports to the observatory?

4 A. [12:51:52] Counsel, so that we do not belabour the point my answer was at all
5 meetings there was a forum organised by MONUC at which these organisations
6 would receive reports from all organisations, (Redacted). So we provided those
7 reports and the observatory would have had access to those reports because those
8 reports were filed at all those meetings.

9 Q. [12:52:28] Very well. Let us now look at part of the report, of this report. And
10 I want us to turn to a page bearing some statistics in the report. Page number is page
11 DRC-OTP-0086-0120.

12 Mr Witness, can you see that page?

13 A. [12:53:40] Yes.

14 Q. So as myself, you can notice that this is a page containing statistics covering the
15 period from August to September 2003 and you can see that a number of cases were
16 recorded by category. Now, I draw your attention to the last column, which says or
17 which captioned "rape". Here we see one incident of rape in relation to the UPC and
18 one incident in relation to a member of Artemis. Now, if you had submitted reports
19 to the observatory, I do not understand how we would have these types of figures
20 and compare them against your testimony. Can you explain the discrepancy?

21 A. [12:54:49] Well, Counsel, if you are saying that there were no rapes, well, I am
22 saying that there were a number of rapes. Now why does the report of the
23 observatory cover only the months of August and September? One would have
24 expected that after it was set up, it should have conducted an exhaustive assessment
25 of cases of human rights violations, from the month of April when it was set up, and

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1 what happened in May throughout the time when the UPC reigned, and then

2 conclude its report with what happened in August and September.

3 What I can say is that the UPC carried out a number of rapes during that period.

4 Q. [12:55:39] Mr Witness, I have only a few more minutes, but I want to go back to
5 the final report of the pacification commission of the Ituri. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. [12:57:45] Can we turn to the document of the commission, DRC-0107-0223 and
4 I would like us to go to page 0107-0257.

5 Please display paragraph III.

6 Mr Witness, the document will appear before you, and it shows the results of the
7 deliberations of the commission regarding child soldiers. As you can see, this will be
8 expanded for you, we see here child soldiers, the sub-commission dealt with the
9 precautionary measures to be taken in relation to the prevention of recruitment of
10 child soldiers below 18 years. It also reviewed national legislation on the
11 demobilisation and reinsertion of child soldiers of less than 18 years who were part of
12 the fighting forces.

13 It further discussed measures for the protection of these children and endorsed a
14 solemn call for the protection of the child in the Ituri.

15 Mr Witness, are you aware (Redacted) of this
16 report and its recommendations?

17 A. [12:59:51] The recommendations may appear here on paper, but whether they
18 were feasible in actual fact is something else. So these are discussions that pertain to
19 developing strategies to tackle a number of issues relating to children and armed
20 forces. This is a project, it is a project, so to speak, on paper. But when it comes to
21 implementation, there we have another issue. Did the commission implement these
22 issues and respect these measures? No. The commission, first of all, did not have
23 an army. Second, the commission did not possess any weapons to constrain any
24 armed groups to any position, so these were ordinary civilians whose simple or mere
25 responsibility was to draft their reports on pieces of paper.

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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. [13:02:10] Thank you, Mr Witness. Mr Witness, we will return to the same
13 topic on Monday.

14 A. [13:02:21] Thank you.

15 PRESIDING JUDGE FREMR: [13:02:22] Now, court officer, please move into open
16 session.

17 (Open session at 1.02 p.m.)

18 THE COURT OFFICER: [13:02:40] We are in open session, Mr President.

19 PRESIDING JUDGE FREMR: [13:02:44] Thank you.

20 Mr Witness, at this moment I would like to thank you. I can imagine it was not easy
21 for you to answer all those questions. We unfortunately have to break your
22 testimony because of some logistic reasons and we will have to continue either
23 Monday, ideally Monday afternoon or Tuesday morning. So as usual, you know it, I
24 have to instruct you that you must not discuss your testimony with anybody else.
25 Otherwise, I wish you some rest and we will see you on Monday.

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1 And now, court usher, please assist Mr Witness to leave the courtroom.

2 THE WITNESS: [13:03:31] (Interpretation) Thank you very much.

3 (The witness stands down)

4 PRESIDING JUDGE FREMR: [13:03:46] Now brief update on timing. Mr Bourgon,
5 so far according our measuring you have used 4 hours 21 minutes, so you still have 1
6 hour 39 for Monday.

7 And as we already announced, now we will break and we will continue at 2.30 with
8 testimony of our expert witness, P-810.

9 THE COURT OFFICER: [13:04:17] All rise.

10 (Recess taken at 1.04 p.m.)

11 (Upon resuming in open session at 14.33 p.m.)

12 THE COURT USHER: All rise.

13 Please be seated.

14 PRESIDING JUDGE FREMR: [14:33:54] Good afternoon, everyone.

15 Since I see difference in composition, I will ask for update on appearances, starting
16 with Prosecution.

17 MS LUPING: [14:34:07] Good afternoon, Mr President, your Honours. Appearing
18 this afternoon on behalf of the Prosecution are myself, Dianne Luping, trial lawyer,
19 Ms Nicole Samson, senior trial lawyer, Ms Paola Sacchi, assistant legal officer and
20 Ms Selam Yirgou, case manager.

21 PRESIDING JUDGE FREMR: [14:34:25] Thank you, Ms Luping.

22 Defence now please.

23 MS YAHYA: Good afternoon, Mr President. Mr Bosco Ntaganda is present with us
24 today, as well as Maître Stéphane Bourgon, Sandrine De Sena, Maria-Kim Vasconi
25 and myself Ms Marlene Yahya. Thank you.

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1 PRESIDING JUDGE FREMR: [14:34:42] Thank you, Ms Yahya.

2 And Legal Representative of Victims to be complete.

3 MR ABDOU: [14:34:48] Good afternoon, your Honours, Mohamed Abdou for the
4 former child soldiers.

5 MR SUPRUN: [14:34:57] (Interpretation) For the victims of the attacks, no change,
6 your Honour.

7 PRESIDING JUDGE FREMR: [14:35:01] Thank you, Mr Abdou. Thank you,
8 Mr Suprun.

9 As decided this morning, we will now first start the testimony of Mr Bromley - good
10 afternoon, Mr Bromley - who is already with us in the courtroom and will testify
11 without protective measures and can therefore be referred to by name.

12 Mr Bromley, I would like to welcome you to the courtroom. And before we start
13 your testimony, we will have to address an issue raised by the parties.

14 And I will now turn to Defence. Defence, we have taken note of your objections to
15 certain of the items the Prosecution intends to use with this witness, conveyed to
16 the Chamber by email on 7 December. Normally we address such objections during
17 the testimony, but as one of the objections concerns Mr Bromley's report, we will deal
18 with this matter now.

19 The Chamber has taken note of the Prosecution's response provided by way of two
20 emails received yesterday. So now, probably Ms Yahya it will be you, do you have
21 any further submissions on this issue? And please be brief.

22 MS YAHYA: [14:36:31] Yes, your Honour, the Defence just generally maintains its
23 objection as to the final report. The Defence submits that the Prosecution has not
24 demonstrated good cause for the report only being disclosed on 17 November 2016.
25 Contrary to the Prosecution's assertions, the final report does not consist minor

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1 changes, it is two satellite images as well as GPS coordinates that require
2 investigation and time for the Defence to prepare. The Prosecution acknowledges
3 that these changes are relevant to the charges in this case and, therefore, we maintain
4 or objection towards that; as well as we submit that there was no information
5 provided by the Prosecution as to why the Defence was not informed that there was
6 a second report been prepared since 28 July 2015. The Defence was not informed of
7 this letter of instruction, and that a report was being prepared, and the Defence also
8 submits that there was no good cause explaining a delay of over a year and three
9 months to prepare this updated report.

10 Concerning the preliminary report that the Defence submitted in its second email
11 yesterday night saying that they wished to confirm that now it should be tendered,
12 the Defence submits that this should not be the case, because the Defence has been
13 preparing with the final report that has been submitted on 17 November 2016 and
14 requires additional time to adjust if there a second report submitted.

15 There are, as the Prosecution acknowledges, there are defence satellite images,
16 including some infrared versions of the satellite images, that is a topic that has come
17 up in light of the Defence's questions during the meeting with the witness yesterday.
18 We leave this in the hands of your Honours, but this is the Defence's position, we
19 maintain our position.

20 PRESIDING JUDGE FREMR: [14:38:37] Thank you, Ms Yahya.

21 Ms Luping, we do have Prosecution's response. Do you want to add anything to the
22 written response?

23 MS LUPING: [14:38:45] Yes, Mr President, your Honours, briefly. I won't repeat
24 the submissions that the Prosecution has already made by way of email with the
25 explanations as provided, but just simply to provide a supplementary explanation in

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1 response to the Defence counsel's submissions just made as to why the Defence was
2 not notified of the possibility of a new report.

3 We'd indicate that we had provided Mr Bromley with nine new obtained coordinates
4 as indicated in the email -- sorry, eight, five new, three revised. And the Prosecution
5 was simply wanting to ensure that we had confirmation as to whether there would be
6 even any satellite images available before taking the next step of determining whether
7 a further report would be needed or not.

8 The new satellite images, the confirmation of the existence of new satellite images was
9 also very recent, and the analysis that was conducted was recent. So it's both the
10 purchase of new satellite images that relate to the imagery, plus the report itself, this
11 happened recently, your Honours.

12 As I indicate or as we indicated, the Prosecution indicated in the emailed submissions,
13 we believe that there is good cause in this instance in the sense that Mr Bromley as the
14 principal analyst dealing with humanitarian and human rights monitoring for the
15 UN had clearly other urgent work over this last year. There are obviously a number
16 of crisis that have hit the headlines. There won't be any surprises to your Honours.
17 Mr Bromley is here, he can also explain the urgent work that he was required to do to
18 explain to your Honours why there was this delay.

19 However, and finally, your Honours, in terms of the prejudice to the accused, in our
20 submission there the changes that the final report reflects are not substantive in the
21 sense that the main conclusions remain essentially the same. We have what are
22 simply better quality images in the new report. We have a tidier version, if you like.
23 We have indeed a new analysis relating to one location, that is relating to a place
24 called Ngogo/Ngogo, which is approximately 1 kilometre away from Lipri. Indeed,
25 it does relate to the charges regarding destruction of property in relation to the

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1 accused.

2 However, in our submission, this one limited addition relating to simply one location
3 does not constitute a significant change or update that should cause any undue
4 prejudice. Indeed the Defence has had this updated report since 17 November, and
5 they have also had the related imagery. So in our submission there are good reasons
6 to ensure both the final report and the preliminary report should be used with this
7 witness and able to be subsequently admitted. Thank you, your Honours.

8 PRESIDING JUDGE FREMR: [14:41:49] Thank you, Ms Luping.

9 I will now silently deliberate with my colleagues in the courtroom.

10 (Trial Chamber confer)

11 PRESIDING JUDGE FREMR: [14:42:31] So after brief silent deliberation in the
12 courtroom, our ruling is following: We have to say that even earlier the Chamber
13 already deliberated based on your objections, I mean Defence objections and
14 the Prosecution response.

15 The Chamber agrees with the Defence that both the provision of the courtesy copy
16 and the official disclosure of the updated report, which is the version the Prosecution
17 intends to use and seek admission of, took place at a very late stage.

18 While the Prosecution has explained that the witness was not in a position to finalise
19 the report sooner, it has not in fact explained why the testimony was scheduled to
20 take place during this evidentiary block when the report was not even available.

21 The Chamber considers it rather problematic that the main item related to the
22 testimony of an expert witness, namely the expert report is provided to the Defence so
23 close to the testimony and strongly directs the Prosecution to better organise its
24 scheduling in this regard.

25 However, the Chamber has compared the initial report, which was disclosed to

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1 the Defence on 21 April 2015, and the updated report and has noted that, while
2 additional information is added, the scope of the additions is, according our view,
3 limited.

4 The witness' methodology and explanation of findings have remained unchanged,
5 and in the view of the Chamber the three weeks the Defence has had since the
6 provision of the courtesy copy of the updated report is sufficient to analyse the
7 updated report.

8 In assessing any potential prejudice, the Chamber has taken into account that this
9 concerns an expert report, as well as the specific content of the expert report. Noting,
10 inter alia, that no specific persons are mentioned in the report and the type of findings
11 made in the report which are of a technical nature, the Chamber finds that no undue
12 prejudice arise from the late provision of the courtesy copy, so the report may,
13 therefore, be used with the witness.

14 It concludes our oral ruling and now we can proceed to the testimony.

15 Mr Bromley, I know that it is not your first time before this Court, but still it is my
16 duty to instruct you at the beginning of your testimony. So I will start with saying
17 that this Chamber has been established to try the case of the Prosecutor against
18 Mr Bosco Ntaganda, and you are called today by the Prosecution to testify as an
19 expert to assist us in our search for the truth.

20 You will be soon asked questions both by the judges and lawyers in the courtroom, so
21 please listen carefully to those questions. If the question is not clear to you, please
22 feel free to ask for the question to be repeated or rephrased.

23 We want you to tell the truth about this main issue. We want you to only testify
24 within the sphere of your expertise. You are before us as an expert of satellite
25 imagery and will be testifying in relation to the report you submitted to the

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1 Prosecution.

2 If you do not know an answer or you feel that it does not fall, such an answer does
3 not fall within your area of professional expertise, please indicate so. Is it clear,
4 Mr Witness?

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6 THE WITNESS: [14:47:05] Yes, sir.

7 PRESIDING JUDGE FREMR: [14:47:07] So now can you please read the solemn
8 undertaking to tell the truth you have now in your hands.

9 THE WITNESS: [14:47:15] (Interpretation) I solemnly declare that I will speak the
10 truth, the whole truth and nothing but the truth.

11 PRESIDING JUDGE FREMR: [14:47:19] Thank you, Mr Bromley, which means that
12 you are now under oath and I am obliged to note that it is an offence within the
13 jurisdiction of this Court to give false testimony. Do you understand that?

14 THE WITNESS: [14:47:32] (Interpretation) Yes.

15 PRESIDING JUDGE FREMR: [14:47:34] Very well. And finally, a few practical
16 matters, but as I said I guess you are familiar with them. I understand that you will
17 be testifying in English today and most likely you will be also questioned in English,
18 but everything is also translated, simultaneously translated into French. It is,
19 therefore, important to speak clearly and to speak at a slow pace, and what is most
20 important, not to put or not to give your answer immediately but, please, it is even
21 unnatural, but to wait at least for three seconds before you give your response in
22 order to allow the interpreters to translate and also for type recorders to record your
23 testimony. And I guess that's it.

24 The last thing, if you have any question, will you also please indicate so by raising
25 your hand and we will then give you the opportunity to speak.

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1 So my final question is: Have you understood all this, Mr Bromley?

2 THE WITNESS: [14:48:56] (Interpretation) Yes.

3 PRESIDING JUDGE FREMR: [14:48:57] Fine. So now we can proceed with your
4 testimony.

5 And now I give floor to the Prosecution.

6 MS LUPING: [14:49:04] Thank you, Mr President.

7 QUESTIONED BY MS LUPING:

8 Q. [14:49:05] Good afternoon, Mr Bromley.

9 We have met before. And as you know, my name is Dianne Luping, and I will be
10 questioning you on behalf of the Prosecution this afternoon.
11 Mr Bromley, just a few questions relating to your background. Could you please state
12 your full name?

13 A. [14:49:23] Lars Eric Bromley.

14 Q. [14:49:25] And when were you born?

15 A. [14:49:27] December 23, 1974.

16 Q. [14:49:31] And where were you born?

17 A. [14:49:34] Quito, Ecuador.

18 Q. [14:49:39] And Mr Bromley, were you retained by the Office of the Prosecutor to
19 provide an expert opinion in this case?

20 A. [14:49:48] Yes.

21 Q. [14:49:48] And on the instructions of the Office of the Prosecutor you carried out
22 a satellite imagery analysis of a number of locations of interest in the form of
23 coordinates that were either provided by the International Criminal Court using
24 a global positional device in the field or by referencing maps from various sources.
25 In particular you were asked to first verify locations of coordinates, indicating

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1 settlement locations, including locating areas in the Democratic Republic of the Congo
2 using settlement names; secondly, to acquire relevant satellite images using verified
3 coordinates for locations of interest; and, thirdly, to analyse the images and to
4 document any potential destruction, burning or damage to structures.

5 Mr Bromley, have you reached an opinion based on the questions asked by
6 the Prosecution, in particular as to whether there is potential evidence based on your
7 analysis of satellite images of possible destruction, burning or damage to structures?

8 A. [14:51:04] Yes.

9 Q. [14:51:06] I will deal with that opinion shortly, but first I will turn to your
10 qualifications to testify as an expert.

11 Mr President, your Honours, the Defence has stated that it does not challenge
12 Mr Bromley's qualifications as an expert in light of his curriculum vitae. And in this
13 regard I refer you to filing ICC-01/04-02/06-826 at paragraph 32.

14 With your leave, Mr President, I ask in the interest of time to lead Mr Bromley on the
15 aspects relevant to his qualifications as an expert.

16 PRESIDING JUDGE FREMR: [14:51:44] All right. Granted.

17 MS LUPING: [14:51:45] And for the record I note that I am referring to the content
18 of Mr Bromley's curriculum vitae, found at DRC-OTP-2099-0291.

19 Mr Bromley, since July 2010, you have been working with the United Nations
20 Operational Satellite Applications Programme, otherwise known as UNOSAT for the
21 United Nations Institute for Training and Research, known as UNITAR; is that
22 correct?

23 A. [14:52:21] Correct.

24 Q. [14:52:22] And from that date, July 2010, you worked first as a consultant
25 analyst and then from October of 2010 as a geospatial analyst at UNOSAT. And

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1 since May 2012 to date, you have worked as the principal analyst and senior research
2 adviser in human rights and security at UNOSAT; is that correct?

3 A. [14:52:47] Correct. And for a time I was also tasked with responding to natural
4 disasters.

5 Q. [14:52:56] In terms of your previous positions, is it right that from 2007 to
6 July 2010, so that's immediately before working at UNOSAT, you worked as the
7 project director of geospatial technologies and human rights at the American
8 Association for the Advancement of Science?

9 A. [14:53:16] Correct.

10 Q. [14:53:18] And from --

11 PRESIDING JUDGE FREMR: [14:53:18] Ms Luping, I think the court officer has the
12 same message, because really it is a lot of dates, a lot of information, we need you to
13 a little bit slow down, please. Thank you.

14 MS LUPING: [14:53:32] Understood. The same problem as always, Mr President,
15 when I have the luxury of speaking in English to an English-speaking witness. I will
16 certainly endeavour to slow down. Apologies to the interpreters.

17 Q. [14:53:42] From January 2001 to December 2006 you worked as a senior
18 programme associate at the American Association for the Advancement of Science
19 leading the development and technical implementation of geospatial and IT projects;
20 is that correct?

21 A. [14:54:09] That's correct. Specifically within the international office at the
22 American Association for the Advancement of Science.

23 Q. [14:54:18] And similarly, from May 1997 to December 2000, you worked as
24 a programme assistant at the same association, acquiring and implementing
25 geospatial and IT solutions for programmatic research, publication and

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1 administrative needs; is that correct?

2 A. [14:54:44] Correct.

3 Q. [14:54:50] As itemised in your CV, Mr Bromley, you have worked on a number
4 of analytical projects alongside your day-to-day work with UNOSAT, including some
5 of the more particularly relevant examples of your projects from 1998 to 2000,
6 working as principal researcher and lead cartographer on the atlas on population and
7 environment?

8 A. [14:55:24] Correct.

9 Q. [14:55:25] From August to December 2007, you worked on a Darfur mapping
10 initiative with GIS Corps volunteers to map locations of reported attacks and other
11 events in Darfur?

12 A. [14:55:48] Correct.

13 Q. [14:55:52] Similarly, that same year you worked on a project called Eyes On
14 Darfur?

15 A. [14:55:59] Correct.

16 Q. [14:56:03] And did that project involve analysis of satellite imagery and
17 geospatial data?

18 A. [14:56:08] Yes.

19 Q. [14:56:11] From 2007 to 2010, you have acted as a member of the Geospatial
20 Technologies and Human Rights Organisation; is that correct?

21 A. [14:56:25] Yes. That was a project of AAAS, the American Association of the
22 Advancement of Science.

23 Q. [14:56:33] From September 2011 to March 2012, you have reviewed satellite
24 imagery analysis in relation to the UN Office of the High Commissioner of Human
25 Rights Investigations on Human Rights Violations in Libya?

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1 A. [14:56:54] Correct.

2 Q. [14:56:58] From November 2013 to the present time, you have been working on
3 Citizen Cyberlab GeoTag-X as an adviser in the analysis of photographs from
4 humanitarian crisis to develop data sets to inform planning of emergency assistance?

5 A. [14:57:24] Correct.

6 Q. [14:57:27] From April 2014, you analysed satellite imagery and geospatial data
7 to develop expert reports in the case of the Prosecutor and Ruto and Sang as well as
8 the case of Prosecutor and Kenyatta. And you testified as an expert witness in the
9 case against Mr Ruto and Mr Sang?

10 A. [14:57:56] Correct.

11 Q. [14:57:57] In terms of your qualifications, you hold a Master of Arts in
12 geography and remote sensing, which you obtained from the University of Maryland
13 College Park, which you attended from 2007 to 2009.

14 A. [14:58:24] Correct.

15 Q. [14:58:24] You have a Bachelor of Arts in international studies, environment and
16 development policy, which you obtained from the American University that you
17 attended from 1993 to 1997.

18 A. [14:58:39] Correct.

19 Q. [14:58:41] Amongst your various areas of expertise, you have an expertise in
20 remote sensing, in geographic information systems, also known as GIS, in geomatics,
21 spatial analysis, in the use of ArcMap, in geospatial data, in cartography and in
22 environmental science; is that correct?

23 A. [14:59:19] Correct.

24 Q. [14:59:22] You have published a number of relevant academic publications,
25 including on 17 May 2010 an article in the International Journal of Remote Sensing

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1 entitled "Relating Violence to MODIS," that is spelt M-O-D-I-S, "Fire Detections in
2 Darfur, Sudan," end of quote.

3 In 2009, an article entitled "Eye in the Sky: Monitoring Human Rights Abuses Using
4 Geospatial Technology."

5 And in 2007 an article entitled "Towards a Human Rights Observing System;" is that
6 correct?

7 A. [15:00:23] Correct.

8 Q. [15:00:31] And in your CV, Mr Bromley, it is explained that you are the principal
9 analyst at UNOSAT responsible for the analysis of satellite imagery and geospatial
10 data. For the Judges, would you please be able to explain what is an analyst in
11 satellite imagery and geospatial data, as briefly as possible. Thank you.

12 A. [15:00:59] Certainly. What we do at UNOSAT is we are essentially an on-call
13 satellite imagery analysis centre available to the UN system and other organisations.

14 We generally receive requests from UN partners to understand issues that are going
15 on in certain parts of the world which may be inaccessible or too dangerous to visit.

16 This could include populations of displaced persons or areas of combat or refugee
17 camps or similar issues where we essentially locate the event in question or the town
18 or city in question.

19 We acquire satellite imagery once we know what is available and we develop
20 analytical products in response to the requests that we receive. So we are very often
21 verifying reports of destruction, verifying reports of displacement, verifying the
22 existence of remote displaced populations, to more esoteric things, like understanding
23 changes in agricultural production, understanding the potential for flood risk for
24 refugee camps and a variety of related issues.

25 Q. [15:02:37] Mr Bromley, if I could ask you and the parties and the Chamber to

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1 turn to tab 4 of your binders. I refer to your curriculum vitae. I have already stated
2 the ERN, referring again to 2099-0291.

3 Do you have your CV in front of you, Mr Bromley, tab 4?

4 A. [15:03:05] Yes.

5 Q. [15:03:08] And briefly looking at that, is that the curriculum vitae that you
6 provided to the Office of the Prosecutor.

7 A. [15:03:28] Yes.

8 Q. [15:03:31] And does it accurately reflect your educational and professional
9 experience to date?

10 A. [15:03:40] Yes.

11 Q. [15:03:41] Is there any correction that you wish to make?

12 A. [15:03:46] No.

13 MS LUPING: [15:03:51] Mr President, your Honours, the Prosecution ask that
14 Mr Bromley's curriculum vitae be admitted as evidence at this point.

15 PRESIDING JUDGE FREMR: [15:04:01] Ms Yahya, any objections?

16 MS YAHYA: No objections.

17 PRESIDING JUDGE FREMR: [15:04:04] So the CV specified by Ms Luping is
18 admitted into evidence as a further Prosecution exhibit.

19 MS LUPING: [15:04:16] Mr President, your Honours, as stated before, the Defence
20 has not challenged Mr Bromley's status or qualifications as an expert. And with
21 your leave I would now like to seek to tender Mr Bromley as an expert witness and
22 question him as such.

23 PRESIDING JUDGE FREMR: [15:04:31] Just to confirm, Ms Yahya, no objections to
24 that?

25 MS YAHYA: That's correct.

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- 1 PRESIDING JUDGE FREMR: [15:04:35] So now this request is granted.
- 2 MS LUPING: [15:04:39] Thank you, Mr President.
- 3 Q. [15:04:41] Mr Bromley, could I ask you please to turn to tab 2 in your binder.
- 4 And I refer the parties and the participants and the Chamber to DRC-OTP-2099-0216.
- 5 And I refer in particular -- do you have it in front of you, Mr Bromley?
- 6 A. [15:05:12] Yes.
- 7 Q. [15:05:15] I would ask that you first turn to pages 0216 to 0224 and ask if you can
- 8 confirm that those are the letter of instruction that the Prosecution provided to you on
- 9 18 October 2013?
- 10 A. [15:05:34] Yes.
- 11 Q. [15:05:35] And I ask you now to turn to pages 0225 to 0229. Were these the
- 12 updated instructions provided to you on 18 November 2014?
- 13 A. [15:05:52] Yes.
- 14 Q. [15:05:55] And looking at pages 0230 to 0247, were these the instructions
- 15 provided with updated again for all of these updated coordinates provided on
- 16 24 March 2015?
- 17 A. [15:06:11] Yes.
- 18 Q. [15:06:12] And on 15 April 2015, were these the instructions provided to you
- 19 that you find at page 0248 to 0265.
- 20 A. [15:06:29] Yes.
- 21 Q. [15:06:30] And finally, if you turn to pages 0266 to 0283, are these the final -- is
- 22 this the final letter of instruction and updated coordinates provided to you on
- 23 28 July 2015?
- 24 A. [15:06:56] Yes.
- 25 Q. [15:06:57] And all of these letters of instruction and the updated, various

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1 updated tables of geocoordinates, do you confirm that you received these and these
2 provided the basis for the preparation of your expert reports?

3 A. [15:07:11] Yes.

4 MS LUPING: [15:07:17] Mr President, your Honours, just to clarify that procedurally
5 what I propose to do is ask the questions relating to various documents and seek
6 admission at the end once I have conducted my questioning.

7 PRESIDING JUDGE FREMR: [15:07:30] Fine with the Chamber.

8 MS LUPING: [15:07:32] So Mr Witness, I'm going to now turn -- sorry, Mr Witness,
9 Mr Bromley, I now turn to your respective expert reports. I will be asking you
10 questions in relation to both the preliminary report and the final report. I first ask
11 you to turn to tab 5 of your preliminary report which is dated 17 April 2015, and I
12 note for the record DRC-OTP-2084-0443. I also refer you to tab 1 of your binder,
13 a final report dated 14 November 2016; again the ERN for the record,
14 DRC-OTP-2099-0166.

15 Mr Bromley, have you had a chance to see both these reports in your binder?

16 A. [15:08:40] Yes.

17 Q. [15:08:41] And can you please confirm who wrote these two reports?

18 A. [15:08:46] I wrote both reports.

19 Q. [15:08:50] Now, in relation to both these reports I will be asking you if you have
20 any clarifications or corrections but before I do, I just wanted to briefly cover three
21 topics that you dealt with in some detail in both the reports: Firstly, the verification
22 process for the verification of geocoordinates, secondly, I will have questions related
23 to the acquisition of satellite images and, finally, some questions regarding the
24 methodology for the actual analysis of those images.

25 Starting first, Mr Bromley, with the issue of the verification process for the

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1 geocoordinates, I am going to refer here to pages 1 to 5 of the final report, this is just
2 for the record, pages 1 to 2, and pages 8 to 10 of the preliminary report.
3 Now, you have already confirmed that for the purposes of both of these reports, that
4 you were asked to verify geocoordinates used to obtain satellite imagery. My first
5 question, Mr Bromley, is can you explain where, from where you obtained the
6 geocoordinates for specific locations of interest that you used for your analysis,
7 imagery analysis?

8 A. [15:10:18] So some of the coordinates were taken directly from the document
9 sent to me by the ICC. Within that document I was asked to essentially verify some
10 of the locations, which is very, very common in our work. We are very often trying
11 to locate remote areas in remote towns. So I used, for this project, I used two
12 different publicly available data sets. The first is the GEONet Names Server, GNS,
13 which comes from the US government; the second one is called RGC, which comes
14 from the DR Congo government.

15 Q. [15:11:05] And to clarify, the RGC, is that the référentiel géographique commun?

16 A. [15:11:15] Correct.

17 Q. [15:11:15] But just going back to my initial question as to where you obtained
18 the geocoordinates from, you explained that you received them from the ICC. First,
19 in terms of geocoordinates that were obtained from the field, do you know in general
20 terms what type of equipment was used and how coordinates were obtained?

21 A. [15:11:38] I know some of them were collected with a hand-held GPS unit out in
22 the field.

23 Q. [15:11:49] And could you explain to the Judges to what extent there can be
24 certainly inaccuracies that can impact on positional accuracy, first of all?

25 A. [15:12:02] Certainly. With any GPS unit, it basically is an antenna receiving

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1 a signal from a set of satellites in orbit. Depending on the size of the unit, the
2 antenna might be relatively large or relatively small. Smaller antennas might need
3 a little bit more time to effectively collect the signals from the satellites. A larger unit,
4 for example, one worn as a backpack where the antenna sticks above the user's head,
5 will need a little bit less time and be, be more accurate. In addition, things like tree
6 canopy or tall buildings or issues like that can essentially either block the signals or
7 cause them to bounce around a little bit. Generally, the GPS units don't report
8 a location until they have it verified. However, each type of unit will have a certain
9 what we call circular error so, if you have a three metre circular error, then you can
10 picture a circle extending around you for 3 metres in all directions, which is the
11 potential variation in your actual location versus the coordinates that you receive.

12 Q. [15:13:32] And just to clarify that response, when you say that there could, for
13 example, be a circular error of three metres, do you mean that this can be the degree
14 of inaccuracy in the system?

15 A. [15:13:48] Yes, it will vary from unit to unit and then, depending on the
16 environmental conditions, but I would say three to five metres is a normal error
17 margin.

18 Q. [15:14:01] And when, just again we are talking about this first step, the
19 verification of geocoordinates, in the course of this process, is there something that is
20 able to be done by the analyst to take into account this slight degree of error? You
21 gave an example of 3 metres. What process, if any, can be used to take that into
22 account?

23 A. [15:14:25] Within, within the software you would -- you would locate the point
24 and you would project a circle around it of 3 metres, essentially, to understand where,
25 where the user may have been standing when the coordinate was collected. If

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1 you are then comparing it to a satellite image you can essentially do processes that we
2 call orthorectification to refine the position of the satellite image to minimum
3 Miss The error of the GPS versus the potential error of the satellite image.

4 Q. [15:15:07] And again, just in layperson's terms, could you explain to us what
5 orthorectification means?

6 A. [15:15:15] So any satellite images collected from a satellite in orbit, it is moving
7 at a relatively high speed, it is imaging an area of the ground. The ground itself has
8 certain terrain characteristics, maybe it is a mountainside or a, a long slope extending
9 upwards away from the satellite or some other factor.

10 Through a lot of calculus - spherical trigonometry, to be precise - which is built into
11 the software that we use, generally, you can remove the inconsistencies that occur
12 when you are collecting a flat image of a round surface with significant terrain
13 distortion and essentially bring that image closer to where it should actually be on the
14 surface of the earth. It is a standard process. There are standard modules within
15 the software that we use that do this.

16 Q. [15:16:27] And again, just to understand this process of orthorectification, does
17 that involve any kind of distortion or change to the image?

18 A. [15:16:39] It doesn't change what we are interested in in this case. The
19 appearance of the image when we are looking for structures or roads or things like
20 that is not going to be fundamentally altered. It will be moved in space by a distance
21 of maybe 10 or 20 metres or more. It is a particular issue on this project because the
22 satellites that we use at this time between 2002 and 2003, these were relatively new,
23 new technologies at the time. So we used two different satellites, and each different
24 satellite had its own orthorectification characteristics. So in order to bring those
25 images closer together on your screen, you apply an orthorectification process.

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1 Q. [15:17:43] I will be later on asking you about the satellites but just for now
2 remaining with the topic of verification. Can you clarify who did the process of
3 verification of the geocoordinates of the location of interest for the two reports that
4 you wrote?

5 A. [15:18:01] Myself.

6 Q. [15:18:04] And you have explained, for example, that you used two different
7 databases, you have mentioned the GNS and the RGC. Just to understand a little bit
8 more about these two databases, starting first with the US government database, the
9 GNS, can you explain what it is usually used for, what its purposes are?

10 A. [15:18:28] It comes -- it is produced by a US defence department organisation
11 called the National Geospatial Intelligence Agency. It is made publicly available for
12 any type of geospatial cartography mapping sort of application.

13 It includes probably millions of points for the entire world. For this project I used it,
14 obviously, for DR Congo, and so it includes town names, whether large or small, and
15 then a lot of environmental factors. Anything with a name, basically, any named
16 hilltop, a crossroads, anything like that should be included in the database.

17 Obviously, with very rural areas or areas that change a lot, it is not going to have
18 everything in there. However, it is one of the best publicly available data sets that
19 we would have access to for something like this.

20 Q. [15:19:42] And do you know roughly how many users there are? You may not
21 know the answer to that.

22 A. [15:19:48] No, that's not something I would know.

23 Q. [15:19:50] And turning now to the RGC database that you mentioned, it is the
24 DRC government and other partners. Could you explain what the purpose of that
25 database is?

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1 A. [15:20:03] For a developing country like DR Congo, developing these sorts of
2 datasets is a common initial or early step in developing what we would call
3 a nationwide cadastral dataset, a dataset explaining where everything is in
4 a particular country.
5 For developed countries like the US or Netherlands, every town has specific
6 boundaries. Every, you know, street has a particular position within this dataset. It
7 is all very, very recorded.

8 The RGC dataset, as far as I recall, includes primarily town, town names, whether
9 large or small. It was developed out of a collaboration between the government and
10 then a lot of environmental NGOs and then commercial organisations like mining and
11 forestry corporations contributed as well.

12 Q. [15:21:09] And you have mentioned the names. Obviously, there were specific
13 names, locations of interest that were provided to you alongside with various GO
14 coordinates. How did you take into account, if at all, any differences in spelling of
15 place names? Could you explain what that procedure is?

16 A. [15:21:34] Yes, this is a very common issue that we deal with in my office and in,
17 in previous work, when we are looking at relatively remote, unmapped or
18 undocumented areas.

19 If there is different languages or ethnic groups in use, a single town might have
20 multiple names, for example. The spelling of the names of the town or the location is
21 also not standardised very often. And so you can imagine if someone is, is
22 communicating the location of a town over a sat phone or a radio link to somebody
23 far away who comes from another country, the spelling that they give may be garbled
24 in transmission, it may be their best approximation, but essentially there is no single
25 standard spelling like you would find in developed countries with, you know,

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1 a nationwide geospatial database.

2 Q. [15:22:44] Now, turning to the actual verification results, if I could ask if you
3 could turn to, it's at tab -- this is tab 1 for the first report, if you could turn to pages 3
4 to 4, table 1, which states location verification results, and the equivalent information,
5 just for the record, is also found in the preliminary report at table 2, at pages 9 to 10.
6 Do you have that table in front of you, Mr Bromley?

7 A. [15:23:18] Yes.

8 Q. [15:23:21] I am just going to refer to some of the conclusions or results that you
9 have here so perhaps you can explain what some of the standard results are. You
10 have "unable to locate," which appears straightforward. You have "location
11 confirmed in GNS and RGC," "location unconfirmed." Could you explain what you
12 mean by location unconfirmed in this part of your report?

13 A. [15:23:51] So when we are given the name of a location, what I then do is I
14 search those two databases to see if that, that same location appears at roughly the
15 same location. And to get past the differences in spelling, you will see a reference to
16 the Levenshtein approximation algorithm, which is a relatively ancient computing
17 tool. If you use a spell checker in a word processor, you are also using that tool.
18 My standard example is the words "cat" and "hat" have one letter difference between
19 them, so that is a Levenshtein score of one. So you are basically looking for locations
20 spelled in a similar fashion, meaning they would have a Levenshtein score of one or
21 maybe two as the coordinates that we were given by the ICC.

22 So, when we confirm a location in RGC and GNS, that essentially means we find the
23 location at the same location in those datasets as we were given by the ICC with the
24 same or very similar spelling.

25 Q. [15:25:11] And the reference in your report, your results to "location

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1 unconfirmed," could you just clarify what that would mean?

2 A. [15:25:19] So that would mean we received the coordinates from the ICC but we
3 found no corresponding entry in the GNS and the RGC.

4 Q. [15:25:34] And to clarify, if you had a result that was not confirmed in those two
5 databases, were you still able to use those coordinates for the purposes of your
6 reports and the satellite imagery analysis?

7 A. [15:25:49] Yes, if the ICC coordinates included -- if the ICC location included the
8 coordinates, we used them as they were.

9 Q. [15:25:58] And there is also language in terms of results of possible matches and
10 then you have, for example, in relation to Gutsi, you have a possible match and then
11 you have specific coordinates that are set out there. This is still at page 3. Would
12 you be able to explain what was meant here in terms of a possible match?

13 A. [15:26:21] So that would have been a location with a spelling similar to what we
14 were given by ICC occurring within kind of the general administrative region that the
15 rest of the coordinates occurred in. And as far as I recall, we then transmitted it back
16 to ICC in the report, the preliminary report, to indicate, hey, this might be the location
17 in question.

18 Q. [15:26:56] And when you had a possible match, did you use those results in
19 your analysis and acquisition of images or not?

20 A. [15:27:05] As far as I can see, we did not and I -- I would have to go back on my
21 notes to see what our discussion was about those possible matches, but essentially we
22 excluded them and moved on with the more certain locations.

23 Q. [15:27:19] And in terms of the coordinates that you received, could you explain
24 what those coordinates related to? And what I mean is, for example, was it a centre
25 point for a location of interest? Was it a general area? Was it both? If you could

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1 just clarify what those coordinates related to.

2 A. [15:27:37] So, a coordinate by definition is a single point, so these were single
3 points describing the location of towns. It is important to remember that it is a single
4 point simply because in some areas like perhaps Bunia, it is a nice, you know,
5 consolidated city. If you looked at it on a map, it is essentially a round city and the
6 point for that city fell right in the middle of it. However, it exists, you know, it
7 crossed at least a few kilometres of space so a single point is just basically, you know,
8 capturing the location but not the extent of the city.

9 Other towns, the point might essentially describe an area of dispersed settlements,
10 a relatively rural area, so it is an approximate location for a relatively distributed
11 settlement. The last thing is, the points within GNS and RGC, we don't usually
12 know how they were collected. You can imagine, you know, perhaps someone
13 drove there in a vehicle and stopped at one edge of the town and took the point.
14 Perhaps they were able to drive into the centre of town and collect the point. Some
15 of them may also simply be collected as an aircraft flew overhead. So there is some
16 variation about where this point would be in relation to each town.

17 Q. [15:29:23] And just finally on the topic of verification, can you confirm,
18 Mr Bromley, that the various conclusions that you made in your report relating to
19 location verification are as set out in table 1 and at pages 3 to 4 of the final report and
20 pages 9 to 10 of the preliminary report?

21 A. [15:29:49] Yes, those were the conclusions that were used.

22 Q. [15:29:53] So turning now to the second topic that I wanted to cover with you,
23 which is the acquisition of the satellite images, and just for the record I just want to
24 refer to pages 5 to 10 of the final report, pages 2 to 7 of the preliminary report and
25 appendix B, which is entitled "Satellite Imagery Available for ICC Areas of Interest in

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1 the DRC," ERN DRC-OTP-2099-0284.

2 My first question, Mr Bromley, relating to the acquisition of satellite images, is who
3 did you acquire the satellite images from?

4 A. [15:30:38] So we actually purchased the satellite imagery from two different
5 companies. There is two listed in the final report and one listed in the preliminary
6 report, simply because our vendors expanded over those years. So the vendors were
7 European Space Imaging and then a Norwegian company called Kongsberg Satellite
8 Applications Systems, I think. The original imagery was collected by two US
9 companies, one called Digital Globe, which operated the QuickBird satellite, and the
10 second company at the time of the image acquisition was called Space Imaging.
11 They operated the IKONOS satellite space imaging, later became GOI, GOI was
12 later bought by DigitalGlobe. So at the time of us purchasing the imagery, we
13 purchased everything from the original DigitalGlobe through the two vendors EUSI
14 and KSAT.

15 Q. [15:31:52] Could you explain just in terms of trying to acquire relevant satellite
16 images, how available satellite imagery is for any given location? What are the
17 factors that come into play when you assess whether satellite images are actually
18 going to be available or not?

19 A. [15:32:12] So the two satellites that we used, the IKONOS satellite and the
20 QuickBird satellite, had been operating, I think I have it since, since about 2000 and
21 2002. From their start of operation, their collecting imagery, both based on client
22 orders, so anyone in this room can essentially order a satellite image to be collected
23 through these companies. The companies themselves are also essentially doing what
24 you can think of as strategic image gathering, so if someone is not ordering an image
25 to be collected over a certain area, these companies are gathering imagery on their

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1 own.

2 Q. [15:33:07] Mr Bromley, sorry to interrupt you, my question is just slightly
3 different. Perhaps it is possibly even more basic than it comes across. But just to
4 put it in even simpler terms, will there always be a satellite image every day in any
5 location? And if you could explain what the issues are with available availability.

6 A. [15:33:33] No, it is going to be relatively haphazard, especially in an area like the
7 one that concerns this case.

8 For high value economic areas like something like New York City or The Hague or
9 something, you will see a lot of imagery acquired from the start of the satellite's
10 operation.

11 For rural areas like Eastern DR Congo, it is really going to be a much more haphazard
12 set of imagery collected. So if you have a certain location, you can search for
13 imagery for that location and you may find one image back in the years that we are
14 interested in, you may find two images, or you may find zero. Again, it is going to
15 go back to what the companies were actually doing at that time, what their priorities
16 and clients were will dictate essentially where they're collecting imagery. Now we
17 are talking about the high resolution imagery which is useful for this analysis where
18 we can actually see houses and vehicles and stuff like that. There are, of course,
19 weather satellites and other satellites which are gathering imagery for the entire
20 world all the time. However, those satellites don't provide the level of detail where
21 you are going to see things like individual houses or roads or cars.

22 Q. [15:35:05] And I am going to just refer to your report where you summarise the
23 various images that you were able to find available. I refer you first to pages 6
24 through to 10 of your final report, and in particular, the results set out at table 2, and
25 similarly at pages 4 to 7 of the preliminary report. Could you confirm whether the

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1 results set out here reflect the metadata of those satellite images that you were able to
2 obtain with the indication of locations of interest?

3 A. [15:35:51] Yes.

4 Q. [15:35:53] And can you briefly explain, just in terms of the dates of these images,
5 how are the dates recorded? If you could just explain how are the dates recorded for
6 each of the images that are acquired.

7 A. [15:36:10] Every time a satellite image is acquired, it is -- it is not just
8 a photograph of the ground. It is basically a fairly advanced data product. So you
9 have the image itself, which is the image of the ground that you'll see in many of the
10 figures in my report. At the same time, it is basically timestamping the image
11 acquisition, literally down to the picosecond. Reference to Greenwich Mean Time or
12 Zulu Time, as it is called in the industry. Then it is collecting, it is also recording
13 a lot of other information at the same time: The satellite position, the sun position,
14 a whole mass of additional information which most of us don't ever need to get into.
15 But the image itself is, is timestamped at the moment of acquisition.

16 Q. [15:37:16] And just in terms of the satellite images that you obtained we have the
17 metadata referred to in your reports. Now just to confirm for the record, can you
18 confirm, Mr Bromley, because you have had a chance now to look at the satellite
19 images that you provided that we have then shown to you by way of DVD, that the
20 initial is 25 satellite images that we disclosed to the Defence on 1 November 2013 that
21 are linked to three ERNs, DRC-OTP-2059-0204, 2059-0206, and 2059-0207.

22 Are you able to confirm that those 2013 images are the ones that is correlate to these
23 three evidentiary numbers?

24 A. [15:38:16] Yes, I reviewed those and they are, they are the images that I provided.
25 You will notice the ERN numbers are in my report and, yes, the ERN numbers in the

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1 report are different than the ones that are, that I reviewed here.

2 Q. [15:38:34] And there were five satellite images disclosed on 17 April 2015 that
3 are linked to, if you like, an image holder because the -- just for the information of the
4 judges, the images themselves were not able to be uploaded into Ringtail or eCourt
5 because they were simply too large, so I am just noting for the record, if you like, the
6 placeholder ERNs, DRC-OTP-2084-0146.

7 Mr Bromley, can you confirm that you also reviewed those five images on DVD as
8 well?

9 A. [15:39:11] Yes.

10 Q. [15:39:13] And finally two satellite images that are linked to 2097-0561 disclosed
11 on 2 December 2016. Did you also view those last two images?

12 A. [15:39:32] Yes.

13 Q. [15:39:33] And can you confirm that all of these images on the DVDs as shown
14 to you before you came to testify, are those the satellite images that were acquired by
15 you and provided to the Office of the Prosecutor?

16 A. [15:39:48] Yes, definitely.

17 Q. And do you agree to their admission as evidence in this case?

18 A. Yes.

19 PRESIDING JUDGE FREMR: [15:39:53] Ms Luping.

20 MS LUPING: [15:39:57] Apologies again to the transcribers and to the interpreters.

21 Mr President, your Honours, I would at this stage seek to have the original satellite
22 images admitted.

23 PRESIDING JUDGE FREMR: Defence.

24 MS YAHYA: [15:40:13] Your Honour, just for clarification, are those the five CDs
25 that the Prosecution wishes to admit?

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1 MS LUPING: [15:40:28] I believe they were five. I apologise if I don't have the right
2 number, but the ERNs that I stated are the ones, yes.

3 MS YAHYA: [15:40:36] No objections.

4 PRESIDING JUDGE FREMR: [15:40:39] All right. So those documents or CDs
5 mentioned, ERN mentioned by Ms Luping are admitted into evidence as a further
6 Prosecution exhibit.

7 MS LUPING: [15:40:57] Thank you, Mr President.

8 Now the final topic, I do obviously have a number of other supplementary questions,
9 but the final topic that I wanted to cover with you, which is dealt with in great detail
10 obviously in your report, is the actual analysis of the satellite imagery itself.

11 And for the record I want to refer to pages 10 to 17 of the final report found at tab 1,
12 pages 11 to 14 of the preliminary report found at tab 5.

13 Mr Bromley, do you have the relevant analysis section of the final report in front of
14 you, that's from page 10?

15 A. [15:41:40] Yes.

16 Q. [15:41:41] My first question is who analysed the satellite imagery contained in
17 the reports?

18 A. [15:41:49] It was primarily myself. I had a colleague at UNOSAT do some
19 preliminary reviews of the imagery, but that was quite a long time ago at this point.

20 Q. [15:41:58] And this colleague from UNOSAT who also assisted at the
21 preliminary stage, could you confirm who supervised or oversaw the work of that
22 colleague?

23 A. [15:42:10] That was myself.

24 Q. [15:42:13] And before I ask you to explain the procedure that is used for the
25 actual analysis itself, can you explain what can impact on the quality of the satellite

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1 images themselves, what are the types of problems in terms of the quality?

2 A. [15:42:32] So each satellite has a, what we call a maximum resolution of what it
3 can image. So the QuickBird satellite, for example, is roughly imaging things 70
4 centimetres across. That describes how it will image the ground if it is directly
5 overhead.

6 The satellite itself can essentially swivel a little bit and look off to the side, so the more
7 it looks off to the side the more the image quality will be degraded. In addition,
8 there is of course cloud cover. Especially in an area like DR Congo, clouds are
9 pervasive, clouds will generally block out an area. If they are, you know, large white
10 fluffy clouds they are going to completely block an area. Sometimes you can see
11 through the hazy clouds and see what is on the ground, but the haze is certainly
12 going to degrade image quality as well.

13 Finally, there is other factors like a ground level mist or a fog which may not be very
14 apparent, but you will just notice that the image that you are looking at is lower
15 quality than what you are used to. There is one other type of clouds, the very high
16 atmospheric cirrus clouds which are essentially a, kind of a thin cloud high in the
17 atmosphere, they can also degrade the image quality.

18 Before you order an image you can look at a low quality sample of that image to
19 understand where the cloud cover is and try and minimise your purchase of clouds,
20 basically.

21 Q. [15:44:30] And just to clarify, after you received the geocoordinates with
22 locations of interest from the Office of the Prosecutor, were there any locations where
23 there was corresponding satellite imagery but that could not be purchased due to
24 these problems that you have described?

25 A. [15:44:51] Yes. I can't say off the top of my head, but there were several

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1 locations where the imagery was just a hundred per cent cloudy over the location of
2 interest. And then there is really no point in buying the image because you are just
3 buying a pure white image, basically.

4 Q. [15:45:08] So could you briefly explain what is the analytical procedure. When
5 you have your satellite image, what's the procedure that you use to then look to
6 document or identify potential structures or potential destruction or damage?

7 A. [15:45:29] Is this where I should put it up on screen or?

8 Q. [15:45:35] I think not?

9 A. Okay.

10 Q. I think if you just first describe in basic terms what the process is.
11 Just for your Honours information, the witness has prepared a visual presentation for
12 you, but at this stage I just wanted to get the explanation of the basic procedure?

13 A. [15:45:53] It's, once you acquire the imagery, it's relatively straightforward. If
14 you have two images collected before and after the event in question, you are
15 generally zooming into an image to a level where you can see the details like small
16 houses, small paths and roads and things like that.

17 And then you are simply comparing the two images together. You want the image
18 before the event and then the image after the event and you are then documenting the
19 changes in structures that you see between those two images if you see them. So if
20 you see a house in the image collected before an event and the house is not there in
21 the image after the event, you can be very certain that the house has basically
22 disappeared and then you are marking that with a coordinate point that is stored in
23 a database.

24 In locations where you only have one image collected after the event, which was
25 common in this analysis, you are then looking for characteristics in the imagery where

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1 you would expect to see structures but you don't see structures. So as you analyse
2 an area the analyst does gain some familiarity with how the geography is, where
3 houses are positioned next to roads or next to paths, what a homestead might look
4 like with multiple structures, and then you are identifying those locations where, in
5 essence, you think there should be those structures but you are not seeing them.

6 Obviously, when you use the two images, the before and the after, the results are, are
7 much more certain than when you use the one image collected after.

8 With the one image after, you will see in the report that it says it's is a speculative
9 method. Within the speculation there are some areas which are more certain and
10 some areas which are less certain, but I didn't have time to document that range in the
11 report.

12 Q. [15:48:15] And just in terms of the language that is used by satellite imagery
13 analysis, you talked about degrees of certainty, what is the normal language that you
14 would use?

15 A. [15:48:28] There is a whole, or a small kind of vocabulary which we as image
16 analysts are known to use. We are always cognisant of the fact that we are not there
17 on the ground, we are looking at a remote view of the area, we are not seeing all the
18 details that you would see if you were standing there on the ground.

19 So if I'm doing an analysis in an area and I locate a hundred structures which I think
20 are destroyed, you will see me use words like "possible" or "likely" and that, at a basic
21 level, just reflects the fact that I was not there when whatever happened on the
22 ground happened. I cannot, you know, say for certain that a destructive event took
23 place versus some sort of, you know, town redevelopment project, for example.

24 In addition, if I find a hundred structures that had been destroyed in the imagery, if
25 we were able to go back in time and actually visit that location, you are certainly

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1 going to find, you know, five or 10 per cent of those structures where I was wrong.

2 Perhaps a tree branch blew over the house at the time of image acquisition. So over
3 wide areas words like "possible" and "likely" are essentially used to, you know, build
4 in that error margin that is just basically an artefact of the fact that we are using
5 satellite imagery versus actually standing there on the ground witnessing in full, full
6 detail what is going on.

7 Q. [15:50:21] You use the term "speculative", is that a term that is ordinarily used
8 by satellite imagery analysts?

9 A. [15:50:30] Yes, I think if you are using a single image to look at an area and the
10 image is collected after the event in question, the main problem there is I cannot say
11 that structures disappeared if I do not know that there were structures there to begin
12 with.

13 Now sometimes we are seeing the remains of structures, you are seeing burned,
14 charred, you know, structural remains and I would still use the word speculative
15 there simply because I do not know what that location looked like. However, the
16 burned charred remains, to me, are something that are, you know, more certain than
17 other areas where I am seeing a cleared area which looks like it should have houses in
18 it along a road but I see no houses.

19 Q. [15:51:27] And in terms of the various conclusions that you reached in terms of
20 the satellite imagery analysis, just for the record I refer to table 3, entitled
21 "Summarised Image Analysis Results".

22 And, Mr Bromley, if you could turn to pages 14 to 17 at tab 1 of your final report, and
23 pages 11 to 14, which is at tab 5 of your preliminary report. I also refer to maps 3 to
24 7 at pages 18 to 22 of your final report, the various figures with the analysis set out
25 there, figures 1 to 26 at pages 11 and 12 and pages 22 to 46 of the final report.

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1 Figures 1 to 25 at pages 15 to 38 of the preliminary report, and the final conclusions as
2 set out at page 47 of the final report and page 39 of the preliminary report.

3 My question is this, Mr Bromley: These various sections that I have just indicated,
4 are these the parts of your reports that dealt with the actual analysis and conclusions
5 of the data analysis?

6 A. [15:53:10] Yes.

7 Q. [15:53:14] Now I will be shortly asking you to show the Chamber the first visual
8 presentation, but before you do, could you explain to their Honours what type or
9 what is the software package or tool that you use for your review of the satellite
10 imagery, what is it called?

11 A. [15:53:39] So the general family of the software is called Geographic Information
12 Systems. The specific type that I used is called ArcMap.

13 Q. [15:53:51] And before you provide the Chamber with your presentation, can you
14 just confirm who used the ArcMap GIS then for the analysis that was done for your
15 reports?

16 A. [15:54:04] That was all myself and, again, a colleague had done some initial
17 work under my supervision.

18 Q. [15:54:11] And what were the number of reviews that were undertaken of the
19 work that was done?

20 A. [15:54:18] For each image it was definitely gone through, each image was
21 analysed at least twice and I mean some of them at least half a dozen, maybe more
22 times after that. By the time it made it into this report, the final report, each image or
23 pair of images had been gone through multiple times.

24 Q. [15:54:44] At this point, Mr Bromley, I would ask if you could please show to the
25 parties, participants and -- sorry, I should first of all ask the leave of the

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1 Presiding Judge and their Honours.

2 MS LUPING: Mr President, with your leave I would ask that the expert witness be
3 granted the possibility of using his own laptop to provide visual presentations simply
4 from his -- from where he is sitting, simply because the resolution of these images are
5 of much higher quality if we provide or display the imagery in that way rather than
6 simply the hard copy documents that you all have in front of you?

7 PRESIDING JUDGE FREMR: [15:55:29] Defence, any objection?

8 MS YAHYA: [15:55:33] Is it my understanding that they will be the similar
9 document as in the reports?

10 MS LUPING: [15:55:42] In terms of the ArcMap GIS presentation, that is not in the
11 report because that is showing how the tool works and that was not visually seen in
12 the report. I can confirm, however, and that was the reason why the PDF of the
13 presentation was sent to all the parties and the Chamber in advance before the
14 witness's testimony began, that the actual images, once the demonstration is -- has
15 been done in terms of how the ArcMap GIS tool is used and zooms into the double
16 satellite image analysis is all based on what is already in the reports and with the
17 parties.

18 MS YAHYA: [15:56:22] Then there is no objection.

19 PRESIDING JUDGE FREMR: [15:56:24] And question to court officer: Technically,
20 we don't see any problem with that?

21 THE COURT OFFICER: [15:56:32] Normally everything is set up to allow the
22 witness to present. I am just going to clarify that the images are going to be
23 displayed on evidence channel 2.

24 PRESIDING JUDGE FREMR: [15:56:43] All right. The request is granted.

25 Mr Suprun.

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1 MR SUPRUN: [15:56:48] (Interpretation) Mr President, just for the record we did
2 not receive the PowerPoint presentation and we are not able to see it from here, by the
3 way. Thank you.

4 PRESIDING JUDGE FREMR: [15:57:01] Court usher.

5 MS LUPING: [15:57:02] Mr President, just to clarify to the Legal Representative,
6 Mr Suprun, that indeed the images will be seen on everybody's screen. What we do
7 have -- simply, actually, that is for the sake of your Honours so that you have also the
8 highest resolution possible for the images, that you have the big screen in addition to
9 your individual -- everybody having the individual screen, including the accused and
10 parties and participants in the courtroom will all be able to see the images. My
11 apologies to Mr Suprun, indeed there was an oversight. The participants should also
12 have received in advance the actual PDF copy. But I understand the Chamber, the
13 Defence and the court officer will have received it.

14 PRESIDING JUDGE FREMR: [15:57:51] All right. So I think the concern of Mr
15 Suprun have been satisfied. Now the request is granted.

16 MS LUPING: [15:57:54] Thank you, Mr President.

17 Q. So, Mr Bromley, if you could, now that you've been granted leave, if you could
18 start with your presentation of the ArcMap GIS analysis just to give an example of
19 how this is conducted.

20 A. [15:58:07] Certainly. So what you should see before you is -- and on the screen
21 here is ArcMap. This is a Geographic Information System. You can go get a PhD in
22 using one of these if you want to. They are very, very common software systems
23 used in many, many sectors for very many purposes. Any defence related sector
24 will use such software, commercial sectors, et cetera, et cetera. So there are certainly
25 thousands and thousands, if not tens of thousands of people around the world that

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1 essentially use either this software or a similar software package pretty much every
2 day.

3 So what you're seeing on the screen is obviously a map of the world. Now, I just
4 wanted to start by saying you may look at this and you see a map, when you get into
5 GIS work you go from seeing a basic map to seeing a dataset.

6 So you can see over on the left-hand side of the screen are what's called layers. One
7 of these is global borders, which I can essentially turn on and off. This is an example
8 of a dataset, it happens to be one that we all recognise. Within that dataset is a lot of
9 attribute information which I can pop up as a table, giving the names of the different
10 countries, their capitals, their status within the UN, et cetera, et cetera.

11 As with any database I could then, for example, do a query and query, you know, all
12 countries which are member states or not member states of the United Nations.

13 The software also can do specialised things like we could calculate the square
14 kilometres of each country and then select the countries with the greatest size or the
15 largest size or something like, something like that.

16 Now this is the software that we use in our office all day every day. I've been using
17 this software and its predecessors for almost 20 years now, so it is quite common and
18 it is something that we use all the time.

19 Now obviously we are not interested in the whole world, we are interested in DRC
20 Congo. You'll see that I can turn off the global borders and just leave DR Congo
21 remaining. It is the same dataset but just in one, I have excluded everything except
22 for DR Congo. Then I can zoom down to that country and then I am now turning on
23 the ICC locations of interest so we can see our specific area. I can zoom in here, and
24 you will start to recognise some of the locations. These are the ICC locations of
25 interest which we were able to locate and attempted then to do satellite imagery

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1 analysis on. Not all of these locations had imagery, but this was the initial set that
2 we started to work with.

3 For the image analysis example I am going to use the location of Songolo simply
4 because it's a visually relatively easily location to understand. And we see that is
5 down here, so now you're seeing the orange square which is the coordinate point that
6 I had for Songolo. So I'm going to turn that off now and then what you are seeing is
7 a satellite image. This image was collected on 15 June 2002. If I turn that one off,
8 the one underneath it is the one from 22 May 2003. So again, I am turning layers off
9 and on, nothing particularly difficult about that.

10 Now, it's important to remember or realise that the imagery that we received is
11 essentially a subset of the imagery that was collected on that day for this particular
12 area. So here the green square, that's the image that we were just looking at. These
13 purple tiles are all the images that -- or the entire strip of imagery that was collected
14 by that satellite on that day. So you will see it extends over the border into Uganda.
15 If we measure the distance, then we can see that that whole strip of imagery was
16 about 92 kilometres long and then about 13 kilometres across.

17 For the image collected 22 May 2003, this is the entire strip that was collected by the
18 QuickBird satellite on that particular day. Again, a relatively large image and what
19 we did was purchase a relatively small subset of it. Now one important point is that
20 you can see that the image that we used is right on the edge of the whole strip that
21 was collected that particular day. So that is why we weren't able to analyse as far to
22 the west over here as we might like to, because the image from 22 May 2003 was, was
23 only collected for that particular area. It wasn't collected all over the region. We
24 didn't have much choice about what we could actually get.

25 When we buy these, these image subsets, the smallest area that we can purchase is

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1 25 square kilometres. That's a requirement set by the vendor and that's the smallest
2 area that they will sell in order to maintain their profitability.
3 So I am going to zoom in here and we are actually start to see what's in the imagery.
4 So down here is a road or a path and a collection of houses. So this is a relatively
5 typical area or a relatively typical type of structure in this area and so I would ask you
6 to imagine you're essentially flying over this area in an aircraft, you're looking out the
7 window. These round structures are what I would call homes. If we were
8 analysing further east in East Africa, the standard term for this would be tukals,
9 standardised round houses common in the area. You will also see square buildings
10 which may be homes or they may be agricultural related or something like that.
11 I refer to all of these as structures in the report and in all my work. We don't
12 generally try to differentiate between what somebody's home may be versus some
13 other structure that we are seeing.
14 A couple of details or one detail which is important, on each of these structures you
15 see on the bottom left side a black edge, that is literally the shadow that the structure
16 itself is casting. So looking at these, now look where the red arrows are, so again
17 we're flying over this area on 15 June 2002 and then say we fly over it again on
18 22 May 2003. So what I'm doing is I am turning the 2002 image off and on and you
19 can then essentially see multiple structures disappearing. In some cases they are
20 completely replaced by vegetation. In some cases you may be able to see what we
21 would call structural remains, i.e., the walls or the roof that have collapsed. But
22 every time we see something like this where we see a structure that is there on one
23 date but not there on the next date, that's essentially what we are identifying as
24 a destroyed structure and then we just put a point on each one of those, that's the red
25 squares that you are seeing here, and that records the location of the destroyed

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1 structure within our database and then we use it later.

2 To develop the report for you, for the Court, what we then do is we come up with, or

3 I review the imagery and I look for areas which would make good examples, for lack

4 of a better word, and then I export those examples from this software into a standard

5 document format, a PDF format which can then be developed into the report that

6 then is submitted to the Court.

7 I don't want to review all the materials within this particular software, the GIS

8 software, simply because it is often not the friendliest or the most stable software to

9 use and give live demonstrations on.

10 So at this point I would like to show you some other examples that were exported

11 from the imagery which are the same examples as you will see in the reports that

12 were submitted.

13 And then so this the same, the same area as I just showed you in the GIS, in ArcMap,

14 but this is how I have exported it. So on the left-hand side you see that, a sample of

15 that image from 15 June 2002, that's over here, and then on the right-hand side you

16 see the same image from 22 May 2003. And I have added the red arrows to give you

17 an indication of where to keep your eye and you can clearly see the difference

18 between the two on the left versus the right. Again, the disappearing structures

19 often replaced by vegetation, sometimes with possible structural remains visible.

20 If the arrows are confusing I can easily remove them and then flash them back for

21 you.

22 So this particular image was figure 24 in the final report, figure 20 in the preliminary

23 report, and in this whole area I documented 59 of these structures that had essentially

24 disappeared between those two dates.

25 MS LUPING: [16:10:03]

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1 Q. Thank you, Mr Bromley.

2 Before we continue, because I know that you have prepared also for the Chamber and
3 the parties a visual presentation of other, other images where there were the double
4 satellite images available. Before we go on to the rest of those images for the visual
5 presentation, could I ask you, if we go back to the ArcMap GIS presentation that you
6 gave, just briefly, and you showed a map indicating the locations of interest.

7 Can I ask you, if you look at map 1 contained in your final report at page 5, do the
8 locations of interest contained in map 1 of page 5 of your final report correspond to
9 the locations that we see indicated here that you used for your visual presentation?

10 A. [16:11:06] Yes, with the exception of Mambasa, and I am seeing now Eringeti,
11 which essentially were far enough away that they made for a difficult issue to include
12 on the map.

13 Q. [16:11:24] Thank you for that clarification. And just in terms of the references
14 on the far left, what we have here is references to red, green and blue, band 3, band 2,
15 band 1. Just very briefly and in as simple terms as possible, could you explain
16 essentially what this means?

17 A. [16:11:45] so again, when a satellite like these capture an image they are not just
18 taking a simple photograph. These are sensors that are detecting the reflected
19 electromagnetic energy which originates from the sun, hits the surface of the earth
20 and bounces back up into the sensor. These particular satellites are collecting this
21 electromagnetic energy in the red, green and blue bands, which are what we would
22 call the visual spectrum, and that's the same thing that we see when we look at these
23 images. This is a natural colour image, this is essentially what you would see if you
24 were flying overhead in an aircraft. These satellites are also collecting a fourth band
25 of imagery, the near infrared which our eyes don't see but can be detected by a sensor

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1 and by various insects and animals as well, and occasionally we use that fourth band
2 for certain parts of the analysis.

3 Q. [16:12:56] And again just before we move on to the other examples that you
4 were going to show, you have talked about this fourth band of the near infrared for
5 the process of analysis, could you explain what this process is?

6 A. [16:13:12] So that sort of analysis uses what we call false colour infrared.

7 So getting back to the red, green and blue and the near infrared, one interesting aspect
8 of the world is how vegetation grows and absorbs energy. So vegetation is basically
9 absorbing as much of the visible spectrum as it can to power photosynthesis and
10 eventually grow.

11 However, it then, through the wonderful virtues of nature, basically reflects as much
12 as possible of the near infrared wavelength or else it may overheat, basically. So that
13 interesting difference in that it's absorbing as much visible energy as possible while
14 reflecting the near infrared energy gives us a certain tool to use when we analyse
15 imagery.

16 So I don't want to shock you, but if you look here the vegetation appears in green. If
17 I basically load the near infrared into the red channel, then what you are getting is
18 essentially a red landscape. And the more red you see, so, for example, here along
19 what is probably a river or a stream, this vegetation is a brighter red versus the
20 vegetation over here, essentially it means the vegetation along the stream is, whatever
21 you want to call it, richer, healthier, more photosynthetically active at the time of
22 image acquisition.

23 Now the only reason we use the colour red for this basically dates back to World War
24 II, your eyes have the ability to see more differences in shades of red than they do in
25 other colours. For me, as an analyst, it can get a little straining on the eye if I am

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1 looking for, you know, brown patches of dirt versus green vegetation. As an analyst,
2 it is easier for me if I make the vegetation appear in red and then there is a greater
3 contrast between the vegetation and some of the other features on the ground that I
4 might be looking for.

5 Q. [16:15:51] And just still remaining on the topic of the infrared examples, if you
6 turn to tab 5 with your preliminary report and if you go to page 0466, the last figure
7 and the heading there, figure 8 is "Kobu Centre and Kobu Wadza Features". If you
8 look at that last figure, do you have that in front of you yet?

9 A. [16:16:18] What was the --

10 Q. [16:16:19] It's page 0466 of the --

11 A. [16:16:22] Yes.

12 Q. [16:16:23] Do you have it? It is under figure 8.

13 A. Yes.

14 Q. And if you look at the bottom figure there, what do we see there, what kind of
15 colouring band do we see there, colour band?

16 A. [16:16:36] So that's the false colour infrared, the same as what you see on the
17 screen in front of you.

18 Q. [16:16:43] And if we turn now to page 0475 of the same report, to figure 17.

19 And looking at both the 14 August 2002 images here, this is for the "Bunia Area
20 Possibly Destroyed Structures" at figure 17 again. Again, could you just confirm
21 what colour range is used for that figure?

22 A. [16:17:08] Again that's the false colour infrared, which in this particular case was
23 very, very useful.

24 Q. [16:17:13] And could you explain why it was so very useful in this particular
25 case?

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1 A. [16:17:17] Because in the imagery there is what we marked essentially as burned
2 and destroyed structures. Again, the structures, they are burned, they are black, but
3 they are surrounded by green and brown vegetation. As an analyst, and I will show
4 an example of this later, but it is much easier for an analyst to discern the features
5 when it's black versus red, versus when it's black versus green or brown.

6 Q. [16:17:53] Now you have just shown to their Honours an example of the double
7 image analysis for Songolo. Would you be able to show the next examples, still
8 remaining only with the double image analysis at this stage.

9 A. [16:18:09] Yes. So there is Bambu on the screen now.

10 Q. [16:18:12] And could you please again similarly explain the procedure here?

11 A. [16:18:17] So again, just like we saw with the Songolo example which was a little
12 easier because just the image characteristics are easier to see structures. What we
13 have here is what was identified as the Bambu main thoroughfare location.

14 PRESIDING JUDGE FREMR: [16:18:37] Mr Witness, please hold on, because
15 Defence is almost, yes, on her feet.

16 Ms Yahya.

17 MS YAHYA: [16:18:44] I apologise for the interruption, but these screen shots are
18 not the same pictures, level of zoom that is in the report. And we have just been
19 given this so I want to understand why these differ than the ones that he is referring
20 to in the report?

21 MS LUPING: [16:19:03] I am happy to explain, Mr President.

22 PRESIDING JUDGE FREMR: [16:19:05] Please, Ms Luping.

23 MS LUPING: [16:19:06] Yes. The actual location and the identification of the
24 potential points of destruction should be as reflected in the report. The resolution is
25 different, which is the whole purpose of asking the witness to provide it. Instead of

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1 having the PDF report version, the purpose again was just to ensure that a higher
2 quality resolution, the highest possible resolution that we would be able to have in
3 the courtroom was able to be provided to make sure that was visually as easy as
4 possible to be seen.

5 I will refer your Honours, for Bambu, the relevant figures. If you turn to the final
6 report -- or, first, actually, I will ask you to turn to the preliminary report, figures 1 to
7 2 have the -- at page 0459, at tab 5 you will see figure 1 where it says "Bambu Main
8 Thoroughfare". What you will see is this version that you are seeing in the visual
9 presentation is just simply a zoomed-up version, a closer zoom in at a higher
10 resolution quality to the image that you see at figure 1 on page 0459. Similarly, you
11 will find it again in the final report, the same images at figures 3 and 4 in the final
12 report at tab 1.

13 Again, as you will see on your Honour's screens, this again is simply a zoom in,
14 a smaller portion of the larger analysis image that you see inside the report. So it is
15 just simply a zoom in, your Honours, indicating more detail.

16 PRESIDING JUDGE FREMR: [16:21:11] Ms Yahya.

17 MS YAHYA: [16:21:13] Your Honour, this may be a zoom in but these captions were
18 not disclosed to the Defence until 1.44 this afternoon.

19 There are also, there is no scale on these images like there is in the report, they are not
20 at the same scale. As well as, as the presentation has gone along there are some
21 things that have not, from images that have been shown, that have not been disclosed
22 and are not in the report.

23 For example, at page, around page 130 of the transcript Mr Bromley showed an
24 infrared version of, a picture of Salongo which is not at all in his report as an infrared
25 picture, so we submit that these have not been disclosed to the Defence and that we

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1 should limit the presentation to the images that are in the report and that have been
2 analysed.

3 PRESIDING JUDGE FREMR: [16:22:02] Ms Luping.

4 MS LUPING: [16:22:03] Mr President, your Honours, in our submission these are
5 images that have been disclosed. What we are talking about are screenshot closer
6 zoom-in images of images that have already been provided and that are contained in
7 the report. The whole purpose of this visual presentation was to give your Honours
8 a better sense of the, the images as close up as possible. It really is purely a visual
9 presentation so your Honours can more clearly see. And also the purpose of this is
10 to provide a tool for the expert witness, who is obviously here to explain in more
11 detail the methodology used for the analytical process. So in our submission, your
12 Honours, there should be no exclusion of this visual presentation. It is a tool, it's
13 meant to aid the explanation being provided by the witness and it is based on images
14 that have been disclosed. Thank you.

15 PRESIDING JUDGE FREMR: [16:23:00] Yes, it was my understanding that the main
16 point behind it is the explanation of the witness about methodology he used. So it's
17 fine with us.

18 MS LUPING: [16:23:13] Thank you, your Honours.

19 Q. [16:23:14] So, Mr Bromley, you were explaining the, the images here with
20 Bambu, contrasting 26 January 2003 to 22 May 2003. If you can please continue.

21 A. [16:23:29] Certainly. So on the left over here you have 26 January 2003 and on
22 the right 22 May 2003, a difference of about five months. One thing to note in this
23 image is the road which kind of bends around here. In January 2003 it's actually
24 quite green. There is relatively heavy vegetation or light vegetation growing on the
25 road, whereas in May 2003 it is much more clear. Details like this can, you know,

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1 cause some confusion if we're saying it's the same location, but if you look closely you
2 will see that the road is present in both images.

3 The main thing again to focus in on is the rooftops, some of which are indicated by
4 the red arrows. As an image analyst my eyes immediately snap to the rooftops,
5 things like that, and I kind of implicitly understand that between January and May
6 you are going to see a certain amount of environmental changes, so there is kind of
7 a process that an analyst goes through where they train their eyeballs to basically look
8 at the relevant details.

9 Again, here in January I have marked multiple rooftops with the red arrows. These
10 are square structures. You can actually see the peak in the roof like you would on
11 any peaked roof structure for several of these houses. If we go over to 22 May 2003,
12 drawing your eye down to the bottom especially, all the structures that are visible
13 along the bottom have essentially disappeared. You are no longer seeing these nice
14 sharp, square, square structure lines, you are seeing more irregular patches of brown
15 which are basically the ground, indicating that the structure has disappeared.

16 In some of the other structures, for example, over here on the right side, what you are
17 seeing are the structural remains. For these I would say you are seeing the interior
18 walls of the structure after the rooftop has been, has been removed for some reason.

19 Depending on what the structure itself is made of, we would call this perhaps an
20 indicator of burning or of explosives use or something like that, but again it could be
21 some other factor that causes, causes that particular destruction.

22 Within this particular area we marked 20 structures that had been, been removed and
23 destroyed between the two image dates.

24 Q. [16:26:27] And before we move on from Bambu, Mr Bromley, could you confirm
25 that these --

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1 PRESIDING JUDGE FREMR: [16:26:32] Sorry, Ms Luping, move on, I'm afraid I am
2 sure we will have to break.

3 MS LUPING: [16:26:37] Understood, Mr President. I am just so caught up with the
4 images I lost track of time. But I will ask Mr Bromley this final question relating to
5 this part of the visual presentation and we can continue on Monday with the rest.

6 Q. So, Mr Bromley, just turning to looking first at these specific images regarding
7 Bambu, 26 January 2003, 22 May 2003, if you turn to figures 1 and 2 in your
8 preliminary report, that's at tab 5.

9 A. [16:27:10] Mm-hmm. Yes. Yes.

10 Q. [16:27:18] And now figures 3 and 4 in your final report at tab 1.

11 A. [16:27:38] Yes.

12 Q. [16:27:43] Can you clarify whether the images as contained in these extracts or
13 parts of your reports are, are actually larger versions of the images that we see now in
14 your visual presentation?

15 A. [16:28:03] Yes. The images on the screen are, are subsets. They're, they're
16 smaller sections of the images that were used in the report. You can see the very
17 characteristic bending road visible in all the images, both the ones on the screen and
18 then the ones in the reports. And just to be certain, what is on the screen is figure 3
19 in the final report and figure 1 in the preliminary report.

20 Q. [16:28:34] Thank you, Mr Bromley.

21 MS LUPING: Mr President, your Honours, I think it is indeed a good
22 opportunity -- a good opportune moment, rather, to break. I will have further
23 questions for the witness on Monday morning.

24 PRESIDING JUDGE FREMR: [16:28:48] All right.

25 Ms Yahya.

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1 MS YAHYA: [16:28:50] Sorry, apologies. If it would be possible to simply provide
2 a scale for these, for these photographs so that the Defence can work from that scale.

3 MS LUPING: [16:29:00] I would have to turn to ask the witness if that is possible.
4 It's certainly outside our abilities.

5 Q. Mr Bromley, is that possible?

6 A. [16:29:10] No problem.

7 PRESIDING JUDGE FREMR: [16:29:11] All right. So now we break.

8 Before we break I would like to ask court officer for the update on timing.

9 THE COURT OFFICER: [16:29:24] Yes, Mr President, the Prosecution so far used
10 1 hour and 32 minutes.

11 PRESIDING JUDGE FREMR: [16:29:30] So having taken into account that we
12 allotted two hours to Prosecution, Ms Luping, you should conclude examination in
13 28 minutes on Monday. Do you see it feasible?

14 MS LUPING: [16:29:48] I believe so, Mr President.

15 PRESIDING JUDGE FREMR: [16:29:49] I would strongly encourage you to make it.
16 So before we, before we break, Mr Bromley, I would like to thank you for the initial
17 part of your testimony and it is my legal duty, since your testimony unfortunately is
18 divided by weekend to ask you not to discuss in the meantime till Monday your
19 testimony with anybody else. Is it clear to you?

20 THE WITNESS: [16:30:22] (Interpretation) Very clear.
21 Thank you.

22 PRESIDING JUDGE FREMR: [16:30:24] Fine. So now we adjourn and we will
23 reconvene on Monday, 9.30.

24 THE COURT USHER: [16:30:35] All rise.

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

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1 RECLASSIFICATION REPORT

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

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