1 International Criminal Court

2 Trial Chamber VI

3 Situation: Democratic Republic of the Congo

4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06

5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and

6 Judge Chang-ho Chung

7 Trial Hearing - Courtroom 2

8 Wednesday, 13 September 2017

9 (The hearing starts in open session at 9.18 a.m.)

10 THE COURT USHER: [9:18:42] All rise.

11 The International Criminal Court is now in session.

12 Please be seated.

13 PRESIDING JUDGE FREMR: [9:19:09] Good morning, everybody.

14 Court officer, please call the case.

15 THE COURT OFFICER: [9:19:12] Thank you, Mr President.

16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor

17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.

18 We are in open session.

19 PRESIDING JUDGE FREMR: [9:19:28] Thank you, court officer.

20 Appearances, please.

21 MS SAMSON: [9:19:32] Good morning, Mr President. Good morning,

22 your Honours. Appearing for the Prosecution today are Ms Kristy Sim,

23 Ms Selam Yirgou and myself, Nicole Samson.

24 PRESIDING JUDGE FREMR: [9:19:42] Thank you, Ms Samson.

25 Defence, please.

MR BOURGON: [9:19:46] (Interpretation) Good morning. Representing Bosco Ntaganda, who is present here today, we have the same Defence team as always. No change.

PRESIDING JUDGE FREMR: [9:19:58] Thank you, Mr Bourgon.

Legal Representative of Victims, please.

MS PELLET: [9:20:03] (Interpretation) Thank you, your Honour. No change to the team representing former child soldiers.

MR SUPRUN: [9:20:11] (Interpretation) Good morning, your Honours. The victims of the attacks are represented by my colleague, Anne Grabowski, and myself, Dmytro Suprun.

PRESIDING JUDGE FREMR: [9:20:23] Thank you, Ms Pellet. Thank you, Mr Suprun.

The agenda for today, we'll start with 45 minutes of re-cross-examination conducted by Prosecution, then there will be some time devoted to questions which are going -- which will be put by the Chamber, and then it's also the right for the Defence to have final examination, depending on the outcomes of re-cross and our questioning, and then hopefully we'll complete examination of Mr Ntaganda and can continue with the next witness.

So now I'm giving the floor to Ms Samson. And just reiterating, Ms Samson, that you were granted the possibility to re-cross Mr Ntaganda under conditions: No repetitive questions and the scope of this questioning should be limited to topics dealt with during -- by Mr Bourgon during his re-direct. So, please, you have the floor.

MS SAMSON: [9:21:44] Thank you, Mr President.

QUESTIONED BY MS SAMSON:

Q. [9:21:46] Good morning, Mr Ntaganda.

A. [9:21:51] Jambo sana (Interpretation) Good morning.

Q. [9:22:03] You were asked questions yesterday afternoon by your counsel in relation to your telephone communications from the detention centre. And I have a few follow-up questions on that topic for you today.

Now, you were asked at transcript -- realtime transcript T-242, page 78, lines 16 to 22, quote:

Question:

"Now, looking at the numerous conversations which were disclosed, in these conversations, up to the moment that I arrived as your counsel, did you know that any of these persons would be your witnesses at trial?"

Answer:

"No, I didn't know at that point. I think that once you -- the time you got here, I did not know who would come as a witness and who would not."

Now, my question to you about that answer is, you knew, didn't you, that anyone your lawyers met with to discuss the facts of this case were potential Defence witnesses?

A. [9:23:39] That depended on the time, the period, and the person that I was speaking with.

Q. [9:23:45] Well, I would say that at any time, you knew, didn't you, that any person with whom your lawyers met to discuss the facts of your case were potential witnesses in your defence; correct?

A. [9:24:11] As I've already told you, I didn't know that these people would be identified as witnesses to appear here as Defence witnesses.

Q. [9:24:27] Well, you were also asked, in connection with this, at T-242, page 81, starting from lines 1, question:

1 "Well, that's the aim of my next question. Did you in the multiple conversations you
2 had from the detention centre task persons you spoke to to locate some people for
3 you?"
4 And your answer was:
5 "No, not to talk with those people, no. There was someone that I asked -- well, I
6 asked that person to find people who, for instance, took part in the Mongbwalu battle.
7 I said, if you find those people, but those people in touch with Mbuna. But I didn't
8 say, oh, bring that person back for me to talk to them. No, I did not do that."
9 And I would like to read a passage from a call to you, and I have a copy of the
10 original text for you. The call is DRC-OTP-2101-1260. That's the translation. It's
11 item 1420 on our list. And the original transcription in Swahili is
12 DRC-OTP-2101-0991, item 1419. And as we did yesterday, I do have a copy for the
13 witness because it was a procedure that was adopted, and I have one.
14 PRESIDING JUDGE FREMR: [9:26:12] Mr Bourgon.
15 MR BOURGON: [9:26:14] Thank you, Mr President. We are opposed to this
16 question. This is not the purpose of the re-cross-examination. The purpose of
17 re-cross-examination is not to conduct a new cross-examination; it's to ask questions
18 on what I did in re-examination. It's not a new cross-examination. If my colleague
19 had these conversations, it was the Prosecution's material that I've used, and the
20 Prosecution could have used all of that material in cross-examination. That material
21 was available to the Prosecution to conduct its cross-examination.
22 My colleague decided to use a few conversations in her cross-examination, that's
23 the -- that was the Prosecution's choice, then I had re-examination. Re-examination
24 was different. It was a question arising from that topic. But now to allow at this
25 stage the Prosecution to go into different material, then that should not be allowed,

Mr President, because then I will do the same, and then I will ask some time and I will ask that tomorrow we sit again so I can look at other material from the same topic. Re-cross should be limited, exceptional and limited, to issues specifically raised during re-examination, not to go into new material. If my colleague wants to go into the conversations that I did use yesterday, she can, but going beyond that should not be allowed, Mr President. Thank you.

PRESIDING JUDGE FREMR: [9:27:49] Ms Samson.

MS SAMSON: [9:27:49] Yes, Mr President. In my submission, the Defence is seeking to put an artificial and inappropriate limitation on the scope of re-cross-examination. First, when the Defence reexamined on the distention centre calls, it did not limit itself to telephone calls used by myself during cross-examination. It used other calls, which it, in its view, were related to the questions that I asked. And I did not oppose that.

And what I am seeking to do is following on from the re-examination question asked about whether Mr Ntaganda tasked people to find people for him, knew whether or not they would be potential witnesses at trial, asked anybody to lie, a series of questions that the Defence put to the witness yesterday. I am basing my re-cross-examination in the new answers given by the witness yesterday and in the new questions asked by counsel yesterday.

And in my submission, I ought not to be limited, as Defence was not limited, to only the calls that I used in cross-examination or that he used in re-examination where, in the Chamber's duty to find the truth, there is information contained in a different call that I'm -- is on my list that directly contradicts and challenges that evidence.

PRESIDING JUDGE FREMR: [9:29:18] Thank you, Ms Samson. It's not an easy issue. Mr Bourgon, briefly please.

1 MR BOURGON: [9:29:24] Thank you, Mr President. I refer the Trial Chamber to
2 a decision from the Trial Chamber in the Kupreši c case, and that was a decision on the
3 order of presentation of evidence. It's a decision dated 21 January 1999, addressing
4 that specific issue.
5 And that specific issue basically reads as follows, on page 3 of the decision. There
6 are no paragraph numbers, but it reads as follows:
7 "... although the Trial Chamber affirmed that re-cross-examination, though not
8 allowed generally, may be allowed where new material is introduced during
9 re-examination. In such circumstances, the party is entitled to further cross-examine
10 the witness on such new material ..."
11 And the new material is the one I used yesterday, not beyond that because then we're
12 starting the testimony over again, we're attempting to do a new cross-examination.
13 Thank you.
14 PRESIDING JUDGE FREMR: [9:30:29] Thank you.
15 Ms Samson, please absolutely briefly.
16 MS SAMSON: [9:30:34] Thank you. If counsel could provide copies of the
17 jurisprudence. But I reiterate that, well, Defence counsel was not so limited in the
18 re-examination and the same rules ought to apply. Thank you.
19 PRESIDING JUDGE FREMR: [9:30:47] But frankly saying, we are not so firmly tied
20 by jurisprudence of the ICTY. We will deliberate now because it's an issue of
21 principle.
22 (Trial Chamber confers)
23 PRESIDING JUDGE FREMR: [9:31:54] So after brief silent deliberation, the
24 majority of the Chamber, and I can be brief, shares arguments of Defence, so this
25 objection is sustained. And I will not elaborate on that. Frankly saying, we

compared both, both positions of both parties, as I said, majority prefers arguments presented by the Defence.

Ms Samson, please proceed.

MS SAMSON: [9:32:27]

Q. [9:32:33] Now, sir, in my last question I was speaking to you about your answers in terms of tasking people to locate people for you. And I would like to refer you to another telephone call. It is DRC-OTP-2101-1436. That is item 1456 on the Prosecution's list. And I will read for you from page 7, lines 217 to 224.

PRESIDING JUDGE FREMR: [9:33:17] Mr Bourgon.

MR BOURGON: [9:33:18] Mr President, the way we proceeded yesterday is the witness was provided a transcript in his language so that he could follow. To do this at this time and just to read that to him without him having the transcript of the conversation we say, respectfully, would not be appropriate, Mr President. We should follow the same procedure that I did, that I used yesterday. Thank you.

PRESIDING JUDGE FREMR: [9:33:39] Ms Samson.

MS SAMSON: [9:33:40] Mr President, I do have a copy of the transcript. I may not in all cases, but the procedure that we followed during cross-examination was not to provide the witness with a full copy. However, I do have one for him.

PRESIDING JUDGE FREMR: [9:33:54] So to make him comfortable, please provide him with this copy.

MS SAMSON: [9:35:12]

Q. [9:35:12] Now, if we could move, please, to lines 217 to 224 of this transcript. And I will read it in English. This is a telephone call, sir, that you've had with Peter Dz'tho on 13 September 2013. And from line 217 you say --

PRESIDING JUDGE FREMR: [9:36:06] Hold on, Ms Samson. I see Mr Bourgon on

his feet.

Mr Bourgon.

MR BOURGON: [9:36:13] Thank you, Mr President. The lines are different in the transcript which is in original language, but it's at the very end of the conversation, so Mr Ntaganda should be able to locate it. I believe that line 217 would correspond with line 201 in the original version that Mr Ntaganda has so that he has the same.

PRESIDING JUDGE FREMR: [9:36:33] I will ask Mr Ntaganda for confirmation that he is at the same place within the text.

So could you just read, Ms Samson, first few words and then I will ask Mr Ntaganda whether he follow us.

MS SAMSON: [9:36:50] Yes, I will do that.

"Bosco Ntaganda: ... try to ... if you have ... some time try to see how you can approach that young man Dhezunga; I hear he's become a drunkard."

PRESIDING JUDGE FREMR: [9:37:06] Mr Ntaganda, can you follow the text which is now read out by Ms Samson in your material?

THE WITNESS: [9:37:33] (Interpretation) Yes, I can find the passage. It's at line 209, not 217. But I can confirm that, yes, I have located the passage.

PRESIDING JUDGE FREMR: [9:37:45] It is the point. So, Ms Samson, you may proceed.

MS SAMSON: [9:37:49] Thank you.

Q. [9:37:49] So when you ask Peter Dz'tho to approach someone named Dhezunga, he says, "Yes." And you say, "And you remind each other, remind each other."

And PD say: "Yes, yes, yes."

BN, yourself, says: "OK. Yes, take a small diary and you remind each other, you

1 remind each other ..."
2 And PD says: "Right, thank you very much, yes."
3 And then you say: "... that story from over at the many stones, when he was with his
4 leader ..." And I'll stop at line 224.
5 Now, sir, here you're asking Peter Dz'tho to find somebody for you, aren't you?
6 A. [9:38:44] I asked Peter to look for and contact Dhezunga because I wanted to
7 find the officers who had been working with Commander Salumu at the appropriate
8 time. Well, my counsel would meet with those people so that those people could tell
9 them the account that my counsel was trying to find out about.
10 Q. [9:39:24] Yes. And you were asking these two individuals, Peter and
11 Dhezunga, who were going to speak with your lawyers, to remind each other of the
12 story, to speak to each other; correct?
13 A. [9:39:50] That's right. Peter had been my secretary. And Dhezunga had,
14 according to the information that I had, had worked with Commander Salumu. And
15 so I wanted them to remind one another of the account having to do with what
16 happened during that period of time.
17 Q. [9:40:17] And you refer in this passage to "... that story from over at the many
18 stones ..." That's a reference to Mongbwalu?
19 A. [9:40:38] Could you tell me which excerpt, where that's located and I can
20 explain to you what I wanted to tell you about?
21 Q. [9:40:48] Yes, sir, it's in the five lines that I just read you where you say "... that
22 story from over at the many stones, when he was with his leader ..." You refer to the
23 place with the stones many times in your calls, don't you?
24 A. [9:41:21] Yes, that's right. I asked him for them to try to remember together
25 about the place with many stones that they, that they remind each other what had

1 happened when he was accompanied by his superior. So I wanted him to try to
2 remind him of what had happened when he was in the company of his superior. I
3 wanted to talk about Salumu, although I didn't specifically mention his name here.
4 Q. [9:41:58] But my question is targeting your use of the stones, "over at the many
5 stones". That's Mongbwalu, correct?
6 A. [9:42:22] Yes, it's Mongbwalu.
7 Q. [9:42:26] So why don't you just call it Mongbwalu in your -- in your calls?
8 A. [9:42:44] Well, in part of the -- our part of the world people have a tendency to
9 refer to it as the place where there are stones. So that's what I chose. But when you
10 talk about someone who has more than one name, you can always use the name that
11 is more commonly used. So that came automatically to me. It wasn't that I made a
12 choice based on a particular criterion or another.
13 Q. [9:43:16] And by "stones" you're referring to gold?
14 A. [9:43:34] Yes. In our part of the world we call these places or refer to them
15 as -- well, the place where there's sand or -- you see, gold can mean sand. When you
16 extract gold, first you have sand and stones and within the mixture of sand and stone
17 that is where you recover the gold. So we refer to these places as, well, the place
18 with the stones, or the place with the sand.
19 Q. [9:44:10] You also testified yesterday at T-242, page 78, lines 9 to 15, quote:
20 "Now, in these conversations, Mr Ntaganda, what was your purpose in speaking to
21 these persons about the events of 2002-2003?"
22 And your answer was:
23 "I wanted to remember specifically the events using my memory. I wanted the
24 people that I was with to remind me of the events so that I could explain to my
25 counsel what happened, what my story was." End quote.

1 Now, I would like to read a passage to you from the same transcript that you have,
2 starting at page 4, and in the translation, which is, as I just mentioned, 2101-1436,
3 page 1441, the passage I'd like to read starts at lines 141.
4 So, Mr Ntaganda, if you turn to page 4 of your document, I will be starting on the
5 page where you can see in Swahili written -- a passage from you saying, quote:
6 "Right. Since I've given you these dates because they are correct, you can try to use
7 them as a reference to think of where you were and how the situation was."
8 Can you find those words?
9 A. [9:46:06] Not yet. What line was it, madam?
10 Q. [9:46:09] It's around line 141 where you say:
11 "Right. Since I've given you these dates because they are correct, you can try to use
12 them as a reference to think of where you were and how the situation was."
13 I see you nodding. Have you found it?
14 A. [9:46:44] Not yet. Perhaps I'm nearly there.
15 MS SAMSON: [9:46:54] Mr President, the exercise of providing the transcript is
16 rather time consuming of my few 45 minutes. I just make that note.
17 PRESIDING JUDGE FREMR: [9:47:03] We will take it into -- Mr Bourgon, I know
18 that you will oppose.
19 MR BOURGON: [9:47:07] That's what proceeded yesterday, and I was ready with
20 both references. My colleague should be ready with both references. It would be
21 much easier. Thank you.
22 PRESIDING JUDGE FREMR: [9:47:18] Ms Samson, please proceed and we will
23 then see at the end of your time.
24 MS SAMSON: [9:47:23] Thank you.
25 Q. [9:47:24] Now, sir, I'll read the passage again, from 141 through to 163. You

say to Peter Dz'tho:

"Right, since I've given you these dates because they are correct, you can try to use them as a reference to think of where you were and how the situation was.

Answer: Yes.

PD: Yes.

BN: Yes, because this old man also, this old man Berbe (phon) also knows this story because at some point the vehicles couldn't pass and he brought in the population and they pushed them.

PD: Eh, I'm saying if it's possible to --

BN: Yes, these dates of when I was going there to take things to Libi. Yes.

PD: Mmm.

BN: So that means showing that those, eh?

I understand, I understand.

BN: That is to show that -- it is to show that that work that young man did there in the middle, that the short people's, that I wasn't involved, and that I don't know anything about it. Do you remember? Do you understand what I'm telling you?

PD: Mmm, I remember.

BN: That work he did there in the middle, I'm saying that work OSCAR PAPA NOVEMBER, that operation that he did there in the middle, in the middle there, in the middle. Yes.

PD: He's there. He's there. He's there. It was in the plan, up high.

BN: Yes, yes. Those dates show that I was doing those activities over at Libi Fataki. Yes, because that -- the one who was in charge of that, the one who was in charge of that wasn't me. It was ZULU MIKE, you know that, don't you?

PD: Yes, yes.

1 BN: Yes. Yes, yes, yes, yes. All right. This -- so if there's anything new, I'll try to
2 call you to remind you."
3 Now, sir, in the passage that I've just read, in fact, you're the one who's reminding
4 Peter Dz'tho of dates and your whereabouts; he's not reminding you of anything, is
5 he?
6 A. [9:49:49] I remember that goes into the subject which we addressed with him,
7 which we addressed, as my secretary. This was a conversation that we had. If you
8 read it all, it was a mission that I entrusted to him, to go to Drodro where I spent the
9 night, Fataki, to the missionaries, where I spent the night in order to get these people
10 who were working there.
11 And if necessary, I would have been able to put these people in contact with my
12 counsel. I said to him, "You remember this, whether it concerns this event. My
13 secretary, he remembers that. I even spoke about Berbe. Do you remember when
14 we spoke about -- or when we had to transport the weapons and other goods. The
15 population helped us with that. That was during the period where --
16 Q. [9:50:54] Sir, my question is really quite focused. You're the one who is
17 reminding Mr Dz'tho of dates and places and whereabouts, not the other way around;
18 correct? Yes or no?
19 A. [9:51:19] Yes. You will remember that at a specific time I told him to look at
20 his agenda and to check what activities I was carrying out at that time. And we tried
21 to remind each other, because he was my secretary. I also reminded him of certain
22 events and he also reminded me of other events.
23 PRESIDING JUDGE FREMR: [9:51:40] Hold on, Ms Samson. I would like to
24 consult my colleagues on one issue.
25 (Trial Chamber confers)

1 PRESIDING JUDGE FREMR: [9:52:34] So I consulted my colleagues on that
2 because I wanted to give some guidance, Ms Samson, which could have important
3 impact on your further examination. Because according the Chamber, the whole
4 Chamber, we have heard enough conversations which are targeting credibility of
5 Mr Ntaganda's testimony. We, as we even highlighted in our previous written
6 decisions, we are not trying Mr Ntaganda for Article 70. It could have impact on
7 evaluation of credibility of his current testimony, but as I said on this topic in our
8 view, we have heard enough. If you want to target credibility of witnesses contacted
9 by Mr Ntaganda, then we see proper to do it when these witnesses will come in front
10 of us. So, please, no more topics as was this one.
11 MS SAMSON: [9:53:40] Thank you, Mr President.
12 And just to be clear so I'm -- I understand the Chamber's guidance. I do have more
13 questions in relation to the detention centre calls, but if I understand correctly, your
14 Honours would prefer not, or that that not -- or your guidance is that I move to a
15 different area of the re-cross-examination.
16 PRESIDING JUDGE FREMR: [9:53:59] Please.
17 MS SAMSON: [9:54:00] Very well, your Honour.
18 Q. [9:54:02] Now, sir, yesterday in discussions in your evidence you were
19 describing -- you were looking at a document --
20 Mr President, if I may have one moment. I'm going to get that document.
21 PRESIDING JUDGE FREMR: [9:54:31] For sure.
22 MS SAMSON: [9:55:12]
23 Q. Sir, you were asked questions yesterday from your counsel regarding minutes
24 of a 16 June 2003 meeting; do you recall that?
25 A. [9:55:43] Yes, I remember.

1 Q. [9:55:45] And you were shown a document emanating from the Defence
2 purporting to be minutes taken during that meeting. It is DRC-D01-0003-5900.
3 And you stated at transcript T-242, page 59, lines 21 to page 64, line 7, you were
4 asked, quote:
5 "Question: And my last question, the fact of your promotion to major general and
6 the fact that the upcoming operations in Mongbwalu are not mentioned in this
7 document, is that normal based on your experience?"
8 Answer:
9 "It's not necessary for it to appear in the document. Perhaps after the meeting,
10 Kisembo went to hold another meeting and in the general report that was drafted, the
11 information did figure. It wasn't necessary to mention that Ntaganda was promoted
12 to the rank of major general." I've ended at line 4.
13 Now, it's your evidence, I take it from yesterday, that the meeting you say you took
14 part in before the Mongbwalu operation happened prior to 16 June 2003?
15 A. [9:57:49] It was before the Mongbwalu trip. I already spoke about that. The
16 meeting was before, when we went to Mongbwalu.
17 Q. [9:57:55] Now, was everybody at this meeting promoted or only you?
18 A. [9:58:14] Kisembo was promoted before when he was in Mamedi.
19 PRESIDING JUDGE FREMR: [9:58:22] Could you kindly wake up our guard.
20 Sorry to interrupt you. Please proceed.
21 MS SAMSON: [9:58:29]
22 Q. [9:58:29] Sorry, sir, my question was, who was promoted at the meeting. Was
23 it only yourself or other people, according to you?
24 A. [9:58:50] I was answering when the President took the floor.
25 Kisembo was promoted. At that time, I was in Goma. I hadn't arrived yet, and

when I did I was promoted. I was the only person on that day to be promoted.

Q. [9:59:12] All right. Now, in the document before you on the screen -- this is your Defence document, purportedly minutes of a meeting, held at some date unknown to you but that says 16 June 2003 on its face. Now, if we look at the list of participants, you're mentioned and next to your name is "general major". Jovith Linganga is mentioned, and next to his name is "général brigadier". Etienne Nembe as colonel; Peter Dz'tho as colonel; and Mangaino Enek as colonel. And I'll stop there for a moment. Now these are meant, I take it to represent the grades that they held on that day at the meeting. And we can see that you're general major; correct?

A. [10:00:18] No. I don't think that you got what I said. I was promoted after that. These people were promoted before I arrived in Bunia. I arrived in Bunia at the start of the month of June and I think that Kisembo had already been promoted in May, even before the control of Bunia. I was promoted once I arrived there.

Q. [10:01:00] All right. Now, let's take a look, please, at the list of participants to the meeting on 16 June. It's DRC-OTP-0014-0177.

PRESIDING JUDGE FREMR: [10:02:14] You have the floor, Ms Samson.

MS SAMSON: [10:02:16] I'm just waiting for the document to be displayed.

PRESIDING JUDGE FREMR: [10:02:20] Sorry.

THE COURT OFFICER: [10:02:21] We just would like to know the level of confidentiality. That's what we're looking for.

MS SAMSON: [10:02:28] Yes. It's been displayed before. It's public, remains public.

PRESIDING JUDGE FREMR: [10:02:31] Mr Bourgon.

MS SAMSON: [10:02:32] It's item 1120.

MR BOURGON: [10:02:35] Thank you, Mr President. I did not refer to this

1 document at all during re-examination. And this issue was raised in
2 cross-examination and it was established that this was a different meeting, both in the
3 questioning and responses. Thank you.
4 MS SAMSON: [10:02:50] Mr President.
5 PRESIDING JUDGE FREMR: [10:02:51] Ms Samson.
6 MS SAMSON: [10:02:51] Nothing was established in terms of whether it was a
7 different meeting and counsel raised this at some length yesterday in order to have
8 Mr Ntaganda suggest it was a different meeting, but that he attended. And the issue
9 of the rank was newly raised as being something that was prior -- given to
10 Mr Ntaganda during this meeting. And I would like to explore that for the Chamber
11 to evaluate the credibility of the answer given in re-examination and that's the
12 purpose of re-cross-examination in my submission.
13 PRESIDING JUDGE FREMR: [10:03:25] Mr Bourgon, according my memory you
14 touched that issue during re-direct.
15 MR BOURGON: [10:03:31] I did not, not at all. It's a different meeting, it's a
16 different thing, it was a different topic. But I address the meeting that is here and the
17 other meeting that Mr Ntaganda attended, but this one -- but I have no problems with
18 this questioning, Mr President.
19 PRESIDING JUDGE FREMR: [10:03:46] This time I share arguments presented by
20 Prosecution. Objection is overruled.
21 Please proceed, Ms Samson.
22 MS SAMSON: [10:03:53] Thank you.
23 Q. [10:03:54] Now, Mr Ntaganda, you see before you minutes of the June 16, 2003
24 meeting and I'd like to take a look at the -- some of the people who we saw that I
25 mentioned in the last document as participants on 16 June 2003. And if we could

scroll down, please, to number 11, we can see Linganga. And he signs himself this attendance sheet as Lieutenant Colonel Linganga. Now, that's significantly different, isn't it, than brigadier general, which is the title he's given on your Defence document on the same day?

A. [10:04:55] My counsel didn't show me this document, firstly. Secondly, the person who wrote the letter I don't know. Now, where it concerns this meeting of 16 June, I said I wasn't there. If you look at the content of what is on the other letter, not this one, I would remind you that we spoke about that before going to Mongbwalu. I don't know if we have taken the content of the other document to put it in this one. That's not something I can know.

Q. [10:05:35] Well, sir, your evidence today is that everybody else was promoted before you at some time prior to your meeting before you went to Mongbwalu. And yet in what the Prosecution suggests are the real attendees of a June 16 meeting of the high FPLC, Linganga identifies himself as lieutenant colonel and not as brigadier general. And it's right, isn't it, that that's because your document was created in 2007 using the last highest rank that Linganga held, it was not created contemporaneously with events of 16 June 2003; correct?

A. [10:06:56] The person who wrote the document and put the date on it, that doesn't concern me. I'm speaking about the meeting in which I participated and the subjects which we addressed there.

Q. [10:07:10] And if we look at number 15, Mangaino writes his name on the attendance sheet on 16 June and signs it as a major not as a colonel as your document would say he was -- the rank he held on 16 June. It's quite a big difference in rank; would you agree?

PRESIDING JUDGE FREMR: [10:07:35] Hold on, Mr Witness.

1 Mr Bourgon.
2 MR BOURGON: [10:07:38] Mr President, the reference to "your" document is
3 inappropriate. The witness said he had never seen this document before. This
4 document bears a number that was --
5 PRESIDING JUDGE FREMR: [10:07:50] Point taken, Mr Bourgon.
6 MR BOURGON: [10:07:52] DRC-D01 --
7 PRESIDING JUDGE FREMR: [10:07:53] Point taken.
8 MR BOURGON: [10:07:54] -- Linganga -- or Lubanga Defence. It has nothing to do
9 with us.
10 PRESIDING JUDGE FREMR: [10:07:58] I get the point.
11 Ms Samson.
12 MS SAMSON: [10:08:00] Thank you. I'm referring to a document disclosed by
13 the accused to the Prosecution first created indeed for the Lubanga Defence team, but
14 it was disclosed -- it's not a Prosecution document.
15 PRESIDING JUDGE FREMR: [10:08:11] So now it's at least clear how you meant if
16 you used the word "your". All right. Please proceed.
17 MS SAMSON: [10:08:18]
18 Q. I will rephrase though in it wasn't clear. What I certainly meant was a
19 document disclosed by you, Mr Ntaganda, to the Prosecution.
20 And what I'm trying to get at here are the discrepancies between the document that
21 you disclosed to the Prosecution purporting to be the minutes of a meeting you
22 attended versus the other documents we have that purport to be from the same
23 meeting, and these are two such discrepancies in addition to others that I've
24 highlighted.
25 And lastly, we saw that Peter Dz'tho was listed on the document you disclosed in the

meeting as being a colonel. And if I could show please on the screen another document. Let me just get the reference for that. The other document is DRC-OTP-0018-0165, it. Is item 933 on the Prosecution's list. It's public. And the document is Swahili, the -- it's in Swahili. The translation is on our list as well, but I'm purely interested in the rank that's listed so in my submission we do not need the translation.

PRESIDING JUDGE FREMR: [10:09:45] Mr Bourgon.

MR BOURGON: [10:09:45] This document was not used in re-examination, neither did that issue of -- was not raised in re-examination, Mr President. Thank you.

PRESIDING JUDGE FREMR: [10:09:53] Court officer.

THE COURT OFFICER: [10:09:58] Yes. I would like to ask the parties to slow down when they are speaking, please. Thank you very much.

PRESIDING JUDGE FREMR: [10:10:03] Ms Samson.

MS SAMSON: [10:10:05] Thank you, Mr President. I -- I submit that I am dealing with the same issue of rank and the discrepancies between what we submit are a forged document with real minutes. And the issue of the rank assigned to the participants in a meeting that -- in a document we say is forged is relevant, in addition to assessing the credibility of the witness. And I solely want to look at this new document on the issue of rank connected to my last question.

PRESIDING JUDGE FREMR: [10:10:35] At this -- Mr Bourgon.

MR BOURGON: [10:10:39] Not only did I not use the document, it was never used before in this trial.

PRESIDING JUDGE FREMR: [10:10:45] It's true, but I see a strong connection between the topic used by Defence during the re-direct, so at the moment -- or in this case the objection is overruled.

And, Ms Samson, for your information you still have 11 minutes to conclude.

MS SAMSON: [10:11:04] Thank you, Mr President.

Q. [10:11:06] Now, sir, if we look at this document, it's a handwritten letter from Tango Echo to Tango Romeo written in Joo, J-O-O, on 20 July 2003. And Tango Echo, that's Peter Dz'tho; correct?

A. [10:11:42] I'll answer you. But you said that I provided you with a document personally. I never provided you with a document. Where it concerns the call sign, I don't know the call sign of my secretary. At the time he didn't have a Motorola. And today I don't know the call sign of Peter. I never called him using any type of communications device.

Q. [10:12:17] All right, Mr Ntaganda. Let's go to the bottom of the page, please, so we can see who it's from more clearly, which will help I'm sure refresh your memory.

So this document is written by lieutenant colonel Peter Dz'tho, in French (Interpretation) Secretary to the chief of general -- secretary to the deputy chief of general staff operations and organisation. (Speaks English) Signed and dated 20 July 2003.

Now, in this document on 20 July, so one month after the minutes of the meeting you acclaim to have participated in, Peter Dz'tho signs as lieutenant colonel, whereas your document has him as a colonel promoted at some point before the meeting. Now, can you explain this discrepancy?

A. [10:13:32] I can't explain something which is in relation to something I don't know. If I knew the content of these two letters, then I could answer you. Unfortunately, that's not the case.

Q. [10:13:47] Thank you.

Now I'm moving to a different topic, sir. In your testimony in re-examination you stated at transcript T-242, page 20, lines 20 to 23 in relation to a document you were shown signed by Jérôme Kakwavu and Didier Wanican for the reception of weapons, you looked at the document and you said, and I quote:

"Firstly, the FPLC didn't have a computer. I can see that's a printed document, from a printer."

Now, sir, in your answer do you mean that the UPC had no computers in October, November, December 2002, or were you meaning to distinguish that the FPLC didn't have computers then?

A. [10:15:00] It's a letter on military subject. It's an FPLC letter. It was speaking about weapons and uniforms. The UPC, as the political wing, was not concerned. In our office, as far as we were concerned, we never had a computer. We just had a typewriter. And sometimes we would write by hand. Basically, that's just to say that we didn't have a computer.

Q. [10:15:44] So, I take it then that you accept that the UPC, political branch, had computers at that time; correct?

A. [10:16:00] Yes, they did. But we did not move about to talk about political matters and we did not write these things down on a computer. There were people at the headquarters of Lubanga to help us. On our side, at the general headquarters, we had a typewriter.

Q. [10:16:30] I would like to show you a document, please. And I will get the ERN. The ERN is DRC-OTP-0109-0122. And it's item 974. It's public.

PRESIDING JUDGE FREMR: [10:17:06] Ms Martineau, please, I can hear you with my headphones.

MS SAMSON: [10:17:30]

1 Q. [10:17:30] Now, here, sir, we have a document on -- from the G2's office of the
2 FPLC. It is done in Bunia in December 2002, specific date is not entered. If we
3 scroll down further, it is to the president of the UPC/RP in Bunia, for the information
4 the general staff in Bunia. The subject, and I will read it in French: (Interpretation)
5 "Request to re-open the accelerated training centre for military intelligence and
6 security".
7 (Speaks English) And if we scroll down to the bottom, please, you can see who it
8 comes from. All the way down, please. It's from Idris Bobale Commandant Chef
9 G2 FPLC.
10 Now, sir, take your time. Take a look at the document to familiarise yourself with it,
11 but this document is printed from a computer in December 2002, and it's general staff
12 document of the FPLC; correct?
13 A. [10:19:03] I'm telling you, and I'm speaking as chief of -- deputy chief of staff.
14 On site, if I had a computer, if Kisembo had a computer, I would have told you so.
15 We only had a mere, an ordinary typewriter. Could you show the date on which
16 Bobale signed this letter? And I could tell you that there was a period of time when
17 we did not work because at one point he was actually placed in detention. So at one
18 point he was not working.
19 Q. [10:19:47] Sir, you've testified, have you not, that Idris Bobale was the G2
20 before Ali Mbuyi took up the post in November/December 2002?
21 A. [10:20:02] For a while, he worked. After the departure of Molondo, he came
22 to us, he worked. But in December -- or rather in November, he was in detention,
23 and when he was working we did not have a computer in our office. Within the
24 FPLC we never had a computer; we always had a typewriter.
25 MS SAMSON: [10:20:31] Mr President, I seek to admit for impeachment this

1 document 0109-0122. As well as the handwritten letter to the witness from Mr Peter
2 Dz'tho, DRC-OTP-0018-0165 that I referred to moments ago.
3 PRESIDING JUDGE FREMR: [10:20:53] Defence, your position?
4 MR BOURGON: [10:20:56] Maybe my colleague can explain what is the
5 impeachment value of the document because right now I don't see exactly what the is
6 impeachment value of these documents in the context of this re-cross.
7 PRESIDING JUDGE FREMR: [10:21:10] Ms Samson. Absolutely briefly, please.
8 MS SAMSON: [10:21:12] Certainly, your Honour. The document that is from
9 December 2002 from the G2 FPLC is a document that is -- was prepared on a
10 computer, and the witness has denied that the FPLC had computer capacities at the
11 same time that this document is purportedly dated. That's the first one.
12 For the second document, your Honour, the impeachment value has to do with the
13 witness's evidence that higher grades were assigned to participants of a meeting
14 purportedly on 16 June 2003 long prior to that meeting taking place, and yet the
15 individual concerned in this document appears to be unaware of such a promotion,
16 and it undermines, in our submission, the witness's evidence and the authenticity of
17 the document disclosed by the Defence.
18 PRESIDING JUDGE FREMR: [10:22:12] Thank you. In my view, purpose of
19 admission of those documents for purposes of impeachment have been demonstrated,
20 so both documents specified by Ms Samson are admitted for the purpose of
21 impeachment.
22 At the moment, Ms Samson, you have just one last minute. Do you want to ...
23 MS SAMSON: [10:22:36] Thank you, Mr President. I think I'll end now, and
24 thank you for the indulgence.
25 PRESIDING JUDGE FREMR: [10:22:41] Thank you.

Now it is the time for questions put by the Chamber, but before doing that, I have to use this time for delivery of one small but important oral ruling concerning our next witness. And we will have to do it in private session. So, court officer, please, let's move into private session.

(Private session at 10.23 a.m.)

THE COURT OFFICER: [10:23:10] We are in private session, Mr President.

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4 (Open session at 10.25 a.m.)

5 THE COURT OFFICER: [10:25:40] We are back in open session, Mr President.

6 PRESIDING JUDGE FREMR: [10:26:15] Thank you, court officer.

7 As you noticed, the Chamber put, I would say, many questions as questions clarifying

8 or additional questions during your examination, examination conducted by both

9 parties, but there are still a few questions we would like to put even now. So I will

10 start with few questions and then there is a possibility my colleagues would like to

11 put some questions as well.

12 Mr Ntaganda, I would like to return back to the topic which, in fact, I asked you

13 about, and it was issue of marriages between your inferiors, between boys and girls

14 serving in army under your command within the FPLC.

15 In response to one of my questions, and now I am referring to transcript 239, page 50,

16 lines 20 to 25, when I ask you about the lowest age at which a girl could marry a boy

17 in Ituri in 2002 to 2003, you said, "Each ethnic group has its customs, but that when

18 somebody joins the army, they leave their customs and must follow the discipline, the

19 rules, the chain of command."

20 Do you recall stating this, Mr Ntaganda?

21 THE WITNESS: [10:28:28] (Interpretation) Yes, your Honour.

22 PRESIDING JUDGE FREMR: [10:28:30] So now I have follow-up questions for you:

23 Can you tell the Chamber, to your recollection, what were the ages of the youngest

24 people who were married in the FPLC?

25 THE WITNESS: [10:29:02] (Interpretation) Well, I will give you an example

relating to people I know; for instance, amongst my bodyguards, Jeannine was over 20 years of age. As well, Amama, she, too, was also over 20 years of age. Nearly all those people were over 20 years of age.

PRESIDING JUDGE FREMR: [10:29:48] All right. And one question concerning your knowledge, and I'm not saying that you have to know it, but your knowledge about the law at the time of 2002-2003 in Ituri, and now I am not meaning some ethnic or tribes norms, but I mean law of the DRC, do you remember under what age would be for girl unlawful to get married? Under 18, under 15, under 13. Simply to say that under some, some age would be 100 percent illegal or unlawful for girl to get married.

THE WITNESS: [10:31:06] (Interpretation) Your Honour, I will repeat what I've said. You see, the Congo is a large country and I would say it is almost the size of a continent. I can't describe to you everything that happened on the continent in the Congo because, for example, I was never a governor, so I couldn't tell you what the law was, but each ethnic group had its own customs which each group respected. All this to say to you that I can't give you a general answer to this question. But, for example, if I were to describe what happens in my part of the world, in my tradition, in my own family girls get married once they are over 20, once they are of age, 20 -- over 20 years, 25 years old and more. It is forbidden for young girls under that age to get married. That is what my tradition is.

I can't say anything about other groups and their traditions, other ethnic groups. For example, elsewhere a young girl might be forced to get married when she is still too young, but then after that, that was forbidden because that happened in the past, for example, amongst the Hema people. And then people were made aware and the practice was prohibited, that is no longer done. So I can't describe what

other -- what people in other regions do or people from other ethnic groups do.

PRESIDING JUDGE FREMR: [10:33:25] All right. Maybe my next question is not perfect, but if I would give you example, girl of 14 years age, do you think it could be, could be under some conditions lawful if she would get married?

THE WITNESS: [10:33:57] (Interpretation) No, under 18 that marriage -- well, personally, that would be considered to be unlawful.

PRESIDING JUDGE FREMR: [10:34:09] Thank you.

And again it is a general question: Do you think approval of parents could have some impact on that, whether if, for example, girl under 18, if such a marriage approved by parents could recure this situation?

THE WITNESS: [10:34:45] (Interpretation) This is what I explained to you earlier. The Congo is almost a continent. I don't know whether you're putting the question in general terms, or whether you're referring specifically to the Congo.

PRESIDING JUDGE FREMR: [10:35:04] Mr Ntaganda, probably no need to continue because I understand that it could be different.

All right. Now I would like to move and I will still keep the issue of the age, but to the issue of demobilisation.

In transcript 239 you stated that you received at least one letter from president of the FPLC to remind you about the demobilisation of soldiers aged under the age of 18 years. And you said at page 15, lines 7 to 11, now I quote:

"There were not troops under the age of 18 years in the FPLC. We were demobilising even those who were over 18 who wanted to go back to their normal life. It wasn't demobilisation of those who were under 18, even those who were over 18 who wanted to go back to school. This letter consisted of reminding us that if there were people under the age of 18 in the FPLC, we had to try and find them."

1 And you also stated at page 14, line 23 to page 15, line 1, and I quote:
2 "Demobilisation took place when we were preparing to rejoin the government forces
3 of Kinshasa, join the government forces. If I spoke about 2003, that's a mistake. It
4 was in 2004. I remember at that some of my bodyguards went back to school. So
5 that was 2004."
6 Do you recall stating this, Mr Ntaganda?
7 THE WITNESS: [10:37:22] (Interpretation) Yes, I remember making a statement
8 to that effect. I talked about two kinds, two sorts of demobilisation.
9 PRESIDING JUDGE FREMR: [10:37:34] All right. And now how old, according
10 your recollection, were your bodyguards when they were demobilised? Or at what
11 range?
12 THE WITNESS: [10:38:03] (Interpretation) My escorts were already able. And
13 sometimes we would climb mountains with them and they would wear -- correction,
14 they would carry their weapons, and we would even have them running up the
15 mountains. My bodyguards, if I think of the youngest one, he must have been close
16 to 20. He might have even been over 20. Demobilisation was not based on age; it
17 was for people who wanted to go back to civilian life and go back to school. And I
18 said they were over 18.
19 When they would rejoin the group in the years 2004, they were already aged 22,
20 approximately.
21 PRESIDING JUDGE FREMR: [10:39:07] Good.
22 So maybe you said it, but what was the reason for UPC or FPLC soldiers being
23 demobilised when over the age of 18?
24 THE WITNESS: [10:39:41] (Interpretation) When we began the training,
25 President Thomas, who at the time was within the RCD-K/ML, had a demobilisation

exercise within RCD-K/ML, and when that started he forbid us from enrolling people under 18. He gave us that instruction when we opened up the Mandro centre. The second reason was that we needed people who were able to fight the APC members, the combatants. A child under 18 would not have been able to do so. We needed people who were able to carry the equipment, to march day and night, and we wanted to build a strong army. So those are the two reasons that were at the origin of that.

PRESIDING JUDGE FREMR: [10:40:54] And my last question on that topic, Mr Ntaganda -- and I'm sorry but at the moment I'm not able to provide clear reference, but I believe that party of Defence will not oppose that -- that we heard several witnesses, especially I remember at least two NGO workers who have been involved in the process of demobilisation who said that some of the young people they dealt with even didn't want to return back to their normal life, to school. Do you have any explanation for that that they preferred, those young people preferred rather to stay within your army than to return back to school or to normal life?

THE WITNESS: [10:41:57] (Interpretation) I'm not in a position to know that. When the young people who were part of my group left, they were -- well, they wanted to go back to school. And they resumed their studies, and some of them even have degrees now. I didn't talk to these NGOs, but as for these young people who refused to leave, I didn't speak to them. They didn't explain to me why they did not want to leave.

PRESIDING JUDGE FREMR: [10:42:46] Fine.

And my last topic, and absolutely briefly, concerns restrictions on your phone calls. Do you remember, Mr Ntaganda, what time and by whom you have been informed about restrictions concerning who you can call and so on?

1 THE WITNESS: [10:43:26] (Interpretation) It was when the decision was taken.
2 I think it was when -- when I had the second Defence team. My second Defence
3 team was already in place and I think that was in the time of Mr Bourgon.
4 PRESIDING JUDGE FREMR: [10:43:52] I see. And you did not receive any
5 information on this topic when arriving at the Court's detention centre?
6 THE WITNESS: [10:44:23] (Interpretation) As for telephone calls, I was told some
7 things. I was told that telephones were being monitored, and I was asked not to talk
8 about political matters on the telephone. That is one of the things that the head of
9 the detention centre said to me. He said that my calls were being monitored and he
10 said I was not allowed to talk about political matters on the telephone. I remember
11 that quite well. I got to the detention centre at midnight on 23 March.
12 PRESIDING JUDGE FREMR: [10:45:07] Thank you.
13 I don't have any further questions. It's, in fact, quarter to 11, but I would at this
14 moment rather continue with, because I believe that it is possible my colleagues will
15 also put to you some questions and then Mr Bourgon will be given a chance to put
16 any questions arising from our questioning, and then we will -- so we will prolong
17 slightly, I hope, this session and then we will adequately shorten the next one.
18 So does Judge Chung have any questions? Judge Ozaki? Judge Ozaki does not
19 have. Judge Chung?
20 JUDGE CHUNG: [10:45:52] Thank you very much.
21 Mr Ntaganda, you answered sometimes during your testimony that you were not
22 informed of some instances occurred by your soldiers, especially some instances
23 occurred in February 2003.
24 So I'd like to focus on now the instances in February, occurring in February 2003; for
25 example, transcript 239, corrected version, page 6, line 7 to 11:

1 Question from Prosecution: That your troops led by Commander Salumu invites the
2 Lendu civilians to a meeting in Sangi under the pretext of a peace meeting on or
3 about 22 February 2003; is that true, untrue, or you do not know?
4 And you responded:
5 "I was not informed about that. This is information that I learnt about when I
6 reviewed the charges that were filed against me."
7 And the same transcript, page 7, line 1 to 4, Prosecution question:
8 "My forth proposition is that some of the women who were captured by
9 Commander Salumu and his troops were raped by them; is that true, untrue or you
10 do not know?"
11 And you responded:
12 "I did not receive any such information."
13 So my question is, what do you mean by you were not informed of such information?
14 So do you mean you did not receive such information at all officially or unofficially,
15 or do you mean that you did not receive such information officially, but you had the
16 chance to get such information unofficially?
17 THE WITNESS: [10:48:40] (Interpretation) I said that when it came to the attacks
18 of people who allegedly died and allegedly buried in a mass grave, I only learned
19 about this through the media in 2004, but before that time I had not been informed. I
20 only heard about it in 2004 via the media. And I asked a commander who was part
21 of Salumu's brigade. And in his answer he gave me an account that was different to
22 the media accounts. He said to me that the people who had attacked were strong
23 and that the attackers had been pushed back.
24 Here, before this Chamber, I was asked a question. I was asked whether people had
25 been asked to come to a meeting and whether there had even been rapes. And today

I am saying to you that I received this information through the documents that were disclosed to me by the Court and through the allegations that were included in those documents. So that is the answer that I gave to the Prosecution.

JUDGE CHUNG: [10:50:04] Okay. But you are still deputy chief at the time, and you answered to my question before that you had no difficulty; you did not have any difficulty or problem in exercising your role as deputy chief in 2003. But what happened in this kind of chain of report, why you were not -- why you were away from this chain of report in February 2003?

THE WITNESS: [10:50:40] (Interpretation) I understand what you're driving at, your Honour. When you asked me before, I thought that you were asking me whether I had ever had a problem with Kisembo or any other person, and I answered in response to that.

As for the situation that prevailed in 2003, we had a lot of problems because we had communication problems, we were setting up our army, and we didn't have enough communications equipment. We had road problems, because the roads were in a bad condition. So it was difficult to get to a place a hundred kilometres away. It might even take three days to get to one's destination.

So I couldn't say that I didn't have any problems, but when I answered your question, your previous question, that was within the framework of a small group. I wanted to say to you that we didn't have communications problems with Kisembo or any other person who was close because if we had had problems, well, we didn't have enough communications equipment and we didn't have enough Thurayas.

As for the use of the Thurayas, we had problems paying for them because we had to pay fifty, something like that, for one minute. So we had various problems because we were rebels and we didn't have the same resources as the government or the

1 government army.

2 JUDGE CHUNG: [10:52:45] Thank you. One more question to you.

3 Now I would like to show you a video, DRC-OTP-0159-0477, from 2.35.34 to 2.38.36,

4 which was already shown during the Prosecution case through another witness.

5 And I want to show this with sound, but we do not need a translation today because

6 we already have a translation in transcript T-144, edited version, page 65, line 11 to

7 page 67, line 18. So I want to show the video with sound, but we do not need a

8 translation today.

9 PRESIDING JUDGE FREMR: [10:53:41] And it is public, isn't it?

10 JUDGE CHUNG: [10:53:44] Public, yes.

11 PRESIDING JUDGE FREMR: [10:53:46] All right.

12 THE COURT OFFICER: [10:54:06] The video is loading and will be played on the

13 evidence 1 channel.

14 (Viewing of the video excerpt)

15 JUDGE CHUNG: [10:55:57] That should start from 2.35.34, 2.35.34, 2 hours 35

16 minutes 34 seconds.

17 (Viewing of the video excerpt)

18 JUDGE CHUNG: [10:59:38] This is enough. You can stop.

19 Okay, Mr Ntaganda, do you still remember when it was recorded and what event

20 was it?

21 THE WITNESS: [11:00:01] (Interpretation) It was when my daughter Jemima -- I

22 think it was on 29 November 2004. My daughter, Jemima's, birthday. She was

23 one-year-old; it was her one-year-old birthday.

24 JUDGE CHUNG: [11:00:25] So during your speech you briefly mentioned

25 "genocide". So what did you mean by "genocide" at the time?

1 THE WITNESS: [11:00:45] (Interpretation) Your Honour, I described to you how
2 I ended the genocide in Rwanda. I experienced this. When we arrived in Congo
3 in 1998, the current father of Congo, Kabila, or rather his director of cabinet,
4 Ndombasi, declared to the entire population of Congo that it was necessary to kill all
5 Tutsis and everybody who looked like them. And at that time there were troubles
6 immediately in Ituri because of that message in that region. There was inter-ethnic
7 conflict. People were killing each other. That was in 2000 that happened. When I
8 arrived what did I see? I saw the killings in Mudzipela. And these massacres were
9 no different to what I saw in Rwanda, the way in which people had been massacred
10 with machetes, with knives.
11 Perhaps the Rwandan genocide was on a wider scale, but the way in which people
12 had been killed in the Congo was the same. People were killed with machetes.
13 Children being carried by their mothers were killed, although being carried by their
14 mothers on their back. That happened in Nyankunde, Drodro, Tchomia,
15 Kacheli (phon).
16 Your Honour, you haven't had the opportunity to see these pitches where the Hema
17 were killed. It was Hema that were killed. And when I speak about the genocide,
18 having experienced the Rwandan genocide, I saw what was happening in Congo was
19 similar or the same. The killings which happened in Drodro, Kacheli, Tchomia,
20 Bunia, occurred in 2003, and they happened in the same way as what happened in
21 Rwanda. I'm therefore describing the massacres that I saw in Bunia, Ituri, and in this
22 way that you saw on the video.
23 JUDGE CHUNG: [11:03:44] Thank you very much, Mr Ntaganda. This is it for
24 me. Thank you.
25 PRESIDING JUDGE FREMR: [11:03:48] And I have still -- Judge Ozaki? No. I

have still two additional questions.

Mr Ntaganda, to wage war, it's not a cheap matter, because I can imagine that arms, uniforms, food for soldiers, technical equipments like telephones, radios; it costs some money. So what were the sources used by FPLC to cover those expenditures?

THE WITNESS: [11:04:34] (Interpretation) I think you've already asked this question, your Honour, relating to the uniforms and the weapons. I don't know how Thomas negotiated that with RCD-Goma. Where it concerns food, there's a lot of agricultural work which is carried out in Ituri. And I asked the commanders and people responsible for customs saying that I didn't want any fraud or theft. I insisted on that. They had to collect taxes so that one day the soldiers could be paid or have some food. And when we controlled region, there were people who were working in the finance sector who were checking what entered into Ituri. There were some receipts of money that we received and we gave to the G4 responsible for logistics in order to buy foodstuffs for the troops.

PRESIDING JUDGE FREMR: [11:05:56] And my second question is: I would like to move to your personal expenditures. From what or how did you cover, for example, if you live in some house, did you pay any rent?

THE WITNESS: [11:06:31] (Interpretation) You saw a building that belonged to the missionaries, you saw that on a photograph. Those Catholic missionaries authorised me to reside there during the period when I was in Ituri.

PRESIDING JUDGE FREMR: [11:06:55] And expenditures for maintaining your own household? I think your wife had to cook something, to buy some food or?

THE WITNESS: [11:07:18] (Interpretation) There was somebody attached to the presidency who gave us some money, a certain amount of money each month. Where it concerns household expenses, I gave money to my wife.

PRESIDING JUDGE FREMR: [11:07:39] Thank you, Mr Ntaganda.
Now, Mr Bourgon, we still have 8 minutes, and I would appreciate if you could, if you have any questions, we want to comply with Rule 140(2)(b), if I'm not wrong. So you have the right to be the last one who will examine the witness, but we will then anyway have to break for half an hour in order to give chance to Bunia to be ready for next witness. So if you could, if you have any questions, to complete by those seven minutes, it would be fine, but I don't want to push you.
MR BOURGON: [11:08:17] Well, Mr President, I have many questions which I believe will take more than seven or eight minutes. More importantly, I do need time to find some references. I will give you one example, Mr President, of --
PRESIDING JUDGE FREMR: [11:08:31] Mr Bourgon, it is not necessary. We will break now and we will give you enough time that you need. Can you at least estimate for the sake of planning in order to inform Bunia how much time you will need.
MR BOURGON: [11:08:42] No more than 30 minutes, Mr President.
PRESIDING JUDGE FREMR: [11:08:44] All right.
So we break now and we will reconvene at 11.40.
THE COURT USHER: [11:08:51] All rise.
(Recess taken at 11.08 a.m.)
(Upon resuming in open session at 11.41 a.m.)
THE COURT USHER: [11:41:15] All rise.
Please be seated.
PRESIDING JUDGE FREMR: [11:41:38] So now it's turn for Defence to -- in order with -- in accordance with Rule 140(2)(d) conduct the last examination of the witness.
Mr Bourgon, you have the floor.

1 MR BOURGON: [11:42:08] Thank you, Mr President.
2 QUESTIONED BY MR BOURGON:
3 MR BOURGON: I'll begin, Mr President, with a few questions that were put to the
4 witness by the Prosecution this morning. And I just have two questions related one
5 of the conversations. I would like if we could give to the witness -- if I can ask the
6 court usher to give to the witness conversation number 2101-1147. This is the
7 original transcription. And the translation is 2101-1436. These were items 1455
8 and 1456 on the list of Prosecution items.
9 Q. [11:43:07] Mr Ntaganda, you will be given the text of a conversation in your
10 language. Now, in your language you were shown an extract this morning. And
11 I'd like to show you a different extract which is just above the one you were shown.
12 Now, the part you were shown this morning was line 136 to 158. Can you see this in
13 the transcription that you have?
14 A. [11:43:56] Yes, I do have the document here. And I'd like to ask you to tell me
15 which line I should look at.
16 Q. [11:44:03] Well, first I'd like you to look at the lines that were shown to you
17 this morning. Now, in your document it's 136 to 158. The translation used by the
18 Prosecution was line 141 to 163. Do you see this part, Mr Ntaganda? One three six
19 to 158, that's all you have to look for.
20 A. [11:44:53] Yes, I'm already there, line 136.
21 Q. [11:44:56] Now, that's the part that was read this morning. I would like to
22 read to you now line 118 to 135. And I will be reading from the translation where it
23 starts at 122 to 140. Line 120:
24 "BN: Are there any that ... are there any that you tried to remember?
25 PD: Yes.

BN: Is there any former work that you are trying to remember?

PD: Eh, the one of ...?

BN: Do you remember any? What, yes?

PD: If I look in ... I check in my stuff ...

BN: That one of, erm ... of Aru, did you try to ... establish the date and the month?

PD: ... looking into my old notebooks from... '99, 2000, I found it so I am still ...

BN: Aru, from Aru.

PD: ... I am going through it to see if there is ... there if I wrote something ... Yes ... No, there isn't. There isn't but I will ..."try. "I'll try to verify first because I had many ...

BN: Ah.

PD: ... diaries.

BN: Of '99, 2000, are there ... did you ... did you find any of ours? ... There aren't any, there aren't any.

PD: Yes.

BN: No, we, mostly we are interested in that ... starting in January 2002 until the 3rd and we met the From U, mostly ... focus on that.

PD: Mmm. OK, I'll use that as a reference.

BN: Ah, yes, it's mostly that.

PD: Mmm."

End of the part I wanted to read to you, Mr Ntaganda.

The Prosecution suggested to you this morning, Mr Ntaganda, that you were reminding dates to Peter. What can you tell us on the basis of the part that I just read to you, what is going on in this conversation?

A. [11:48:33] In this conversation I was asking him to look in his diary and verify

1 whether he could find the activities that I was involved in, especially during that
2 period when we were fighting the Ugandans and when I was in Libi up until the 3rd.
3 So I was asking him to go through his diary and to verify whether he could find those
4 dates. And then he would remind me of those events because he had been my
5 secretary.
6 Q. [11:49:22] Mr Ntaganda, if you can look at line -- in the translation it is line 224,
7 in the original, in the one that you have, it is line 216. If you can look at this line. I
8 will read that line in English where it says:
9 "... that story from over at the many stones, when he was with his leader ..."
10 Can you see this line in your language?
11 A. [11:50:22] Line 126, which I have right here is different to what you've been
12 reading out to me.
13 Q. [11:50:31] The one line I'd like you to look at is 216.
14 A. [11:50:41] Okay, I'm there.
15 Q. [11:50:47] And the translation is at line 224 and it reads "... that story from over
16 at the many stones, when he was with his leader ..."
17 Now, Mr Ntaganda, this is not a topic that I did raise in re-examination concerning
18 the use of any codes or other, but the Prosecution this morning put a question to you
19 on page 12, line 14. And the question was as follows:
20 "And by stones, you're referring to gold?"
21 PRESIDING JUDGE FREMR: [11:51:23] Hold on, Mr Witness.
22 Ms Samson.
23 MS SAMSON: [11:51:25] Yes, thank you. I will find the passage but Counsel did
24 ask in examination, re-examination what certain terms meant, including "the place
25 where the stones are" and a second term that was used. I will find the reference if I

may have a moment.

PRESIDING JUDGE FREMR: [11:51:45] Please. Or maybe Mr Bourgon will confirm himself.

MR BOURGON: [11:51:58] Mr President, the issue that I raised this morning, the question was put to the witness "And by stones you're referring to gold?" That was perfectly a correct question arising from my re-examination.

But then my colleague said "Why did you not use the proper term Mongbwalu?" That's the different thing. That was an allegation that Mr Ntaganda was trying to hide something. That's something I did not raise in re-examination. But that's not the point. I have a clear question now for the witness.

PRESIDING JUDGE FREMR: [11:52:34] Ms Samson.

MS SAMSON: [11:52:35] Thank you, yes. I'm just responding to counsel's assertion at page 49, lines 22 to 24, "This is not a topic that I did raise in re-examination concerning the use of any codes" because that was addressed your Honour in re-examination. And I will find the reference. I'm told it's transcript T-242, page 96. One moment, your Honour.

MR BOURGON: [11:53:46] Mr President, the line I was referring to is at page 12, lines 5 to 6. And what my colleague mentioned this morning is "Why don't you just call it Mongbwalu in your calls?" But it's not a big issue, Mr President.

PRESIDING JUDGE FREMR: [11:54:00] What I want to say that, for me, it's not a big deal really, Ms Samson.

So, Mr Bourgon, please proceed.

MR BOURGON: [11:54:11] Thank you, Mr President.

Q. [11:54:12] Mr Ntaganda, when you mentioned in this line the -- "over at the many stones", did Peter understand what you meant?

1 A. [11:54:38] He understood me immediately because that is what we usually
2 used when we spoke of that place. You could ask someone "Where are you going?"
3 And the person would say, "I'm going to the place where there are many stones."
4 So when I said that to Peter, he immediately understood what I meant. And other
5 times you might say to a person, "Where are you going?" And the person might say
6 "Oh, I'm going to the place where there is sand." It was common usage.
7 Q. [11:55:21] So in that specific line, Mr Ntaganda, are you trying to hide the
8 word "Mongbwalu"?
9 A. [11:55:39] No. Because we would call that place "the place where there are
10 stones". And as I said a few moments ago, when someone has two names, you can
11 always choose to call the person by one of the names. And in that place, if you said
12 "Mongbwalu", people would understand. And if you said "the place with many
13 stones", people would also understand that you meant Mongbwalu.
14 Q. [11:56:12] Thank you, Mr Ntaganda.
15 I'd like to have on the screen, please, the document that was shown to you this
16 morning, which is 0014-0177. And it's item 1120 on the list of Prosecution exhibits.
17 PRESIDING JUDGE FREMR: [11:56:37] And in the meantime, correction of the
18 transcript, page 46, line 15, I probably mispronounced the right Rule because at the
19 moment we have in the transcript Rule 140(2)(b) so it should be corrected and the
20 right number is 140(2)(d), like Diana. That's it.
21 MR BOURGON: [11:57:23]
22 Q. [11:57:23] Do you see this document before on your screen, Mr Ntaganda?
23 A. [11:57:30] Yes, Counsel.
24 Q. [11:57:33] So first you see the title of this document as being "Reunion Mixte:
25 Exec. - Etat. Major". Do you see this?

1 A. [11:57:58] Yes, Counsel.
2 Q. [11:58:00] If we can scroll down the document, can you tell us if there are
3 many politicians or members of the executive who are attending this meeting?
4 MS SAMSON: [11:58:18] Mr President.
5 PRESIDING JUDGE FREMR: [11:58:20] Ms Samson.
6 MS SAMSON: [11:58:21] Thank you. Mr President, the issue I was limited to
7 dealing with, in relation to this document, was the issue of the ranks. And that's the
8 only topic I addressed. So in my submission counsel is now going beyond the limits
9 the Chamber has placed on re-cross and re-examination to address other topics.
10 PRESIDING JUDGE FREMR: [11:58:40] Mr Bourgon.
11 MR BOURGON: [11:58:41] I'm not addressing another topic. My colleague said
12 this morning that a document was forged. And what the contents of this document
13 is exactly on the topic as to whether the other document was forged or not.
14 PRESIDING JUDGE FREMR: [11:58:54] It's a serious issue. And in accordance
15 with our truth-finding function, the objection is overruled.
16 Please proceed.
17 MR BOURGON: [11:59:09]
18 Q. [11:59:09] Now, Mr Ntaganda, do you see persons here in this document that
19 are not mentioned in the other document that we saw, which is the meeting that was
20 shown to you earlier this morning?
21 A. [11:59:39] You can clearly see that the names are different.
22 Q. [11:59:43] Let's take an example. Daniel Litsha, number 10, what was his
23 position?
24 A. [11:59:59] He was a political official.
25 Q. [12:00:10] And if we look at the name right at the top of the page, Amboko

Bebetu, who is he?

A. [12:00:26] Well, his job is indicated here. He was the national secretary responsible for information and the press.

Q. [12:00:41] And number 3, John Tinanzabo, is he one of the secrétaires nationaux?

A. [12:00:57] Yes. He was a political official, national secretary responsible for pacification.

PRESIDING JUDGE FREMR: [12:01:07] Ms Samson.

MS SAMSON: [12:01:08] Thank you. The answer has been provided but the question was entirely leading. "And number 3, John Tinanzabo, is he one of the national secretaries" rather than "What is his function?"

PRESIDING JUDGE FREMR: [12:01:23] Mr Bourgon, you are not allowed to put leading questions at this stage of proceeding. But any way, the answer have been given and we will evaluate that answer in light of the right objection made by Ms Samson.

Mr Bourgon, please proceed.

MR BOURGON: [12:01:41] Thank you, Mr President.

Q. [12:01:43] These three persons that we just looked at as example, did you see these names in the other document that was shown to you this morning?

A. [12:02:08] No. Those three names were not in the other document.

Q. [12:02:13] Now the names who are here, who filled in the information on this document, from what you can tell?

PRESIDING JUDGE FREMR: [12:02:26] Hold on, Mr Witness.

Ms Samson.

MS SAMSON: [12:02:30] Thank you, Mr President. I do not want to make a

1 submission on the evidence or anticipated answers, but my question is about the
2 ability of the witness to assess, to give an answer to the question.
3 PRESIDING JUDGE FREMR: [12:02:48] We will see.
4 Mr Bourgon, please.
5 MR BOURGON: [12:02:52] Mr President, I could have put a much -- a different
6 question, but the witness when shown this document did say that he did not know
7 about the document. But it's clear and anyone can see that people who filled in this
8 form are those (Overlapping speakers)
9 PRESIDING JUDGE FREMR: [12:03:11] Mr Bourgon, please do not assist
10 Mr Witness with his answer. So just repeat, just repeat the question, please.
11 MR BOURGON: [12:03:21]
12 Q. [12:03:21] Mr Ntaganda, from your understanding of how documents are
13 made, are you able to assist the Chamber as to who would have filled in this
14 document?
15 A. [12:03:43] I don't know that person.
16 Q. [12:03:46] We'll show you now, Mr Ntaganda, another document which is a
17 document that was shown to you this morning. And this one is DRC-D01-0003-5900.
18 That's the one that was shown to you this morning and it was also given to you
19 physically in your hands yesterday.
20 If we can have this document on the screen, please.
21 Mr Ntaganda, we see at the top of the page is says "Participants". And I'd like to
22 know based on your understanding as to how such documents were compiled. And
23 you can see the title there (Interpretation) "Minutes of the CEMG meeting with the
24 commanders of the major units".
25 (Speaks English) Who would have indicated the names in this paragraph?

A. [12:05:11] I don't know that person.

Q. [12:05:25] But what person, what would be the capacity of the person who would have indicated the names in this paragraph? How is this document -- how such documents are created?

A. [12:05:45] Normally a document like this one is drawn up by office one.

Q. [12:06:03] Do you see in this document, Mr Ntaganda, any signatures of the persons who attended?

A. [12:06:21] I don't see any such signatures there.

Q. [12:06:28] And in the list of participants that we see here, are there, to your knowledge, any members of the executive?

A. [12:06:47] No. There aren't any.

Q. [12:06:51] And, sir, when we look at the title of this document where it says (Interpretation) "Minutes of the meeting of the CEMG with the commanders of the major units" (Speaks English) My question is: Are the members of the executive part or within the group formed by les commandants des grandes unités?

A. [12:07:31] No. The brigade commanders and the battalion commanders were there. Other than that, the people were political officials and they weren't supposed to be part of the group of -- that is to say the group of commanders of the major units.

Q. [12:07:55] Now, Mr Ntaganda, many questions have been asked to you in -- regarding this document. What we know so far from your evidence is that you attended a meeting before going to Mongbwalu, that there was something about your promotion and there was something that you mentioned about the operations about to take place in Mongbwalu.

Now, my question is simple. You look at this document, and you've had a chance to do so, do you think that this document represents or is an account of the meeting you

1 took part in?

2 A. [12:08:45] In this document there's no mention made of the meeting having to

3 do with the mission that was to be carried out in Mongbwalu.

4 Q. [12:09:02] But my question is, is it possible, Mr Ntaganda, that this compte

5 rendu de la réunion has to do with a meeting different from the one you attended?

6 PRESIDING JUDGE FREMR: [12:09:15] Hold on, Mr Witness.

7 Ms Samson.

8 MS SAMSON: [12:09:19] Yes. This exact question was asked already, your

9 Honour, in re-examination. I just need a moment to find the reference, but I recall

10 pretty much the exact exchange took place, if I may have one moment.

11 PRESIDING JUDGE FREMR: [12:10:04] If yes, Mr Bourgon, is there any reason to

12 repeat?

13 MR BOURGON: [12:10:08] I don't think the question was asked.

14 MS SAMSON: [12:10:10] I found it. It's in transcript T-242, page 63, lines 10-13.

15 "Now, Mr Ntaganda, my question to you is the following: The meeting new say you

16 attended before going to Mongbwalu, is it possible it is a meeting that is different

17 from the one described in this document?"

18 PRESIDING JUDGE FREMR: [12:10:30] So I'm repeating because I now find it

19 asked and answered, so is there any reason to repeat such a question, Mr Bourgon?

20 Any shift in the evidence in between those two questions?

21 MR BOURGON: [12:10:41] Mr President, yes, on the basis of the parallel

22 established with the third document that was not used in re-examination, and on the

23 basis of allegations of forgery.

24 PRESIDING JUDGE FREMR: [12:10:54] All right, then.

25 MR BOURGON: [12:10:56] And the witness can say whether it's possible that

1 this --

2 PRESIDING JUDGE FREMR: [12:11:01] Please, Mr Bourgon, refrain from saying

3 what Mr Witness should, could say, please. Limit yourself on questions.

4 MR BOURGON: [12:11:09]

5 Q. [12:11:10] Mr Ntaganda, I will say my question again. You have looked at

6 this document in your hands yesterday and again this morning and many questions

7 were put to you and you answered many questions. I have one last question, is it

8 possible that this document is not a compte rendu of the meeting you attended?

9 A. [12:11:38] Yes, they are two different things.

10 Q. [12:11:56] I move to a different issue. This morning a document was shown

11 to you. I'd like to return to this document, and it's document number

12 DRC-OTP-0109-0122.

13 If I can have this document on the screen, please.

14 So, Mr Ntaganda, we see this document here and you see that it is on the top. You

15 see the number of the document, and who it -- who it is addressed to. But my only

16 question is, first of all, is do you see the date of this document?

17 A. [12:13:19] I don't see the date, but in December Bobale was not G2; it was Ali

18 Mbuyi who was responsible for the G2.

19 Q. [12:13:35] And if we can scroll down to the end of the document, do you see

20 any signature on this document?

21 A. [12:13:49] There is no signature.

22 Q. So do you have any idea when and where and who created this document?

23 A. [12:14:20] I don't know, but it is shown here December of the year -- but in that

24 period, Bobale was not assigned to the G2. He was not responsible for that unit.

25 MR BOURGON: [12:14:39] Mr President, I'd like to know, I mentioned 30 minutes

this morning. I'm not sure if I'm limited to 30 minutes, or if I can -- because I've got some questions to address based on what arose from the Judges' questions.

PRESIDING JUDGE FREMR: [12:14:50] Mr Bourgon, you are encouraged to keep this limit, so I would be fine if you would go slightly over but really slightly. How much time you believe you need to complete?

MR BOURGON: [12:15:06] Right now, I think I can do that in 15 minutes.

PRESIDING JUDGE FREMR: [12:15:20] All right.

MR BOURGON: [12:15:31]

Q. [12:15:32] Mr Ntaganda, I move to different topic. Questions were put to you by the honourable Judge Chung, and I'd like to move to these questions right away. And the issue was raised this morning that -- how you could identify the situation in Ituri as genocide. Now, you mentioned some big massacres taking place. You mentioned Bogoro, Drodro, Tchomia and Nyankunde. Do you recall mentioning these names?

A. [12:16:17] I didn't mention Bogoro. I said Drodro, Mudzipela, Nyankunde, Tchomia and Bunia.

Q. [12:16:32] Now --

A. [12:16:33] I can find these localities in the document that's in front of me.

Q. [12:16:37] Now, sir, if I add to this list the name of Bogoro, are you aware of the massacre that took place in Bogoro?

A. [12:16:55] At the time I arrived in Mandro, the 4th, Mandro had been attacked according to what the population told me. It was 4 April -- or rather, 4 March.

Q. [12:17:11] Mr Ntaganda, I'm talking your knowledge now or at the time of the video we saw, were you aware of massacres taking place in Bogoro, Drodro, Tchomia and Nyankunde in 2004?

A. [12:17:44] In which period are you speaking about? You wanted to ask me if I knew it before?

Q. [12:17:56] I'll change my question, Mr Ntaganda.

Judge Chung asked you a question with genocide. You remember, you mentioned a number of massacres which took place. My question is the following: Are you aware of any massacres that are equal or bigger in size than the following: Bogoro, Drodro, Tchomia, Nyankunde? Today I'm talking about.

A. [12:18:46] No. No. No.

Q. [12:18:55] And who committed these massacres, Mr Ntaganda, to your knowledge?

A. [12:19:08] In Drodro it was combatants and members of the APC. In Mudzipela, the same thing. In Nyankunde, the same thing. Tchomia, still the same thing, combatants and the APC. Same as in Bunia.

Q. [12:19:29] Mr Ntaganda, Judge Chung asked you a question about your knowledge in the period of February, and I'm not sure that you understood the question, and I want to ask a similar question to you. Judge Chung referred to some paragraph where you said that you were not aware of what happened with Salumu's brigade and what happened in KBL, and he put two specific parts of your answers. Why is it, Mr Ntaganda, that you did not have the information about these events at the time?

PRESIDING JUDGE FREMR: [12:20:19] Mr Bourgon, I will not allow this question. It's leading. You are just putting Mr Ntaganda he didn't have any information.

MR BOURGON: [12:20:29] Well, we know he did not have. But Judge Chung asked why and the question wasn't answered. So I'd like to give an opportunity to the witness to answer why he did not know. I think this is -- what was the aim of

1 Judge Chung's question.

2 (Trial Chamber confers)

3 PRESIDING JUDGE FREMR: [12:20:50] All right, then, with the support of Judge

4 Chung, you may proceed.

5 MR BOURGON: [12:20:54]

6 Q. [12:20:55] Can you explain, Mr Ntaganda.

7 THE INTERPRETER: [12:21:16] Could Mr Ntaganda, be asked to repeat his answer,

8 please.

9 PRESIDING JUDGE FREMR: [12:21:21] Mr Ntaganda, hold on. Your response

10 hasn't been captured by the interpreters. Please repeat it.

11 THE WITNESS: [12:21:35]) (Interpretation) I said the honourable Judge asked me

12 that question because I wasn't aware. I don't know why I wasn't aware, but nobody

13 gave me this information, nobody reported it to me. I didn't have this information.

14 When I asked the question to the commander in the place when I found out via the

15 media, the commander said to me something else. I can't tell you why I didn't know.

16 But when the Prosecutor asked me the question, at the time I was not one of the

17 members of the mission that Lubanga sent. I wasn't in Bunia. I therefore cannot

18 tell you why I did not know this information. Nobody told me about it. And when

19 these events happened, I wasn't in the area. So I did not know about it. I had no

20 information about it. That's the only answer I can give you.

21 MR BOURGON: [12:22:46]

22 Q. [12:22:47] Mr Ntaganda, during that period, and let's take the period from

23 mid-February until the March battle with the UPDF, what were your priorities as chef

24 d'état-major adjoint opération et organisation?

25 A. [12:23:18] In the middle of February when the president entrusted me with a

1 mission, we were going through a very difficult period. We were fighting the UPDF.
2 I was put in charge of the UPC as well as our front. We were not able to attain our
3 objective because it was difficult to defeat or beat the Ugandan forces. So I therefore
4 accomplished this mission as a person responsible for operations. We wanted to
5 find a way of kicking the UPDF out of Ituri.
6 Q. [12:24:18] And during this period, Mr Ntaganda, who was the highest ranking
7 officer responsible for anything taking place from Mongbwalu to Bunia?
8 A. [12:24:45] After I left Mongbwalu, there was Kisembo. He remained there. I
9 found him in Bunia. When I arrived on the 3rd, 3 March, during the night. When I
10 arrived with the Cobra troops -- not Cobra, Batata. It was the commander of another
11 battalion. He only came to Bunia a few times because he was based in Mongbwalu.
12 Q. [12:25:21] I move, Mr Ntaganda, to questions put to you by the Presiding
13 Judge. This was on page 36 at line 11 and 12. The question was as follows:
14 "So you maybe you said it, but what was the reason for UPC or FPLC soldiers being
15 demobilised when over the age of 18?"
16 I'd like to make sure that you understood that question and I will ask you a slightly
17 different question.
18 What demobilisations were you involved in and how did that come about?
19 A. [12:26:09] I participated in the demobilisation process, that's to say the 2004
20 process, when they went to join the national army in Kinshasa. We had to ask those
21 who wanted to have a military career to do so and to demobilise those who didn't
22 want to. I remember that at the time MONUC came, and it noted that we took the
23 weapons from those who wanted to take up civilian life. They had to receive a card.
24 That was the demobilisation in which I participated in. I didn't see any other.
25 Q. [12:26:52] Sir, which members of FPLC had the choice whether to demobilise

or not?

A. [12:27:12] Anyone who wished to do so could take up civilian life. Those who wanted to serve the country joined the national army, and they're still there.

PRESIDING JUDGE FREMR: [12:27:24] Mr Ntaganda, and you said anyone who wished, so what about those who didn't wish?

THE WITNESS: [12:27:39]) (Interpretation) Those who didn't want to were demobilised -- or, rather, there were some who received ranks who joined the national army and those who wanted to go into civilian life; they were given cards. And those who joined the army, they waited a bit and then it happened.

PRESIDING JUDGE FREMR: [12:28:14] Thank you. And correction line 17 instead of different should be didn't.

Mr Bourgon, you have the floor.

MR BOURGON: [12:28:24] Thank you, Mr President.

Q. [12:28:25] Mr Ntaganda, a question was put to you regarding the sources of funding. Do you have any idea who Thomas Lubanga was dealing with in order to fund the activities of UPC/FPLC?

A. [12:28:58] We the soldiers, we weren't involved in those matters. And I never personally asked the question to the political leadership, even President Thomas. I received my pension, the money which should come to me, and I just dealt with my work.

PRESIDING JUDGE FREMR: [12:29:26] Mr Ntaganda, and what was your pension? Just I'm interested in how much money you used to get.

THE WITNESS: [12:29:50]) (Interpretation) It wasn't a precise amount. Sometimes it was 200, sometimes 500 per month. That money was given to my wife. Some months I was given 200, 250. It varied.

PRESIDING JUDGE FREMR: [12:30:11] And just to be sure about currency, you meant US dollars?

THE WITNESS: [12:30:23]) (Interpretation) Yes. It was in a dollar amount.

PRESIDING JUDGE FREMR: [12:30:28] Thank you. Mr Bourgon, please.

MR BOURGON: [12:30:30] It will be my last question, Mr President.

Q. [12:30:33] When you were in Mandro you occupied a house that we saw in evidence during your testimony, and we also know that you had a house in Bunia. The question is, did you pay rent for these houses that you occupied, in which you lived?

A. [12:30:57] No, I didn't pay rent. The members of the population gave me the houses. It was Chef Kahwa in Mandro who made a house available to me. And in Bunia, it was the missionaries who I spoke about earlier.

Q. [12:31:16] Thank you, Mr Ntaganda.

MR BOURGON: [12:31:17] Thank you, Mr President. I have no further questions.

PRESIDING JUDGE FREMR: [12:31:20] All right. So we completed at this moment this very time-consuming exercise.

Once more, thank you very much, Mr Ntaganda, that you, I believe, did your best to answer all questions put to you and that you remained always ready, even if sometimes we came over this four hour limit. Thank you for that.

Now we will break. So we will --

Mr Bourgon, you want something?

MR BOURGON: [12:31:46] Yes, Mr President. This is highly symbolic. I would very much appreciate if the Chamber would invite Mr Ntaganda to join his seat back where he is no longer a witness before we break. Thank you.

PRESIDING JUDGE FREMR: [12:32:00] All right. Mr Ntaganda, you may -- I also

find some symbolism in that you may again take your seat.

(The witness is excused)

PRESIDING JUDGE FREMR: And as concerns our timing, so we will a bit shift our afternoon, afternoon session. So we will now take 90-minutes' break, which means that we will start again at 2 o'clock, and we would like in the afternoon also divide this normal two-hour session in two. You know, the problem with the interpreters. We were recommended to divide this session, so our idea is to sit from 2 to 3, then have 15 minutes' break, and then the other session, last session, from quarter past 3 till quarter past 4.

Mr Bourgon.

MR BOURGON: [12:33:12] Yes, Mr President. Just one last announcement. I will not be here this afternoon, and I wanted to address the Chamber so that my colleague will not be stuck with the issue.

As we have continued today and the time remaining in the block, we had to shift one witness in the witness schedule. We contacted VWU last night in order to make it that witness -- we need to go into private session, Mr President. I apologise.

PRESIDING JUDGE FREMR: [12:33:41] Let's move into private.

(Private session at 12.33 p.m.)

THE COURT OFFICER: [12:33:53] We're in private session, Mr President.

(Redacted)

(Redacted)

(Redacted)

(Redacted)

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(Redacted)

1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Recess taken at 12.34 p.m.)
10 (Upon resuming in open session at 2.02 p.m.)
11 THE COURT USHER: [14:02:50] All rise. Please be seated.
12 PRESIDING JUDGE FREMR: [14:02:53] Good afternoon, everybody. Good
13 afternoon to Bunia as well. Since I see a few changes in the composition of the
14 parties' teams, I would like to ask for appearances again. Prosecution first.
15 MR IVERSON: [14:02:51] Good afternoon, your Honours. This afternoon for the
16 Prosecution are Marion Rabanit, Selam Yirgou, Nicole Samson and myself,
17 Eric Iverson.
18 PRESIDING JUDGE FREMR: [14:02:52] Thank you, Mr Iverson.
19 Defence, please.
20 MS GRANDON: [14:02:58] (Interpretation) Good afternoon, your Honours. For
21 the Defence of Mr Bosco Ntaganda, present with us here today, Christopher Gosnell,
22 Sandrine De Sena, Salomé Biet and myself, Chloé Grandon.
23 PRESIDING JUDGE FREMR: [14:03:11] Thank you, Ms Grandon.
24 And as to the Legal Representatives, I just note that the composition remained the
25 same.

Before we start with the testimony of the next witness, who is witness D-54, the Chamber will address some procedural matters relevant to her testimony.

First, I recall that in accordance with our decision with filing number 1919, the witness will testify by way of video link. Second, in terms of timing, the Defence indicated that it would need three hours to complete its examination-in-chief of this witness.

The Chamber notes that at this stage, and for the remaining witnesses scheduled to testify in the current block, it has relied on the time estimates provided by the Defence. However, should it become clear at any time that the time has not been used efficiently, the Chamber might reconsider the time allocated for examination-in-chief.

Third, as already communicated by the Registry to the parties and participants via email, a few specific arrangements had to be made for the interpretation of the testimony of this witness. In particular for this witness, the interpreters will provide consecutive and not as usual simultaneous interpretation. This means that there will be longer breaks between interventions and the parties and the participants are requested to limit the length of their questions and to speak at an even slower pace than usual.

Further, the Kilendu interpreters shall not be required to translate legal arguments. In this regard, I note that in case of objections, a witness is normally asked to remove the headphones. Without translation, however, this will not be necessary in this case. To make it sufficiently clear to the interpreter that what will follow is a legal submission, please clearly indicate whether this is the case at the beginning of your intervention.

Lastly, we will try to continue the regular sitting schedule with this witness but will consider requests from the interpreters for additional breaks if and when they arise.

As I indicated, for this afternoon we plan to hold two sessions, one hour each with break of 10 or 15 minutes in between.

Now we can turn to the scheduled testimony. Court officer in Bunia, please turn on the video -- sorry, we have already turned on, but, court officer in Bunia, please escort Madam Witness into the video room.

Mr Iverson.

MR IVERSON: [14:06:44] I just wanted to briefly make an administrative and scheduling point. If now is not the right time, I can wait until towards the end of the testimony. It will be short.

PRESIDING JUDGE FREMR: [14:06:55] No problem. But would the presence of Madam Witness be a problem for you to make this submission? So please go ahead.

MR IVERSON: [14:07:05] All right. Well, thank you for your indulgence, Mr President. I just wanted to raise an administrative and scheduling issue having to do with the number of hours estimated for examination-in-chief. The Prosecution has noticed that the Defence gave time estimates when it provided its witness summaries back in -- at the end of April in filing 1881 and then provides additional time estimates for each witness block. We've noticed that there's a difference between the time estimates in the summaries and the time estimates they provided for, for instance, this witness block. For instance, witness D-12 was scheduled for four hours and then they provided a new estimate, without any other notification, that the testimony was going to take six and a half hours.

So the Prosecution would ask that should the Defence wish to change its time estimates and request more time, for instance, that they do so by going to the Chamber and requesting leave to change the time estimate for the amount of time it will take for the examination.

We ask this, just it's common sense. My preparation requires it. Preparing for a Defence witness, the first place I look at is the information that the Defence has already provided to us, and then it's inefficient and it's kind of annoying, actually, to have to then go to several other documents to check, to verify what is the actual estimate.

So -- and because they have already given the witness list which we regard as final, they should be going to the Chamber to ask your permission, your leave to change it. And they should have to justify why they are, for example, asking to increase the number of hours.

So that's my submission for now. Thank you, your Honours.

PRESIDING JUDGE FREMR: [14:09:13] Defence, who is able to comment this submission?

MR GOSNELL: [14:09:19] I think that would be up to me, Mr President. It's nice to be back, to have the opportunity to respond to the submission of the Prosecution. Mr President, I don't recall precisely the procedure that was followed during the Prosecution case, but what I do recall is that estimates were provided at the -- when the list was provided for each block by the Prosecution. That was the time estimate that we on the Defence understood to be the time estimate. I know that your Honours from time to time would review the list that was provided with each block and then you would use that as the basis for controlling the amount of time to be used with each witness.

So if it's been unclear up until now, let me say that we are following the same approach. The estimate that has been provided in the block notification of witnesses is the estimate that we consider to be the most valid and accurate for the witnesses called during that block. The reason that it changes from the initial list I don't think

1 needs to be justified.
2 I will say, Mr President, that there is an email that was just sent today requesting an
3 increase for the time to be allocated for the direct examination of D-0172. We have
4 not expressly requested for leave, but if your Honours wish the request to be more
5 fully justified and to be presented as a request for leave, then certainly the Defence
6 will do that.
7 I hope that that responds to my colleague's concerns.
8 PRESIDING JUDGE FREMR: [14:10:54] Mr Iverson.
9 MR IVERSON: [14:10:55] Just to clarify a point made by Defence counsel, the
10 Prosecution never on its own increased any time estimates. As a matter of fact,
11 I recall the Chamber reduced a number by order, reduced a number of our time
12 estimates, but we never on our own, without seeking leave of the Chamber, did we
13 increase any time estimates. So what the Defence counsel said is not entirely
14 accurate and so any change in the time estimates should really go to the Chamber for
15 approval.
16 PRESIDING JUDGE FREMR: [14:11:38] I believe that generally we are all at the
17 same page. It is true that it's in fact exception in this -- concerning this block, that the
18 Chamber didn't issue any order either approving or correcting times for each witness
19 in fact proposed or requested by Defence here. And I tried to explain that for the, in
20 fact, remainder of this block, the Chamber approved the time. And unless we will
21 rely that repeatedly -- repeatedly the Defence either underestimated or exaggerated
22 the time needed, we will take it as approved.
23 For the -- for the next block, we will issue such order just to give parties some
24 certainty. But as even Mr Bourgon -- Mr Gosnell said -- sorry, because we for two
25 months dealt exclusively with Mr Bourgon, so it's a bit kind of habit. So we will

always look at this request and we will in good time, before the beginning of such a block, give either our approval or we will cut, if necessary.

Still, I think it's natural that could be some exceptional cases when either calling party but even non-calling party could come with request for extension of time or reduction of time, and we will decide on a case-by-case basis.

But the fact that those changes, if they are not massive, may be made, in my view, is natural and I don't believe that it should be something that we could interpret as bad faith in this case from the Defence part.

Mr Iverson.

MR IVERSON: [14:14:11] I won't take offence if you accidentally call me Ms Samson. I realise counsel have been there for a while.

I meant -- I was not alleging any bad faith, of course, Mr President. I just wanted to point it out because it's a matter of preparation. In particular for me, you know, I tried to limit the amount of administrative documents that I have to review in order to prepare for a witness.

But just to get clarification from the Chamber, my understanding is that now, from now on, the witness lists that the Defence provide in advance of a witness block are controlling for the number of estimated hours. Is that a correct understanding?

PRESIDING JUDGE FREMR: [14:15:04] Yes. And as I said, the only defence that -- this case we didn't issue any decision or any order. First, I just confirm that we, for the moment, we approved a list, including hours, as has been presented by the -- by the Defence.

But for the next block, we would like to keep the same procedure. So as soon we will be provided estimation or request from Defence, we will control that and we can decide, and this -- this order issued by Chamber concerning -- or approval concerning

1 timing of single witnesses should be respected, unless there should be some
2 exceptional, exceptional reasons.
3 So I believe that -- in fact, we will continue in the same procedure we used with you.
4 And you said that you didn't increase -- I remember maybe few cases when, on the
5 spot, one of the members of your team asked for some extension just during
6 the -- during the examination. But it's -- again, it's up to the Chamber to decide. If
7 we find such a request well-founded, we will -- we will grant it.
8 Mr Gosnell.
9 MR GOSNELL: [14:16:23] I apologise for belaboring the point, but just to recall
10 your decision on the Conduct of Proceedings. Decision number 619 expressly states
11 that it is for the calling party to provide four weeks prior to the start of a block "a final
12 time estimate for each examination-in-chief". So we believe that it's on the basis of
13 that estimate that your Honours control and that the opposing party knows the
14 estimate. Thank you, Mr President.
15 PRESIDING JUDGE FREMR: [14:16:55] Exactly. So now we can move to the
16 testimony.
17 Madam Witness, good afternoon. Can you hear me?
18 WITNESS: DRC-D18-D-0054
19 (The witness speaks Lendu)
20 (The witness gives evidence via video link)
21 THE WITNESS: [14:17:29]) (Interpretation) Yes, I can hear you just fine.
22 PRESIDING JUDGE FREMR: [14:17:32] Good. Can you also see me on the screen
23 in front of you?
24 THE WITNESS: [14:17:56]) (Interpretation) Yes, I can see you, but not perfectly.
25 PRESIDING JUDGE FREMR: [14:18:02] I think it's not a big issue. The main thing

that you can recognise who is Judge, who is counsel, we have different robes, and then you can see what is going on in the courtroom here in The Hague.

Madam Witness, you are called to testify in the case against Mr Bosco Ntaganda.

You will be asked questions both by the Judges and lawyers here in the courtroom.

In addition to the Judges --

THE INTERPRETER: [14:18:46] Your Honour, could you allow a break for the consecutive interpreting?

PRESIDING JUDGE FREMR: [14:18:56] Yes, I will. Sorry.

Now, question to the interpreters: How should I rely that the consecutive interpretation is finished? Or how much time you recommend I should, how long breaks I should make between my interventions?

THE INTERPRETER: [14:19:24] Message from the interpreters: Could we please proceed one or two sentences at a time?

PRESIDING JUDGE FREMR: [14:19:33] All right. I will follow your guidance.

Madam Witness, you will be asked questions both by the Judges and lawyers here in the courtroom. In addition to the Judges, there are also lawyers for the Prosecution, then Mr Ntaganda and his lawyers and Legal Representatives of Victims.

Now, short guidance on answering the questions. Please listen carefully to those questions.

THE WITNESS: [14:20:53]) (Interpretation) Yes, I hear you.

PRESIDING JUDGE FREMR: [14:21:01] If you do not understand, feel free to ask for the question to be repeated.

We want you to tell the truth about what you saw, heard and sensed yourself. Do you understand all this, Madam Witness?

THE WITNESS: [14:21:57]) (Interpretation) Yes, I understand.

PRESIDING JUDGE FREMR: [14:22:02] Madam Witness, protective measures are put in place to ensure that your identity is not revealed to the public. The public cannot see your face and your voice is being disguised so nobody can recognise it. We will not mention your name and will refer to you as "Madam Witness" only. Whenever you need to describe anything that might reveal your identity, we will move into private session, then nobody, apart from the persons present in the courtroom can hear your answer.

Do you understand, Madam Witness?

THE WITNESS: [14:23:58]) (Interpretation) Yes, I've understood.

PRESIDING JUDGE FREMR: [14:24:00] Now, Madam Witness, please make your solemn undertaking to tell the truth by reading out the declaration you are provided with.

THE WITNESS: [14:24:42]) (Interpretation) I'm listening.

PRESIDING JUDGE FREMR: [14:24:43] So now I ask court officer in Bunia to provide Madam Witness with the text of solemn declaration.

Ms Grandon.

MS GRANDON: [14:25:00] (Interpretation) The witness cannot read.

PRESIDING JUDGE FREMR: [14:25:23] No problem. So I will read the text of solemn declaration in English and it will be translated to you, Madam Witness. And please repeat after me.

So I start: I solemnly declare --

THE WITNESS: [14:26:09]) (Interpretation) I solemnly declare --

PRESIDING JUDGE FREMR: [14:26:13] -- that I will speak the truth --

THE WITNESS: [14:26:24]) (Interpretation) -- that I will tell the truth --

PRESIDING JUDGE FREMR: [14:26:28] -- the whole truth --

1 THE WITNESS: [14:26:41]) (Interpretation) -- the whole truth --
2 PRESIDING JUDGE FREMR: [14:26:44] -- and nothing but the truth.
3 THE WITNESS: [14:26:51]) (Interpretation) -- nothing but the truth.
4 PRESIDING JUDGE FREMR: [14:27:00] Very well, Madam Witness.
5 Now you are under oath. And it's an offence to give false testimony, so you must
6 not lie.
7 THE WITNESS: [14:27:42]) (Interpretation) Yes, I've understood.
8 PRESIDING JUDGE FREMR: [14:27:45] Good.
9 And finally a few practical matters: Please speak at a slow pace like me to allow the
10 interpreters to translate everything.
11 THE WITNESS: [14:28:37]) (Interpretation) Yes, I have understood.
12 PRESIDING JUDGE FREMR: [14:28:39] Very well.
13 So we will start your testimony by examination conducted by the Prosecution, by its
14 representative, Mr Iverson. I'm sorry, I'm really, you see, a bit tired. So Madam
15 Witness, I was wrong. Your examination will start by questioning conducted by
16 Defence and I guess it will be Ms Grandon or -- Ms Grandon.
17 Ms Grandon, you have the floor.
18 MS GRANDON: [14:29:30] (Interpretation) Thank you, your Honour.
19 QUESTIONED BY MS GRANDON: (Interpretation)
20 Q. [14:29:39] Good afternoon, madam.
21 A. [14:29:48] Yes, good afternoon.
22 Q. [14:29:54] (Overlapping speakers)?
23 A. [14:30:01] I can hear you.
24 Q. [14:30:08] We've already met on several occasions but just for the transcript
25 I'm going to introduce myself once again to you, my name is Chloé Grandon and

1 today I'm going to ask you questions --

2 THE INTERPRETER: [14:30:28] Could counsel be asked you to speak in small --

3 MS GRANDON: (Interpretation) -- and I'm going to ask you questions from the

4 Defence from Bosco Ntaganda.

5 THE INTERPRETER: [14:30:39] If Counsel could speak in small, short sentences

6 for the consecutive interpretation.

7 PRESIDING JUDGE FREMR: [14:30:44] Ms Grandon, I guess you have heard

8 message from the interpreters. I also had some problems, but I guess you will soon

9 find the right way. So you have to cut your questions. Either to put brief questions

10 or cut your questions in pieces. Please, go ahead.

11 MS GRANDON: [14:31:05] (Interpretation) I'll do my best, your Honour.

12 For my first question, I would like to go into private session.

13 PRESIDING JUDGE FREMR: [14:31:16] All right.

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

15 (Private session at 2.31 p.m.) * (Reclassified partially in public)

16 THE COURT OFFICER: [14:31:26] We're in private session, Mr President.

17 PRESIDING JUDGE FREMR: [14:31:43] And Ms Grandon, in accordance with our

18 practice, if your first questions will target some personal details you are allowed to

19 put leading questions.

20 MS GRANDON: [14:31:58] (Interpretation)

21 Q. [14:31:59] Madam, can you give us your full name, please. Madam, could

22 you give us your full name please?

23 THE INTERPRETER: [14:32:24] Message from the interpreter: The reason for the

24 delay --

25 THE WITNESS: [14:32:35]) (Interpretation) My name is (Redacted).

1 MS GRANDON: [14:32:41] (Interpretation)

2 Q. [14:32:44] And what is your post name, madam?

3 A. [14:32:52] My name is (Redacted).

4 Q. [14:33:02] Do you have a third name?

5 A. [14:33:06] The other name is the name (Redacted). My name is (Redacted)

6 (Redacted).

7 Q. [14:33:28] What's your date of birth, madam?

8 A. [14:33:42] I'm (Redacted).

9 Q. [14:33:48] When, in what year were you born, madam?

10 A. [14:33:56] I'm (Redacted). You have to work it out from that basis.

11 Q. [14:34:17] In order to go back to the issue of your name, do you also have the

12 name of (Redacted)?

13 A. [14:34:34] Yes. My name is (Redacted).

14 Q. [14:34:45] And I understand from your answer with regard to your age that

15 you cannot tell us the year in which you were born; is that correct?

16 A. [14:35:04] I don't know perfectly the year of birth, but I do know that I'm

17 (Redacted). From that, you can perhaps make the calculation.

18 Q. [14:35:30] Are you married, madam?

19 A. [14:35:38] Yes, I'm married.

20 Q. [14:35:43] How many children do you currently have?

21 A. [14:36:03] (Redacted)

22 (Redacted).

23 Q. [14:36:24] What ethnic group are you from, madam?

24 A. [14:36:35] I'm from the (Redacted) ethnic group.

25 Q. [14:36:43] (Redacted)

THE INTERPRETER: [14:36:59] Could the question be put again.

MS GRANDON:

Q. (Redacted)

A. [14:37:12]) My husband is (Redacted).

MS GRANDON: [14:37:21] (Interpretation) Your Honour, with regards to the nature of the session in which we are in, my next question will be related to the village of origin of the witness. As such I leave it to your judgment as to whether this type of question might identify the witness.

PRESIDING JUDGE FREMR: [14:37:45] I'm afraid it might, so we will remain in the regime of private session.

MS GRANDON: [14:37:55] (Interpretation)

Q. [14:37:57] Where did you grow up, madam?

A. [14:38:10] I'm sorry? I haven't understood your question well.

Q. [14:38:19] In what town or village did you grow up, madam?

A. [14:38:26] I grew up (Redacted).

Q. [14:38:34] Is that the village in which you were born?

A. [14:38:41] Yes, I was born (Redacted).

Q. [14:38:50] And until what age did you live (Redacted) ?

THE INTERPRETER: [14:39:13] The interpreter did not hear the answer well.

MS GRANDON: [14:39:18] (Interpretation)

Q. [14:39:19] Madam, could you repeat your answer, please.

A. [14:39:34] Yes, I would be able to tell you. I was there until I was (Redacted) (Redacted)

Q. [14:39:51] Where did you go afterwards?

A. [14:40:02] After that I got married.

1 Q. [14:40:13] And following your marriage, where did you go to live?

2 A. [14:40:24] (Redacted)

3 (Redacted)

4 Q. [14:40:41] Do you remember the year in which you left to go and live in (Redacted)?

5 A. [14:41:00] Yes, I remember the year in which I went to live in (Redacted).

6 Q. [14:41:12] Could you tell us what that year was, please.

7 A. [14:41:18] Yes. I could tell you that year. It was in (Redacted).

8 Q. [14:41:42] And where is (Redacted)?

9 A. [14:41:50] (Redacted) is next to (Redacted).

10 Q. [14:42:13] When you lived in (Redacted), what work did you carry out?

11 A. [14:42:32] To live, we farmed the fields.

12 Q. [14:42:43] (Redacted)

13 A. [14:43:00] (Redacted).

14 Q. [14:43:05] (Redacted)

15 A. [14:43:16] (Redacted).

16 Q. [14:43:24] (Redacted)

17 A. [14:43:36] (Redacted)

18 Q. [14:43:46] Please do. I'm listening.

19 A. [14:43:54] (Redacted)

20 A. [14:44:18] (Redacted)

21 A. [14:44:27] (Redacted).

22 Q. [14:44:39] (Redacted)

23 (Redacted)

24 A. [14:45:03] (Redacted)

25 Q. [14:45:13] (Redacted).

A. [14:45:29] (Redacted).

Q. [14:45:49] (Redacted)

(Redacted)

THE INTERPRETER: [14:46:37] Could the witness be asked to speak clearly for the names because we're unable to hear well, says the (Redacted) interpreter.

MS GRANDON: [14:46:51] (Interpretation)

Q. [14:46:52] Could you repeat the names, madam. The interpreter was not able to hear you.

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

(Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [14:51:32] And did you usually go to that market?

6 A. [14:51:43] The market wasn't on every day. There were days when there was

7 no market.

8 Q. [14:51:55] And when there was a market, would you go to that market?

9 A. [14:52:03] Yes. On market day we would go to the market.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [14:53:03] Which were the other tribes?

15 A. [14:53:15] There were two peoples, the Hema and the Lendu mixed together.

16 There weren't other tribes.

17 Q. [14:53:34] Was (Redacted) also mixed?

18 A. [14:53:45] Yes. In (Redacted) there were also two tribes, the Hema and the

19 Lendu mixed.

20 Q. [14:53:55] Was it more Lendu, more Hema or just all mixed together without

21 one being predominant?

22 A. [14:54:18] I wouldn't be able to tell you exactly the number of people, but I

23 know that there were Lendu, they were the majority. There were also the Hema

24 who were also in the majority.

25 Q. [14:54:44] And how did the Lendu and the Hema live together?

A. [14:54:58] They were all on good terms with each other.

Q. [14:55:09] And this situation of good understanding between Hema and Lendus, did that last for a long time?

A. [14:55:39] They were all on good terms for a long period of time. I wouldn't be able to tell you exactly for how long. All I can say is that both were living together in a good atmosphere. But a long time afterwards, things started to go badly.

Q. [14:56:18] What meant -- or why was it the case that after a certain time things started to go badly or no longer worked?

A. [14:56:40] The conflict started in a period -- well, I can't tell you exactly when it was, but I know there was noise coming from a neighbouring village.

Q. [14:57:26] Who were the people who were responsible for or behind the degradation of the situation?

A. [14:57:43] There were the two peoples, the Hema and the Lendu. The Hema said that it was the Lendu who were provoking them and the Lendu said it was the Hema provoking them, and ultimately we didn't know. At a certain time there were villages where there was nobody left.

Q. [14:58:42] Your village, (Redacted), was that attacked at a particular time?

A. [14:59:00] I haven't understood your question well, Counsel.

Q. [14:59:06] Was (Redacted) attacked at a given time?

A. [14:59:17] Yes, (Redacted) was attacked.

Q. [14:59:25] Who attacked (Redacted) ?

A. [14:59:39] It was the Lendu who attacked the village of (Redacted) because they didn't get on with the Hema.

MS GRANDON: [14:59:58] (Interpretation) I think we can take the break now

and come back to it afterwards.

PRESIDING JUDGE FREMR: [15:00:04] Yes. That was in accordance with our plans. So we will break for 10 minutes and return back at 3.10.

THE COURT USHER: [15:00:13] All rise.

(Recess taken at 3.00 p.m.)

(Upon resuming in open session at 3.12 p.m.)

THE COURT USHER: [15:12:32] All rise.

Please be seated.

PRESIDING JUDGE FREMR: [15:13:00] At the moment we are in public session. So I will just inform those who are following our proceedings that we will continue with the next part of examination-in-chief of our protected witness, D-54, conducted by the Defence by Ms Grandon.

Mr Iverson, please.

MR IVERSON: [15:13:29] Just in addition to the appearances for the Prosecution, Sergio Wey has entered the courtroom.

PRESIDING JUDGE FREMR: [15:13:40] Thank you, Mr Iverson. Noted. Now I am asking Ms Grandon, subject to the next topics she would like to deal with, whether we should remain in open or move again to the regime of private session. It's up to you.

MS GRANDON: [15:14:06] (Interpretation) Once again, your Honour, I'm in your hands. We will continue asking about names of villages. If you think that that could identify the witness, we can go into private session.

PRESIDING JUDGE FREMR: [15:14:27] Then maybe it comes to my mind that wouldn't it be possible to instruct witness just to speak about "my village"? Do you think that we will need also to mention the names of other neighbouring villages or

1 just her village that she stayed at the moment of the event?

2 MS GRANDON: [15:15:04] (Interpretation) I will put one last question in private

3 session. Then I will try to ask questions in open session without necessarily

4 exploring the names of villages.

5 PRESIDING JUDGE FREMR: [15:15:16] Very good. And the same with name of

6 relatives. If she would like to mention them, it's better to instruct her that she should

7 say (Redacted), without using names unless it should be

8 necessary.

9 So now let's move into private session.

10 (Private session at 3.15 p.m.) * (Reclassified partially in public)

11 THE COURT OFFICER: [15:15:42] We're in private session, Mr President.

12 PRESIDING JUDGE FREMR: [15:15:57] Thank you, court officer.

13 Ms Grandon, please proceed.

14 MS GRANDON: [15:16:02] (Interpretation)

15 Q. [15:16:04] Good afternoon, once again, ma'am.

16 A. [15:16:11] Yes, good afternoon.

17 Q. [15:16:19] Can you hear me properly, ma'am?

18 A. [15:16:29] Yes, I can hear you fine.

19 Q. [15:16:36] Now, just before the break you mentioned that your village of

20 (Redacted) was attacked. Do you remember saying that?

21 A. [15:16:59] Yes.

22 Q. [15:17:02] Did other villages come under attack that day?

23 A. [15:17:17] Me?

24 THE INTERPRETER: [15:17:31] Message from the interpreter: Could the witness

25 please complete her sentence. She began a sentence --

1 MS GRANDON: [15:17:38] (Interpretation) I will repeat.
2 Q. [15:17:41] Now, on the day of the attack on your village, were other villages
3 attacked as well?
4 A. [15:18:01] Yes, that day other villages were attacked as well.
5 Q. [15:18:08] Which other villages?
6 A. [15:18:19] (Redacted).
7 THE INTERPRETER: [15:18:30] Message: The interpreter did not hear the name.
8 (Redacted).
9 MS GRANDON: [15:18:49] (Interpretation) I will try to continue in open session,
10 your Honour.
11 PRESIDING JUDGE FREMR: [15:18:57] Very well.
12 Court officer, let's move into open session.
13 (Open session at 3.19 p.m.)
14 THE COURT OFFICER: [15:19:15] We're in open session, Mr President.
15 PRESIDING JUDGE FREMR: [15:19:22] Madam Witness, now we move to regime
16 of the open session. So, if possible, don't mention any name which could reveal your
17 identity. If you feel that your answer should contain any name which could reveal
18 your identity, please, let us know, and then we will move into a regime of private
19 session. Did you understand, Madam Witness?
20 THE WITNESS: [15:20:46]) (Interpretation) Yes, I'm listening.
21 PRESIDING JUDGE FREMR: [15:20:50] Ms Grandon, please.
22 MS GRANDON: [15:20:54] (Interpretation)
23 Q. [15:20:59] Ma'am, do you remember the date of that attack?
24 A. [15:21:15] Yes.
25 Q. [15:21:20] Can you give us the date you remember?

A. [15:21:29] 14 June 2002.

Q. [15:22:05] And why is it that you remember the date so clearly, so accurately, ma'am?

A. [15:22:18] Yes. Yes, I remember because in our Catholic church that was the day of ashes and so it was the following day; that's why I remember.

THE INTERPRETER: [15:22:52] Message from the English booth: The witness referred to Ash Tuesday.

MS GRANDON: [15:23:00] (Interpretation)

Q. [15:23:02] And what day is that?

A. [15:23:15] I didn't wait.

Q. [15:23:19] You explained that you had remembered the exact date because it was on Ash Tuesday, the day of ashes. That's what you said, wasn't it?

A. [15:23:42] Yes, that's right.

Q. [15:23:45] Which month is that? The day of ashes, Ash Wednesday?

THE INTERPRETER: [15:23:55] Correction of the English interpreter: Ash Wednesday.

THE WITNESS: [15:24:06]) (Interpretation) In February. We celebrate that day on the 14th, and on the following day was the day of the attack.

MS GRANDON: [15:24:21] (Interpretation)

Q. [15:24:22] A few moments ago in response to my question about the date of the attack, the answer was 14 June 2002. Could that be a mistake? Could it have been 14 February 2002?

A. [15:24:57] No. 13 February 2002; and it was the following day, the 13th of February of that same year, that is when the attack occurred.

THE INTERPRETER: [15:25:25] Interpreter correction. Correction from the

1 (Redacted) interpreter: Ash Wednesday was on 13 February and the following day
2 was the day of the attack. 13 February 2002.
3 MS GRANDON: [15:25:56] (Interpretation)
4 Q. [15:25:59] Do you know where the attackers came from, the combatants who
5 conducted the attack?
6 A. [15:26:20] Those combatants came from another village and they headed
7 towards our village.
8 MS GRANDON: [15:26:31] (Interpretation) I'm afraid I'll have to go back into
9 private session, your Honour.
10 PRESIDING JUDGE FREMR: [15:26:37] No problem.
11 Court officer, let's move into private session.
12 How much time you estimate we will spend there? You can't say. No problem.
13 (Private session at 3.26 p.m.) * (Reclassified partially in public)
14 THE COURT OFFICER: [15:27:01] We're in private session, Mr President.
15 PRESIDING JUDGE FREMR: [15:27:06] Thank you, court officer.
16 Ms Grandon, please.
17 MS GRANDON: [15:27:11] (Interpretation)
18 Q. [15:27:16] Where were you on the day of the attack?
19 A. [15:27:29] I was in (Redacted).
20 Q. [15:27:35] Who were you with?
21 A. [15:27:51] There were many of us on the day of that attack. Some people fled,
22 some people took refuge in a building.
23 Q. [15:28:05] Were your children with you that day?
24 A. [15:28:25] Yes. I was with all my children and we were hidden in this
25 building with several people, and during the attack one of the children tried to flee,

1 and he was killed as he tried to flee.

2 Q. [15:28:48] Were you with your husband when the attack occurred?

3 A. [15:29:09] The day of the attack we were together, but during the attack each

4 person went his or her own way. He went in one direction and the children and I

5 went in another direction. The children and I stayed together.

6 Q. [15:29:36] Which direction did you head off in?

7 A. [15:29:48] With the children we were not able to get away because, you see, we

8 were hidden in a building and the combatants found us there. My children were

9 also killed. Myself, I was -- I was struck in the head by a machete and then I ended

10 up in a coma.

11 Q. [15:30:34] Where was this house or building where you took refuge, ma'am?

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. [15:31:38] After the population of the village fled, this building and other

16 buildings in the village were destroyed by the combatants.

17 Q. [15:32:02] You explained to us, ma'am, that during the attack you took shelter

18 in a house with your children. And I wanted to ask you which village the house was

19 in. Can you tell us?

20 A. [15:32:17] That house was in the same village. That house had been built out

21 of -- well, it had sheet metal. It was made of sheet metal, so it was quite safe.

22 Q. [15:32:55] Madam Witness, we have gone back into private session, so no one

23 can hear what you are saying except for the people in the courtroom, so you can give

24 the name of the village. There is no problem with that, the village where the house

25 was located.

A. [15:33:23] You're asking me the name of the owner of the house?

Q. [15:33:37] No. I'm asking the name of the village in which the building was, this building that you and your children took refuge in.

A. [15:34:00] Well, I said that (Redacted).

Q. [15:34:09] And which village was this house in?

A. [15:34:20] This house was in the village of (Redacted).

Q. [15:34:30] Well, how did you know that (Redacted) was coming under attack?

A. [15:34:51] Well, we knew that the village was under attack; we could hear gunfire throughout the whole village.

Q. [15:35:19] Did you see the people who were attacking (Redacted)?

A. [15:35:36] In principle, they weren't people you would hang around and wait for because, you know, otherwise you would be dead already. But we saw them just as they were coming in to begin slashing at us with machetes.

Q. [15:36:15] Now, how did the attackers -- what were the attackers wearing?

A. [15:36:35] Well, the ones who entered the house where we were, they were wearing shabby clothing, short, and they had machetes in their hands.

Q. [15:37:02] Well, you explained earlier that you took refuge in this house with your children. Were there other people, anyone else other than you and your children in the house?

A. [15:37:32] Yes. Yes, there were several people. When they entered the house, they started to hack at us, hack us with machetes. Some were killed. Some were injured and taken to the hospital. I was one of the people who was taken to the hospital.

Q. [15:38:03] Can you tell us approximately how many people were in that house?

1 A. [15:38:19] You're talking about people who died?

2 Q. [15:38:29] First of all, the number of people who had taken refuge in the house.

3 A. [15:38:47] You're talking about people from my village that I was with?

4 Q. [15:38:52] Yes.

5 A. [15:39:01] There were several people. I can't give the names, but I just wanted

6 to tell you that the person we were with, most of these people died. But I can give

7 you the names of people who survived like me, even though we were slashed with

8 machetes, people that we ended up with at the hospital.

9 Q. [15:39:51] I'll come back to that point a bit later with some other questions,

10 ma'am.

11 You explained a few moments ago that the combatants entered the house where you

12 had taken refuge; is that correct?

13 A. [15:40:17] Yes, that's right.

14 Q. [15:40:20] What happened when the combatants entered the house?

15 A. [15:40:37] That is when they started to kill people who had taken shelter in the

16 house. Some people fled, others were injured, and those people got care, medical

17 care, afterwards.

18 Q. [15:41:02] And were you injured yourself?

19 A. [15:41:18] Yes.

20 Q. [15:41:27] Were your children injured?

21 A. [15:41:42] The children died on the spot, except for me; I escaped, barely

22 escaped with my life, but I just ended up with some injuries, my (Redacted).

23 Q. [15:42:00] (Redacted)

24 (Redacted)

25 (Redacted)

1 A. [15:42:17] Yes, I can tell you that.

2 Q. [15:42:30] Please go ahead.

3 A. [15:42:51] (Redacted)

4 (Redacted)

5 Q. [15:43:21] What happened, ma'am, once the attack was over?

6 A. [15:43:39] After the attack, the people from the village who had fled came back

7 to the village and they saw the people who had been killed and they buried the

8 people who were dead, and then they took the injured people so that they could

9 receive treatment at the hospital.

10 Q. [15:44:10] Were you transferred yourself for treatment?

11 A. [15:44:21] Yes. We were transported to the hospital, and other people.

12 Q. [15:44:36] Where was the hospital, madam?

13 A. [15:44:46] The hospital was pillaged by the assailants. There was no medicine

14 at the hospital so *they stitched our wounds. Afterwards we started buying

15 medicine to continue to ensure the treatment.

16 Q. [15:45:24] And in what village were you treated? I would just like to say

17 we're still in private session so you can give the name without worry.

18 A. [15:45:52] Do you want to know the people who treated us?

19 Q. [15:45:57] Firstly, I'd just like to know where you were treated.

20 A. [15:46:14] (Redacted) was in the village, despite the pillaging of the structure

21 by the assailants, and it was afterwards that my husband started to purchase

22 medicines in order to continue with my treatment.

23 Q. [15:46:52] So in which village are you speaking about where you said it was

24 located?

25 A. [15:47:10] It was in (Redacted).

1 Q. [15:47:17] Were there other people who were treated at the same time as you?

2 A. [15:47:40] *Yes, there were other people there who had been wounded by

3 machetes. (Redacted). There were three people

4 who were there.

5 Q. [15:47:57] Do you remember the name of these people?

6 A. [15:48:10] You're speaking about the people who treated us?

7 Q. [15:48:18] The name of the people who were treated at the same time as you.

8 A. [15:48:31] Yes. I still remember their names.

9 Q. [15:48:37] Could you give us the names?

10 A. [15:48:45] Yes, of course.

11 Q. [15:48:50] Please do.

12 A. [15:49:09] There was a lady called (Redacted).

13 Q. [15:49:28] Could you give the other names, please.

14 A. [15:49:45] Yes. Another was called (Redacted), but she is now deceased.

15 Q. [15:49:57] Do you remember the names of other people?

16 A. [15:50:16] Another was called (Redacted), but he's also dead.

17 Q. [15:50:27] I would like to use documents to show the witness and I think we

18 can go into open session and not to show photographs on the screen, quite simply.

19 PRESIDING JUDGE FREMR: [15:50:44] Understood.

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

21 (Open session at 3.50 p.m.)

22 THE COURT OFFICER: [15:51:12] We're in open session, Mr President.

23 PRESIDING JUDGE FREMR: [15:51:13] Thank you, court officer.

24 Ms Grandon, please proceed.

25 MS GRANDON: [15:51:17] (Interpretation) I would like photograph number 1

from my list of documents to be shown to the witness, DRC-D18-0001-5254.

PRESIDING JUDGE FREMR: [15:51:42] Mr Iverson.

MR IVERSON: [15:51:43] As instructed, this is a legal submission, so as you instructed in the beginning, I just wanted to notify the interpreters.

So far in this examination I have not heard evidence that is logically connected to any issue of consequence in the case, so my objection is to relevance. And I would ask that the Defence be required to justify why we're going through this exercise of getting all this information about an attack that isn't charged, is beyond the charge period and then going so deep into the facts that we're actually going to be looking at wounds of scars of uncharged information. And to my knowledge, is doesn't relate to any articulable defence either. So my objection is to relevance here, your Honour.

PRESIDING JUDGE FREMR: [15:52:45] Yes. Ms Samson, I have some understanding for this -- Ms Grandon, I have some understanding for this request.

In fact, we are still continuing in a legal argument so no need to translate. It's even should be prohibited to translate it to our witness.

Could you just briefly say what is the purpose. Even I can imagine your response, but what is the purpose of this testimony from the Defence perspective?

MS GRANDON: [15:53:21] (Interpretation) Of course, your Honour. As indicated in the summary of the witness, the attacks that the witness was a victim of led her to become displaced into different places to ultimately arrive in Mandro, during a period in which the UPC forces. They weren't called UPC at the time where they were.

That's the reason why I have to go through the events which led to this witness being in Mandro to later speak about the events in Mandro. Where it concerns the photographs, madam alleges being victim of an attack. (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 PRESIDING JUDGE FREMR: [15:54:37] I will consult my colleagues on that issue.

5 (Trial Chamber confers)

6 PRESIDING JUDGE FREMR: [15:55:28] So our ruling is, which we made in silent

7 deliberations in the courtroom, is that we see this testimony as a testimony providing

8 some background. At least, so far, it was not directly connected with any event

9 contained in the Document Containing Charges.

10 We are not saying that it's irrelevant, but we believe that it should be done without

11 dealing with many details. So make it really absolutely focused. And, for example,

12 now upcoming issue of injury, this even can accept that the fact whether witness have

13 been injured is also relevant, but we don't see any need to see four pictures. I think

14 one picture which would prove that her statement that she had been injured is fine.

15 The same with the next issues.

16 So just to repeat myself, as soon as not even -- and so far hasn't been even contained

17 in charges, just having some impact on background, please take it into account as to

18 the details and even total extent of this examination.

19 Ms Grandon. Was I clear enough?

20 MS GRANDON: [15:57:08] (Interpretation) Yes, your Honour.

21 PRESIDING JUDGE FREMR: [15:57:11] So please proceed.

22 MS GRANDON: [15:57:15] (Interpretation)

23 Q. [15:57:19] Can you see the photograph being shown to you, madam?

24 A. [15:57:29] Yes, I can see it.

25 Q. [15:57:35] Do you recognise what there is on the photo?

A. [15:57:47] Yes, I recognise it.

Q. [15:57:52] Could you tell us what you see on the photograph?

A. [15:58:00] Yes, I can.

Q. [15:58:07] Please do.

A. [15:58:16] When you look, well, (Redacted).

PRESIDING JUDGE FREMR: [15:58:29] Ms Grandon, I feel need to intervene. Madam Witness, is this injury, injury you have suffered during the attack, you describe few moments ago?

THE WITNESS: [15:58:57]) (Interpretation) Yes. I got this scar on the day of the attack, on 14 February.

PRESIDING JUDGE FREMR: [15:59:17] So now, Ms Grandon, we can move on. It's, I think, enough for the Chamber.

MS GRANDON: [15:59:26] (Interpretation) I would like to ask for the admission of the photograph, your Honour.

PRESIDING JUDGE FREMR: [15:59:34] Prosecution?

MR IVERSON: [15:59:35] Prosecution objects as to relevance. This isn't logically connected to any fact in this case. It's just simply not relevant. If it goes to background, then it shouldn't be admitted.

PRESIDING JUDGE FREMR: [15:59:48] But even myself, I said that it could confirm credibility of the previous witness account, so it will be admitted into evidence as a further Defence exhibit.

But Ms Grandon, have you already provided us with the ERN?

MS GRANDON: [16:00:12] (Interpretation) Yes, your Honour.

PRESIDING JUDGE FREMR: [16:00:14] Then I can refer to that ERN and this document is admitted, as I said, into evidence.

1 Now, Ms Grandon, you may proceed.

2 MS GRANDON: [16:00:38] (Interpretation)

3 Q. [16:00:39] How many time, madam, did you stay at the (Redacted) for?

4 A. [16:00:52] As the (Redacted) was pillaged by the assailants there was nothing

5 to stay in the centre for. As such, I was treated by a lady at her place.

6 Q. [16:01:19] How much time did you spend at this woman's house in order to be

7 treated?

8 A. [16:01:35] I spent two months there. And afterwards, I continued with

9 ambulatory treatment from my house, outpatient treatment.

10 Q. [16:02:07] Did you return to your house in (Redacted)?

11 A. [16:02:11] Yes.

12 Q. [16:02:12] What state was your house in when you returned?

13 A. [16:02:31] On that occasion the house was not destroyed. The house was still

14 there.

15 Q. [16:02:45] In what state were the other houses of (Redacted) at the time?

16 A. [16:03:14] During this event they hadn't destroyed the houses already, they

17 hadn't pillaged things, but I returned and I stayed in (Redacted) after that for a month

18 and (Redacted).

19 Q. [16:03:37] I'd now like to read a document, madam. This is document

20 number 4 on my list of documents -- number 5, please excuse me.

21 PRESIDING JUDGE FREMR: [16:03:48] Prosecution, any objection?

22 MR IVERSON: [16:04:00] No objection in the abstract, Mr President, but I'm not

23 entirely sure what counsel intends to do with the document.

24 PRESIDING JUDGE FREMR: [16:04:12] Ms Samson -- third time. Ms Grandon.

25 MS GRANDON: [16:04:20] (Interpretation) Yes, your Honour. The document

1 which I would like to read partly to the witness is a United Nations document which
2 mentions the attack. I would just like to confirm with her that what's mentioned in
3 the document accords with what she experienced, your Honour.
4 PRESIDING JUDGE FREMR: [16:04:40] Mr Iverson, having heard this explanation,
5 is it okay with you?
6 MR IVERSON: [16:04:46] I would object. This is what we call witness bolstering.
7 PRESIDING JUDGE FREMR: [16:04:53] Could you elaborate on that.
8 MR IVERSON: [16:04:55] The witness has given an independent account, that
9 account hasn't been attacked by anybody, and counsel is now seeking to bolster this
10 witness's credibility before it's been attacked by using a extrinsic piece of
11 evidence -- an exhibit, excuse me.
12 PRESIDING JUDGE FREMR: [16:05:15] Give me a second. I will consult my
13 colleagues.
14 (Trial Chamber confers)
15 PRESIDING JUDGE FREMR: [16:06:06] Even if we have some doubts about the
16 efficiency of this exercise, the objection is overruled. We did the same exercise but
17 mainly with witnesses who testified about events within the charges, which is not the
18 case now.
19 So, Ms Grandon, please make this exercise but very briefly, and focus your reading on
20 the core of the information. So there's no need to present some extensive part of the
21 report. Just the core, please.
22 MS GRANDON: [16:06:45] (Interpretation) That was my intention, your Honour.
23 THE COURT OFFICER: [16:06:49] Could you please put an ERN number for the
24 record.
25 MS GRANDON: [16:06:53] (Interpretation) DRC-OTP-0195-1160. I'm going to

1 read part of the document, madam, and I'm going to ask you a question thereafter.
2 This is a United Nations report from 22 February 2002. In paragraph 1 it states the
3 following, and I will read it in English. Your Honour, the document is confidential.
4 PRESIDING JUDGE FREMR: [16:08:11] So we can see it. I think you may
5 proceed.
6 MS GRANDON: [16:08:17] (Interpretation) Can we continue in open session or
7 do we need to go into private session in the awareness that the document is
8 confidential?
9 THE COURT OFFICER: [16:08:31] (Interpretation) The document will be shown
10 within the courtroom but not outside of it.
11 MS GRANDON: [16:08:38] (Interpretation) But knowing that the content is
12 confidential itself.
13 THE COURT OFFICER: [16:08:43] I'm sorry for the interpreters. I'm going to
14 switch back in English. If you intend to read confidential content, I would strongly
15 advise to go into private session.
16 PRESIDING JUDGE FREMR: [16:08:57] Mr Iverson, I believe you will join the
17 proposal made by our court officer?
18 MR IVERSON: [16:09:03] I believe as long as Defence counsel doesn't intend to
19 read any of the names in the -- in this exhibit, then it's fine to be in public. I suspect I
20 understand the portion that she intends to read.
21 PRESIDING JUDGE FREMR: [16:09:22] Ms Samson, if you intend just to read the
22 description of the attack, then we can remain in open.
23 MS GRANDON: [16:09:30] (Interpretation) Very well, I'm going to read the first
24 paragraph in English: I quote:
25 (Speaks English) "Highlights: 140 people were killed in (Redacted)

1 (Redacted). A UPDF coy was deployed to restore order in the village.
2 Tension remained high in Bunia town. However, no incident was reported within
3 the town."
4 (Interpretation) And in paragraph 2A:
5 (Speaks English) "(Redacted) was attacked by Lendu combatants
6 on 14 February 2002. 140 people were killed and 3 villages destroyed. The UPDF
7 moved in to restore order and the combatants fled (Redacted)."
8 (No interpretation)
9 THE COURT OFFICER: [16:11:47] (No interpretation)
10 THE WITNESS: [16:12:04]) (Interpretation) I didn't hear well.
11 MS GRANDON: [16:12:18] (Interpretation) I will repeat the paragraph.
12 PRESIDING JUDGE FREMR: [16:12:24] Before doing that, I would rather move
13 into private session, court officer, please.
14 (Private session at 4.12 p.m.) * (Reclassified partially in public)
15 THE COURT OFFICER: [16:12:38] We're in private session, Mr President.
16 PRESIDING JUDGE FREMR: [16:12:40] Thank you, court officer.
17 Ms Grandon, please proceed. And we have last few minutes, I think five in
18 maximum. Have it into account.
19 MS GRANDON: [16:12:53] (Interpretation)
20 Q. [16:12:54] I'm going to re-read the paragraph of the document, madam. If
21 you don't hear, please tell us.
22 The document states the following, I will quote:
23 (Speaks English) "(Redacted) was attacked by Lendu combatants on
24 14 February 2002."
25 THE INTERPRETER: [16:13:23] Could Counsel Grandon be asked to slow down,

please.

PRESIDING JUDGE FREMR: [16:13:32] Ms Grandon --

THE WITNESS: [16:13:38]) (Interpretation) Yes, that's correct.

PRESIDING JUDGE FREMR: [16:13:41] Ms Grandon, there is a message from the interpreters. Please slightly slow down.

MS GRANDON: [16:13:47] (Interpretation)

Q. [16:13:48] The document, madam, continues:

(Speaks English) "(Redacted) were killed and three villages destroyed."

(Interpretation) Madam, does what's reported in the document correspond with the attack that you spoke to us about or that you have spoken to us about in the last hours?

A. [16:14:42] Yes, that was the attack. That was the attack. I was the victim as well. (Redacted) is the number of people who died on that day.

MS GRANDON: [16:15:03] (Interpretation) I would like to request the admission of this document, your Honour.

PRESIDING JUDGE FREMR: [16:15:16] You mean whole document or the part you read out to our witness?

MS GRANDON: [16:15:24] (Interpretation) The first page is sufficient.

PRESIDING JUDGE FREMR: [16:15:29] Mr Iverson.

MR IVERSON: [16:15:31] I would again object to relevance and just note that the witness never stated that there were -- the exact number of (Redacted) people until the document was actually read out to her.

PRESIDING JUDGE FREMR: [16:15:48] Give me a second.

(Trial Chamber confers)

PRESIDING JUDGE FREMR: [16:16:19] So objection according our ruling which

we made in brief silent deliberation, the objection is sustained. This document will not be admitted. According to us, the comment of Madam Witness is enough. Moreover, the text read out to her also is part of the transcript, otherwise, according to us, the criteria for admission of this document haven't been, haven't been met. And now, Ms Grandon, one question. How much time do you think you will need to complete examination of this witness, for the sake of planning?

MS GRANDON: [16:17:10] (Interpretation) For today or for --

PRESIDING JUDGE FREMR: [16:17:14] You aren't expected to finish now. If you could guarantee that you will finish in 10 minutes, then we would -- it's not the case. All right. And what is your estimation, how much time you would need to complete?

MS GRANDON: [16:17:32] (Interpretation) An hour, an hour and a half, I would say.

PRESIDING JUDGE FREMR: [16:17:38] Court officer, how much time Ms Grandon has used so far from the three hours allotted to her originally?

THE COURT OFFICER: [16:17:53] Ms Grandon has used 1 hour 18 minutes.

PRESIDING JUDGE FREMR: [16:17:56] All right. So three hours in total seems to be sufficient for the completion. So we will continue tomorrow. At the moment we are in private session, so we will have to move into open session, court officer, please.

(Open session at 4.18 p.m.)

THE COURT OFFICER: [16:18:24] We're in open session, Mr President.

PRESIDING JUDGE FREMR: [16:18:42] Madam Witness, I would like to thank you for your today's testimony. We will continue tomorrow in the morning, and it's my duty to instruct you that you must not discuss your testimony from today with anybody else. Do you understand that, Madam Witness?

THE WITNESS: [16:19:47]) (Interpretation) Yes, I've understood.

PRESIDING JUDGE FREMR: [16:19:53] So --

THE WITNESS: [16:19:55]) (Interpretation) Yes, I've understood.

PRESIDING JUDGE FREMR: [16:19:57] So I thank you and we will see you tomorrow 9.15 of The Hague time.

Now, court officer, we can disconnect the line to Bunia.

THE INTERPRETER: [16:20:34] The witness asks: Tomorrow, tomorrow? Do I finish my testimony tomorrow?

PRESIDING JUDGE FREMR: [16:20:43] It's very likely that you will probably have to testify whole day, but we believe that in the afternoon we could complete your testimony.

THE WITNESS: [16:21:12] (Interpretation) All right.

PRESIDING JUDGE FREMR: [16:21:26] So now I was told by court officer that it's not possible to cut the link, but they will mute so witness will not hear us. But I will anyway be brief.

So, Ms Grandon, I appreciate that at least according to your estimation you should finish complete your examination in the time allotted to you in three hours. I believe it's realistic, it's fine. I also appreciate that you perfectly adjusted the way of questioning to the capability of witness in accordance with our guidance. Please, when planning remaining questions, please also have in mind our guidance, what should be topics that Chamber is -- that Chamber will support for your examination, so not to go in too much detail. We accept that it's witness on background, but it also should have impact on your questioning.

Ms Grandon.

MS GRANDON: [16:22:29] (Interpretation) I shall take your recommendations

1 into consideration for tomorrow, your Honour.

2 PRESIDING JUDGE FREMR: [16:22:37] And if there are no further requests for the

3 floor, we adjourn now, and we will reconvene at 9.15.

4 And maybe one caveat, we will also consult interpreters about the time schedule for

5 tomorrow, because originally we were informed that the normal schedule probably

6 wouldn't be the best one, but we will consult interpreters, and we will in the morning

7 inform you what is our plan, how to divide sessions for tomorrow.

8 Now Court is adjourned.

9 THE COURT USHER: [16:23:18] All rise.

10 (The hearing ends in open session at 4.23 p.m.)