

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Sentencing Hearing - Courtroom 3
7 Wednesday, 18 September 2019
8 (The hearing starts in open session at 10.06 a.m.)
9 THE COURT USHER: [10:06:00] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [10:06:43] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [10:06:47] Thank you, Mr President, your Honours.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 For the record, we are in open session.
18 PRESIDING JUDGE FREMR: [10:07:05] Thank you, court officer.
19 Now appearances, please, as usually starting with the Prosecution.
20 MS SAMSON: [10:07:15] Good morning, Mr President. Good morning, your
21 Honours. Appearing for the Prosecution today are Ms Julieta Solano,
22 Ms Marion Rabanit, Mr Rens van der Werf, Ms Selam Yirgou and myself,
23 Nicole Samson.
24 PRESIDING JUDGE FREMR: [10:07:28] Thank you, Ms Samson.
25 Defence, please.

1 MR GOSNELL: [10:07:31] Good morning, Mr President. Good morning your
2 Honours. Appearing this morning for Mr Ntaganda are Amanda Martinez,
3 Clémence Volle-Marvaldi, Daria Mascetti, Stéphane Bourgon, and myself,
4 Christopher Gosnell. Thank you.

5 PRESIDING JUDGE FREMR: [10:07:47] Thank you, Mr Gosnell.
6 Legal Representatives for Victims, please.

7 MS PELLET: [10:07:55] (Interpretation) Thank you, Mr President. The former child
8 soldiers are represented by Anna Bonini and myself, Sarah Pellet, counsel Office of
9 Public Counsel for Victims.

10 MR SUPRUN: [10:08:14] (Interpretation) Good morning, your Honours. The
11 victims of the attacks are represented by Anne Grabowski, associate counsel,
12 Cherine Luzaisu, and myself, Dmytro Suprun.

13 PRESIDING JUDGE FREMR: [10:08:28] Thank you, Ms Pellet. Thank you,
14 Mr Suprun.

15 I can see that we are also at the moment connected with our field office in Bunia.
16 Court officer in Bunia, can I just ask you to confirm that we are connected and that
17 you can see and hear us.

18 THE COURT OFFICER: [10:08:55] (Via video link) (Interpretation) Yes, your
19 Honour, I can hear you just fine. Good morning.

20 PRESIDING JUDGE FREMR: [10:09:02] Thank you very much.

21 Today we are going to hear the second and third Defence witness in relation to the
22 sentencing of Mr Ntaganda. You all know that because of some technical problems
23 we in fact lost 40 minutes from time granted to us today, so that is why I would like to
24 encourage again both parties to proceed in the same style like yesterday when both
25 counsel really examined witnesses very efficiently. And please be also ready that we

1 will have to adjust or schedule for today to that fact. So what I am sure that we will
2 have, for example, to shorten lunch break just to one hour. And please also be ready
3 to be flexible. Otherwise, I would like to or we would like to have four sessions,
4 always the first one for direct examination and the second one for cross of both
5 witnesses.

6 Before we move to the first witness, I have to read out an oral ruling. It's oral
7 decision on the Prosecution's use of summaries of detention centre communications
8 during the cross-examination of Witness D-0306.

9 The Chamber will now first deliver an oral ruling that relates to the Prosecution's list
10 of items it intends to use during the cross-examination of the next witness, D-0306,
11 which it submitted yesterday afternoon. The Chamber has noted that this list
12 includes nine summaries of detention centre communications at items 29 to 36. I will
13 refer to these as "the summaries".

14 Although the Defence has not at this stage raised any issue in relation to the list, to
15 avoid litigation during the testimony of the witness, and in the interest of efficiency,
16 the Chamber *proprio motu* delivers this oral ruling on the Prosecution's use of
17 summaries of detention centre communications during the cross-examination of
18 Witness D-0306.

19 The Chamber recalls its previous decisions on the use of detention centre
20 communications and associated material, including the decision with filing number
21 1883, where the Chamber decided that the Prosecution shall not be allowed to use
22 such material during the Defence's presentation of evidence unless specifically
23 authorised by the Chamber, and the decision with filing number 1918, in which the
24 Chamber established a procedure for requesting to use such material, specifying that
25 from the then upcoming evidentiary block onwards, any such request shall be filed

1 within five days of notification of the forthcoming witnesses list in which any of the
2 witnesses with whom the Prosecution intends to use any of the material is listed.

3 The Chamber further recalls its oral decision in transcript T-209, wherein it noted that
4 any use of non-privileged detention centre communications shall be strictly limited to
5 matters that are material to the charges in the present case. With regard to the
6 summaries of detention centre communications prepared by the Prosecution, the
7 Chamber noted that their use will not be permitted, due to the fact that they have
8 been prepared by a party to the proceedings, and are therefore based on an
9 understanding and translation of the conversations by the same party.

10 In the present case, the Chamber notes that the Prosecution has not followed the
11 procedure previously established by the Chamber in respect of the use of detention
12 centre communications and associated material, nor offered any explanation for its
13 failure to do so. It further notes that, in any event, given the scope of the anticipated
14 testimony of Witness D-0306 and the current stage of proceedings, there can be no
15 link between the summaries and matters that are material to the charges in the
16 present case, as required by the Chamber's previous rulings. In light of this, and
17 taking into account the serious nature of the regime established by the Chamber for
18 the use of such material and the apparent lack of diligence by the Prosecution in
19 ensuring compliance with this regime, the Chamber decides that use of the
20 summaries by the Prosecution in its cross-examination of Witness D-0306 shall not be
21 permitted.

22 Further, the Chamber notes that, according to its direction provided in paragraph 33
23 of the decision on the conduct of proceedings, the lists of items to be used during
24 cross-examination must be provided 24 hours before the commencement of
25 cross-examination. In this regard, the Chamber notes that the lists for both

1 Witness D-0306 and D-0047 were provided well after the respective deadlines, even
2 though the latter list contained no less than 65 items. The Chamber therefore
3 reminds the Prosecution of the importance to respect deadlines and provide timely
4 notice.

5 That concludes the Chamber's ruling.

6 Now we can proceed with the testimony of the first witness. On 20 August 2019 the
7 Chamber granted the Defence request to hear this witness. This was the decision
8 with filing number 2384. At the same time the Chamber decided that the witness
9 would testify entirely viva voce and that he would appear via video link.

10 The Chamber further considered that an objectively justifiable risk exists with respect
11 to the security of the witness and his family, warranting the shielding of his identity
12 from the public. The Chamber granted the in-court protective measures of face and
13 voice distortion during witness testimony and the use of pseudonym for the purposes
14 of the trial.

15 Court officer, now please let's move briefly into private session.

16 (Private session at 10.17 a.m.)

17 THE COURT OFFICER: [10:17:08] We are in private session, Mr President.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Open session at 10.18 a.m.)

25 THE COURT OFFICER: [10:18:10] We are back in open session, Mr President.

1 PRESIDING JUDGE FREMR: [10:18:18] Thank you, court officer.

2 I have to add that the Chamber initially granted the Defence one hour for the
3 examination, but last Friday we granted an additional 15 minutes to address certain
4 video. So 1 hour and 15 minutes for the Defence.

5 Now, court officer at remote location, please have the witness brought in.

6 Court officer in Bunia, I am not sure that you heard me, we are asking you to bring
7 witness in.

8 Mr Gosnell.

9 MR GOSNELL: [10:19:21] Mr President, just while that's happening and in the
10 interest of time management, I would just like to inform your Honours that a list has
11 been prepared of the excerpts of a video that will be played to the witness. I have
12 distributed that list, which is a single page, to all of the interpreters and the parties
13 and participants. I believe that your Honours may also have this list, having given
14 the list to the Registry. If I can just say one or two words about it in the interests of
15 time management so that I don't --

16 PRESIDING JUDGE FREMR: [10:19:51] Please go ahead.

17 MR GOSNELL: [10:19:53] If it could be understood, Mr President, that every
18 reference that I make to the video is in fact a reference to DRC-OTP-0118-0002, then I
19 won't have to repeat those 16 digits every time I refer to the Prosecution video.

20 PRESIDING JUDGE FREMR: [10:20:13] Understood. Very good idea.

21 MR GOSNELL: [10:20:16] And Mr President, if I could also now put on the record
22 and say that any reference to the French transcript and lines therein will be a
23 reference to DRC-OTP-2084-0041; and that any reference, Mr President, to the Swahili
24 transcript and lines therein will be to DRC-OTP-2084-0092.

25 And just one other point on this, Mr President. In accordance with paragraph 56 of

1 the decision on the conduct of proceedings, and 57, there is the procedure of playing
2 an excerpt without sound prior to playing the rest of the video. This is a single video
3 with two different events, but I don't believe there will be any dispute from the
4 Prosecution about the relationship of the two events, so what I would ask is that I
5 only have to go through the procedure of playing without sound in respect of the first
6 excerpt that I play, without having to do that again when I come to the third excerpt,
7 which will indeed be, as your Honours will see on the video, a different scene, but
8 nevertheless as part of the same video. So I raise that issue to find out from the
9 Prosecution or anyone else whether there will be an objection.

10 PRESIDING JUDGE FREMR: [10:21:34] Ms Solano.

11 MS SOLANO: [10:21:35] We're happy to proceed in that way, your Honour.

12 PRESIDING JUDGE FREMR: [10:21:41] Thank you, Ms Solano. And welcome back.
13 We haven't seen you for some time so welcome.

14 MS SOLANO: [10:21:51] Thank you, your Honour.

15 PRESIDING JUDGE FREMR: [10:21:52] Noted, Mr Gosnell. Very much
16 appreciated. Thank you.

17 MR GOSNELL: [10:21:55] Thank you, your Honour.

18 PRESIDING JUDGE FREMR: [10:21:59] Now we will move to Mr Witness.

19 Mr Witness, good morning. Can you hear me and see me?

20 WITNESS: DRC-D18-P-0306

21 (The witness speaks Swahili)

22 (The witness gives evidence via video link)

23 THE WITNESS: [10:22:23] (Interpretation) Yes, I can hear and I can see the image at
24 the same time.

25 PRESIDING JUDGE FREMR: [10:22:34] Very good. Mr Witness, on behalf of the

1 Chamber I would like to welcome you. You are going to testify before the
2 International Criminal Court. You will be asked questions both by the judges and
3 lawyers over here in the courtroom. In this connection I would like to guide you as
4 follows:

5 Please listen carefully to those questions. If you do not understand, feel free to ask
6 for the questions to be repeated. We want you to tell the truth and tell us what you
7 saw, heard and sensed yourself. Please testify just on that which you really
8 remember. Don't guess, don't make things up. There is nothing wrong in saying
9 "I don't know" or "I don't remember".

10 Do you understand all this, Mr Witness?

11 THE WITNESS: [10:23:43] (Interpretation) Yes, I have understood.

12 PRESIDING JUDGE FREMR: [10:23:46] All right.

13 Mr Witness, protective measures are put in place to ensure that your identity is not
14 revealed to the public. This means that the public cannot see your face today and
15 that your voice is being disguised so that the public cannot recognise it. We will
16 refer to you as "Mr Witness" only and ensure that your name and any other
17 information that risks revealing who you are is not broadcast to the public.

18 Therefore, whenever you need to describe anything that might reveal your identity,
19 we will do so in private session so that no one apart from the court officer sitting with
20 you and us here in The Hague in the courtroom can hear your answer.

21 Do you understand?

22 Fine.

23 THE WITNESS: [10:24:57] (Interpretation) Yes, I understand you just fine.

24 PRESIDING JUDGE FREMR: [10:24:58] Now, court officer, could you please
25 administer the solemn undertaking to tell the truth with the witness.

- 1 Court officer, can you hear us?
- 2 Mr Witness, I will read out the text of this solemn declaration and you will repeat it
- 3 after me. Do you understand?
- 4 THE WITNESS: [10:25:47] (Interpretation) Yes, yes, I understand.
- 5 PRESIDING JUDGE FREMR: [10:25:51] I solemnly declare --
- 6 THE WITNESS: [10:26:03] (Interpretation) I solemnly swear --
- 7 PRESIDING JUDGE FREMR: [10:26:06] -- that I will speak the truth --
- 8 THE WITNESS: [10:26:17] (Interpretation) -- that I shall tell the truth --
- 9 PRESIDING JUDGE FREMR: [10:26:20] -- the whole truth and nothing but the truth.
- 10 THE WITNESS: [10:26:35] (Interpretation) -- the whole truth and nothing but the
- 11 truth.
- 12 PRESIDING JUDGE FREMR: [10:26:39] Thank you very much, Witness. So now
- 13 you are under oath. So you need to be aware that it is an offence with the
- 14 jurisdiction of this Court to give false testimony. Do you understand that?
- 15 THE WITNESS: [10:27:00] (Interpretation) Yes, yes.
- 16 PRESIDING JUDGE FREMR: [10:27:04] Fine. And finally few practical matters you
- 17 should have in mind when giving your testimony. It's important to speak into the
- 18 microphone, to speak clearly and to speak at a slow pace to allow the interpreters to
- 19 translate everything.
- 20 When a question is asked, please don't respond immediately, but please count in your
- 21 head to three and only then give your answer because this pause of three seconds is
- 22 essential to properly hear and record your testimony.
- 23 If you have any questions or requests during your testimony, do not hesitate to let us
- 24 know. We will then give you the opportunity to speak.
- 25 Have you understood all that?

1 THE WITNESS: [10:28:02] (Interpretation) Yes, I've heard what you said, but I'd like
2 to say one thing. Can you ask me questions one at a time so I can answer one at a
3 time. But if you, if you ask me a whole bunch of questions all together, I might
4 forget one answer or the other.

5 PRESIDING JUDGE FREMR: [10:28:28] Mr Witness, both counsel who will examine
6 you have listened to that and I believe they will follow your request.

7 Okay. So now we can start with your testimony. I am giving floor to the counsel of
8 Prosecution, Ms Solano.

9 Ms Solano, you have the floor. And we are in public session.

10 Oh, sorry, sorry. You know, it's routine. I'm completely wrong, sorry.

11 We will start with examination conducted by Defence and that is why I am giving
12 floor to Mr Gosnell.

13 Mr Gosnell, you have the floor. And as I highlighted, we are in public session at the
14 moment.

15 MR GOSNELL: [10:29:12] Thank you very much, Mr President.

16 QUESTIONED BY MR GOSNELL:

17 Q. [10:29:18] Mr Witness, as you know, my name is Christopher Gosnell and I will
18 be asking you questions one at a time in English and they will be translated to you.

19 If any of my questions come through to you in a manner that appears unclear, please
20 do let me know and I will do my best to make the question easier to understand.

21 Do you understand that?

22 A. [10:29:52] Yes, I have understood.

23 MR GOSNELL: [10:29:54] May me move into private session, Mr President?

24 PRESIDING JUDGE FREMR: [10:29:58] Just in order to inform public, because this
25 witness is a protected one, he was given guarantee that his identity will not be

1 revealed to the public and that is why if there is such a risk we have to move to
2 private session. And it's in my estimation quite likely that we will spend most of the
3 time of the examination in that regime.

4 So, court officer, now let's move into private session.

5 (Private session at 10.30 a.m.)

6 THE COURT OFFICER: [10:30:40] We are in private session.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Recess taken at 11.48 a.m.)

6 (Upon resuming in open session at 12.17 p.m.)

7 THE COURT USHER: [12:17:12] All rise.

8 Please be seated.

9 PRESIDING JUDGE FREMR: [12:17:43] Mr Witness, can you hear me and see me?

10 No, no problem we will --

11 THE WITNESS: [12:17:58] (Interpretation) Yes.

12 PRESIDING JUDGE FREMR: [12:18:00] Okay, fine.

13 Please, Legal Representative for Victims would like to inform us about (Overlapping
14 speakers)

15 MS GRABOWSKI: [12:18:04] Excuse me, your Honour, excuse me for interrupting.

16 I just wanted to put on the record that Mr Suprun has left the session. Thank you.

17 PRESIDING JUDGE FREMR: [12:18:10] Thank you very much.

18 And now we will proceed with cross-examination conducted by Prosecution.

19 Ms Solano, generally you have at your disposal the same time used by Mr Gosnell
20 which was 1 hour and 15 minutes, but since he had to devote some time to playing of
21 videos, I believe, but I'm not pushing you, that you can make it in a little bit shorter
22 time. But it's up to you.

23 You have the floor and we are in public session at the moment.

24 MS SOLANO: [12:18:42] Thank you, your Honour.

25 QUESTIONED BY MS SOLANO:

1 Q. [12:18:48] Good afternoon, sir. Can you hear me?

2 A. [12:18:53] Yes, I can hear you very clearly.

3 Q. [12:18:59] I am Julieta Solano. I will question you on behalf of the Prosecution.

4 MS SOLANO: [12:19:10] Your Honour, may we go into private session, please.

5 PRESIDING JUDGE FREMR: [12:19:14] For sure.

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

7 (Private session at 12.19 p.m.)

8 THE COURT OFFICER: [12:19:34] We are now in private session.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Sentencing Hearing
WITNESS: DRC-D18-P-0306

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Open session at 12.55 p.m.)

24 THE COURT OFFICER: [12:55:17] We're in open session, Mr President.

25 PRESIDING JUDGE FREMR: [12:55:29] Thank you, court officer.

1 So even if we now, thanks to Ms Solano, we spare some time, I would like still insist
2 on my caveat that we will shorten the lunch break and we would like to start at
3 2 o'clock. Is it a problem for the parties to start at 2 o'clock?

4 Mr Bourgon, it means that you have no problem.

5 MR GOSNELL: [12:56:02] No difficulties on our side, Mr President.

6 PRESIDING JUDGE FREMR: [12:56:05] We appreciate that. So we will start at
7 2 o'clock with the next witness.

8 THE COURT USHER: [12:56:11] All rise.

9 (Recess taken at 12.56 p.m.)

10 (Upon resuming in open session at 2.06 p.m.)

11 THE COURT USHER: [14:06:42] All rise.

12 Please be seated.

13 PRESIDING JUDGE FREMR: [14:07:27] Good afternoon, everybody, here in
14 The Hague and in Bunia as well.

15 Those who have been with us in the morning, I hope that you managed to have
16 a good lunch, in spite of the relatively short, short lunch break.

17 We now are going to proceed with the testimony of the third and the last Defence
18 witness for sentencing.

19 The Defence request to hear D-0047 was granted on 20 August 2019 in our decision
20 with filing number 2384. At the same time, the Chamber decided that the witness
21 would appear via video link.

22 The Chamber initially granted the Defence one hour for the examination, but
23 yesterday in an oral ruling we granted an additional 15 minutes to address some
24 additional documents that the Defence was permitted to add to its list of items.

25 So now we can move directly to examination of our witness.

1 Mr Witness, can you hear and see me?

2 WITNESS: DRC-D18-D-0047

3 (The witness speaks French)

4 (The witness gives evidence via video link)

5 THE WITNESS: [14:08:55] (Interpretation) Yes, I can see you and I can hear you very
6 well.

7 PRESIDING JUDGE FREMR: [14:09:01] Very good.

8 So on behalf of the Chamber I would like to welcome you. You are going to testify
9 before the International Criminal Court. You will be soon asked questions both by
10 the judges and lawyers over here in the courtroom. In this connection I would like
11 to guide you as follows:

12 Please listen carefully to the questions. If you do not understand, feel free to ask for
13 the question to be repeated. We want you to tell the truth and tell us what you saw,
14 heard or sensed yourself.

15 Please testify just on that which you really remember. Don't guess, don't make
16 things up. There is nothing wrong in saying "I don't know" or "I don't remember."
17 Do you understand all this, Mr Witness?

18 THE WITNESS: [14:10:02] (Interpretation) Yes, I have understood them well.

19 PRESIDING JUDGE FREMR: [14:10:09] Fine.

20 Mr Witness, no specific protective measures have been requested in relation to your
21 testimony, so your identity will be made public during examination. During your
22 testimony, we will address you just by saying, "Mr Witness", or "Mr". Do you
23 understand?

24 THE WITNESS: [14:10:40] (Interpretation) Yes, I do.

25 PRESIDING JUDGE FREMR: [14:10:42] All right.

1 Now I will administer the solemn undertaking to tell the truth, so please repeat after
2 me:

3 I solemnly declare --

4 THE WITNESS: [14:11:00] (Interpretation) I solemnly declare --

5 PRESIDING JUDGE FREMR: [14:11:04] -- that I will speak the truth --

6 THE WITNESS: [14:11:12] (Interpretation) -- that I shall speak the truth --

7 PRESIDING JUDGE FREMR: [14:11:15] -- the whole truth and nothing but the truth.

8 THE WITNESS: [14:11:24] (Interpretation) -- the whole truth and nothing but the
9 truth.

10 PRESIDING JUDGE FREMR: [14:11:29] Thank you, Mr Witness.

11 And it means that now you are under oath. You need to be aware that it is an
12 offence within the jurisdiction on this Court to give false testimony. Do you
13 understand that?

14 THE WITNESS: [14:11:54] (Interpretation) I understand it very well.

15 PRESIDING JUDGE FREMR: [14:11:56] Very good.

16 And now finally a few practical matters you should have in mind when giving your
17 testimony:

18 It's important to speak into the microphone, to speak clearly and to speak at a slow
19 pace, to allow the interpreters to translate everything.

20 One reminder, you should only start speaking when the person asking you the
21 question has finished. And when a question is asked, please do not respond
22 immediately, but, rather, count in your head to three and only then give your answer,
23 because this 3-second pause is essential for us to properly hear, interpret, and record
24 what you are saying.

25 And if you have any questions during your testimony or any request, do not hesitate

1 to let us know and we will then give you the opportunity to speak.

2 Have you, Mr Witness, understood all that?

3 THE WITNESS: [14:13:05] (Interpretation) Yes, I have.

4 PRESIDING JUDGE FREMR: [14:13:08] Very good. So we can start with your
5 testimony. You will be examined first by main counsel of the Defence, Mr Bourgon.
6 Mr Bourgon, you have 1 hour and 15 minutes and the floor is yours. And we are at
7 the moment at a public session.

8 MR BOURGON: Thank you, Mr President.

9 QUESTIONED BY MR BOURGON: (Interpretation)

10 Q. [14:13:32] Good afternoon, Mr Djokaba. Can you hear me?

11 A. [14:13:49] Yes, I can.

12 Q. [14:13:49] We have already met. You know me, but I am just going to
13 introduce myself. My name is Stéphane Bourgon and I am Bosco Ntaganda's
14 counsel. Do you understand that?

15 A. [14:14:04] Yes, I do.

16 Q. [14:14:11] I plan to show you many documents and spend some time with you,
17 but we have just got 1 hour and 15 minutes so, insofar as possible, please
18 keep -- please give us short answers, insofar as possible.

19 Can you please give me your full name, Witness?

20 A. [14:14:38] I answer to the name Djokaba Lambi Bédé.

21 Q. [14:14:47] To which ethnic group do you belong to?

22 A. [14:14:52] I belong to the ethnic group Mabisa (phon).

23 Q. [14:14:56] What's your current profession?

24 A. [14:15:02] I teach at the CECOMAD university.

25 Q. [14:15:09] Since when have you been associated with the UPC?

- 1 A. [14:15:14] I have been so since 2000.
- 2 Q. [14:15:20] What was your occupation during 11 September 2002?
- 3 A. [14:15:28] As of September 2002 I was part of UPC's national executive and I was
4 the national secretary in charge of domestic affairs.
- 5 Q. [14:15:48] Who was the incumbent to this position?
- 6 A. [14:15:56] It was Djalum Uwek Nyinga.
- 7 Q. [14:16:03] And Mr Djalum you spoke about was in which -- belonged to which
8 ethnicity?
- 9 A. [14:16:12] He was an Alur.
- 10 Q. [14:16:15] Did you replace Mr Djalum and become the incumbent to this
11 position?
- 12 A. [14:16:22] Yes, I did, in June 2003.
- 13 Q. [14:16:33] What was your position in August 2003?
- 14 A. [14:16:45] As of 2003 I became the president of UPC/RP.
- 15 Q. [14:16:49] Until when?
- 16 A. [14:16:50] Until 12 September 2004.
- 17 Q. [14:16:59] During your mandate as president, where was Thomas Lubanga?
- 18 A. [14:17:05] Thomas Lubanga at that point of time was in Kinshasa.
- 19 Q. [14:17:12] Were you in contact with Mr Lubanga during this period, if so, how?
- 20 A. [14:17:16] Yes, we were. I was in touch with Thomas Lubanga by telephone.
- 21 Q. [14:17:25] Since when do you know Bosco Ntaganda?
- 22 A. [14:17:29] I have known him since 2000.
- 23 Q. [14:17:42] In August 2002, when you became the deputy national secretary, what
24 was Bosco Ntaganda's position?
- 25 A. [14:17:52] It was actually in September that I became the national vice-secretary,

1 and at that point of time Bosco Ntaganda was the deputy chief of staff of FPLC.

2 Q. [14:18:12] On the basis of your personal observations, can you give us an
3 assessment of Bosco Ntaganda's character and behaviour in the capacity of the deputy
4 chief of staff?

5 A. [14:18:24] When I met him he was a very nice man, he was calm, he was humble,
6 and very dedicated.

7 Q. [14:18:44] Bosco Ntaganda, did he change position with time?

8 A. [14:18:49] Yes, with time he became the general army chief of staff, and this was
9 in December 2003.

10 Q. [14:19:01] On the basis of your observations, when you were the interim
11 president of the UPC, can you give us an assessment of what type of officer
12 Bosco Ntaganda was as the general army chief of staff of the UPC?

13 A. [14:19:22] Bosco Ntaganda as the general army chief of staff of the UPC, he
14 actually stayed one year and he was very, very devoted to the noble cause. He also
15 was extremely reliable, he was very attentive and also very respectful to the
16 hierarchy.

17 Q. [14:19:54] As the mandate -- in the capacity of your mandate as the president of
18 UPC, did the UPC carry out reconciliation activities? And if you could just describe
19 them very briefly.

20 A. [14:20:07] Yes, UPC did carry out many reconciliation operations. First of all, it
21 was through certain contacts which were built between the top leaders of the party
22 with certain community leaders in Ituri, and after that it was the creation of the
23 reconciliation commission, CVPR, which was under the auspices of the national
24 secretary for pacification. And over and above this, there was also some collusion
25 with the political military movement -- with other political military movements of the

1 Ituri provinces, especially with the FNI. And we created a common bloc and this
2 was to foster peace in the region of Ituri.

3 Q. [14:21:28] Your reconciliation activities, I'm saying your reconciliation activities,
4 meaning UPC's reconciliation activities with FNI, it was at which period?

5 A. [14:21:48] It was in December 2003 and we really wanted to have a permeable
6 zone. It was a necessity to be together. And in January, February we were in the
7 locality of and we wanted to -- the representatives of FRPI and FNI were together and
8 we really wanted to be together. And later on in February there was a delegation
9 that was led by me in the month of April in 2004 and this delegation went to
10 Kpandroma and the objective, basically, was to uphold the national opinion and the
11 local opinion and there was no reason to be dispersed.

12 Q. [14:23:07] Now I'm specifically referring to 2004, you spoke about Kobu and
13 Kpandroma. Now Bosco Ntaganda, was he associated with these activities and what
14 was his position with respect to these activities?

15 A. [14:23:29] Yes, first of all, in December 2003 when we were in Bunia, we wanted
16 Bosco Ntaganda be part of the -- part of the party, but unfortunately he really could
17 not come to the city centre and he felt very threatened because he -- there was a threat
18 of him being arrested by the MONUC. And this was in December.

19 And when we went to Kobu, he -- the deputy army chief of staff, Mr Linganga, he
20 was represented in Kobu, and when we returned from Kobu he actually received the
21 entire report. And in April, when we went to the FNI's headquarters in Kpandroma,
22 we actually had a mixed delegation from -- with members from FNI and UPC and we
23 actually crossed Lopa. And he was actually in Largu at that time and we were
24 encouraged to go through Largu on a return trip.

25 In May, when we actually entered he -- the FNI delegation came along with

1 him -- came along with us, we were there together. And that day we were asked to
2 spend the night and there was a lot of time for to us exchange with these officers of
3 the FNI and they encouraged us to talk together.

4 Q. [14:25:41] Mr Djokaba, I would like to first of all discuss about the results of the
5 conciliation activities, and for that I would like to show you a video.

6 Your Honour, I am requesting permission to basically show a video clip. It's the
7 video DRC-D18-0001-0436. And I'm just going to follow the established procedure,
8 if you give me the permission and if we can take control.

9 PRESIDING JUDGE FREMR: [14:26:28] Ms Samson, any objection at this phase?

10 MS SAMSON: [14:26:32] No, your Honour. I am expecting Defence counsel to
11 identify the excerpts that he wishes to use.

12 MR BOURGON: [14:26:41] (Interpretation) Yes, your Honour. I said I am going to
13 follow the procedure. I will not -- I will comply with it. So it's the first scene,
14 00:18:00 to 00:19:14. I do not need the transcript -- I do not need a translation. It's
15 just to carry out an identification with the witness.

16 Q. [14:27:13] Mr Djokaba, I'm going to ask you to look at the screen in front of you
17 and then I'm going to ask you a few questions. (Overlapping speakers)

18 PRESIDING JUDGE FREMR: Mr Bourgon, Mr Bourgon, I see probably we have
19 some problem.

20 Court officer.

21 THE COURT OFFICER: [14:27:24] We do not a problem, thank you, Mr President.

22 I just would like to confirm with you that the video can be shown publicly.

23 MR BOURGON: [14:27:35] (Interpretation) It's an authentic copy of the video we
24 used yesterday. I said yes, but of course I'm turning to my learned colleague on the
25 other side.

1 MS SAMSON: We have no objection (Microphone not activated)

2 PRESIDING JUDGE FREMR: [14:27:47] Very well. All right.

3 MR BOURGON: [14:27:58](Interpretation) So we are going to see a small scene,
4 00:18:00 to 00:19:14.

5 (Viewing of the video excerpt)

6 MR BOURGON: [14:29:24] Now, for the stenographic notes, the video was stopped
7 at 00:19:14.

8 Q. [14:29:31] Mr Djokaba, do you recognise what you've just seen in the video clip?

9 A. [14:29:38] Yes, I do.

10 Q. [14:29:39] What was it about?

11 A. [14:29:46] This was a very significant solemn ceremony. It was the rank
12 conferring ceremony.

13 Q. [14:29:54] Where did the ceremony take place?

14 A. [14:29:57] This ceremony took place in Blukwa.

15 Q. [14:30:05] Is Blukwa near Largu?

16 A. [14:30:08] Yes, Blukwa is 7 kilometres from Largu.

17 Q. [14:30:14] Did you recognise people on that video clip?

18 A. [14:30:21] Yes, that is the national secretary in charge of monitoring military
19 questions, and there is also the general Bosco Ntaganda and myself.

20 MR BOURGON: [14:30:48] (Interpretation) Your Honour, on the basis of the
21 answers of the witness I would really like to ask more questions on this video clip.

22 PRESIDING JUDGE FREMR: Ms Samson.

23 MS SAMSON: [14:30:59] No objection, Mr President.

24 PRESIDING JUDGE FREMR: [14:31:02] Mr Bourgon, please proceed.

25 MR BOURGON: [14:31:05] (Interpretation)

1 Q. [14:31:07] Mr Djokaba, on that day, who was represented there amongst the
2 public, which ethnic groups were present?

3 A. [14:31:23] At this ceremony there were mainly officials of various sorts were
4 present. And we had representatives of public power, they were also present at this
5 ceremony.

6 Q. [14:31:52] And who issued the invitations to this ceremony, if you know?

7 A. [14:32:00] For this ceremony, the general staff of the FPLC had prepared the
8 invitations and we then approved them.

9 Q. [14:32:20] Mr Djokaba, what is the significance of this ceremony with regard to
10 the UPC reconciliation activities in 2004?

11 A. [14:32:33] This activity, this ceremony, is a confirmation of the efforts assisted by
12 UPC for reconciliation, because at this ceremony people -- the people from the Lendu
13 ethnic group were not afraid to be involved, to celebrate this major event. They
14 came from their home to us and we spent the night together, so this was the biggest
15 manifestation of the rapprochement between the groups and then the officials and
16 military, the UPC, had organised this event.

17 Q. [14:33:44] And what was Bosco Ntaganda's role in the organisation of this
18 event?

19 A. [14:33:53] Firstly, this was a military activity, and from the organisational point
20 of view it was the general staff had put in a tremendous effort and he was fully
21 involved in the organisation of this event, he was the represent -- he was very much
22 involved as chief of staff. We, we were there to give it additional value and
23 Dieudonné (inaudible) was there to be with the general staff at this event, general
24 staff Bosco Ntaganda.

25 Q. [14:34:49] And in a few words, what was the attitude of the public, of the

1 spectators to his presence there that day?

2 A. [14:35:00] The spectators were all very enthusiastic. They were made very
3 enthusiastic, made by this. But they felt reassured, they felt that there was peace,
4 whereas there was a lot of tendencies which had previously been opposed.

5 Q. [14:35:35] Were there any speeches given during this event?

6 A. [14:35:40] Yes, a number of speeches were given.

7 Q. [14:35:44] I would like to show you a video with a speech given on that day.

8 The document has been given to the interpreters in all the languages. I intend to use
9 the same video that I mentioned earlier, D18-0001-0436. I would like to use the
10 sequence from 00:42:36.

11 PRESIDING JUDGE FREMR: [14:37:14] Please hold on, Mr Bourgon, we don't have
12 English translation. The last sentence we do have is "I would like to use the
13 sequence from 00:42:36" and the rest at the moment is missing.

14 MR BOURGON: (Microphone not activated)

15 THE INTERPRETER: [14:37:37] Microphone, please.

16 PRESIDING JUDGE FREMR: [14:37:44] Mr Bourgon, is your mic switched on?

17 Now, okay.

18 MR BOURGON: [14:37:54] (Interpretation) Thank you, Mr President.

19 So I come back to this from 42:36 to 00:45:22. The transcription is in

20 DRC-D18-0001-0436 and -- sorry, sorry, I must say this again. The transcription is

21 DRC-D18-0001-5632, and goes from 5633 and goes from 5636 -- and goes to 5634, 37.

22 That's the Swahili. The translation is in D18-0001-5635 and the extract in question is
23 on 5637 and goes from line 16 to page 5638, line 43.

24 Q. [14:39:24] Mr Djokaba, you can hear the video, if you're ready. But I'm also
25 going to read the transcript at the same time while the video is playing. So we will

1 start at minute 42:36.

2 PRESIDING JUDGE FREMR: (Microphone not activated)

3 MS SAMSON: [14:39:47] It's fine, Mr President.

4 PRESIDING JUDGE FREMR: [14:39:48] Then maybe for future, because we will
5 probably face many cases of the same kind, I will not ask you. If you have some
6 problem, please stand then. But, okay. Thank you.

7 MS SAMSON: [14:39:56] Yes, thank you.

8 PRESIDING JUDGE FREMR: [14:39:59] Let's proceed.

9 (Viewing of the video excerpt)

10 MR BOURGON: [14:40:05] (Interpretation)

11 "Bosco Ntaganda: "UPC/RP" --

12 I think the best idea would be to play the video without the sound and I will simply
13 read the transcript for the purposes.

14 PRESIDING JUDGE FREMR: [14:40:25] (Microphone not activated) I think it was
15 fine both with Ms Samson and with me, so no problem.

16 MR BOURGON: [14:40:32] (Interpretation) So let's start again from 42:36. So the
17 extract starts here, Bosco Ntaganda speaking:

18 "UPC/RP, your excellency ... your excellency minister defence of UPC/FPLC, dear
19 guests present here today. I think that today is a special day for us as military.

20 Without further ado, I would say that it's starting to rain, and this is giving us a little
21 difficulty, but we have heard the inception of the UPC/FPLC, as explained by his
22 excellency the minister of defence, those who were on the side of ... well ... those who
23 were affected are those who have been decorated today. This is the first cohort, and
24 there are other soldiers who did not receive a rank today, but, as his excellency the
25 minister of defence said, we know who they are, we are following them closely, and

1 those who ... well ... they know. However, these ranks are something we've received
2 from the party, from the people, and the point is, given that we have passed, it is
3 essential that it be to the light for all Congolese as a whole, for the Congo as a whole
4 and for all the population of Congo. We are not wearing them for protecting the
5 region under the control of the UPC, we are wearing them to be that the light of the
6 whole party and of all Congo. So, I won't speak at any length, the rest will continue,
7 but we know that, as we stand here today on behalf of the UPC/FPLC, these ranks
8 that we are wearing, it's the first cohort and the second cohort ... dear guests, you are
9 very welcome, you will come, you will see how we continue to be decorated and how
10 we rise through the ranks ... just like a young child starting to walk, first of all, born,
11 then he crawls on four -- on all fours and then eventually, with help, manages to walk,
12 until older he walks with three feet.
13 And so we are starting to grow, we know that we will dishonour -- not dishonour the
14 Congo, or our party. As we have received these ranks, we will be a role model for
15 all Congolese and for the whole of our country Congo. Thank you."

16 The video was stopped at 45:22.

17 Mr Djokaba, were you there when this speech was given?

18 A. [14:44:31] Yes, I was there.

19 MR BOURGON: [14:44:38] (Interpretation) Your Honour, I would look to have this
20 admitted as evidence, please.

21 PRESIDING JUDGE FREMR: Ms Samson.

22 MS SAMSON: [14:44:44] No objection.

23 PRESIDING JUDGE FREMR: [14:44:46] All right. Then so the video specified by
24 Mr Bourgon and corresponding translation are admitted into evidence as a further
25 Defence exhibit.

1 Mr Bourgon, please proceed.

2 MR BOURGON: [14:45:00] (Interpretation) Thank you, your Honour.

3 Q. [14:45:05] This ceremony, was it followed by other activities on the same day?

4 A. [14:45:14] Yes.

5 Q. [14:45:17] What sort of activities?

6 A. [14:45:23] After this ceremony there was a meal, a reception, if you like, for the
7 guests. For the rest of the population who were there, there were other
8 arrangements made so that they could also celebrate. But there was a reception for
9 guests at Largu.

10 Q. [14:46:01] Where did the meal take place?

11 A. [14:46:05] The meal was in Largu.

12 Q. [14:46:09] I am now going to show a third video extract, a short extract from the
13 same video, and it's from 01:06:07 to 01:06:17. We need sound but we don't need
14 either a transcript or a translation.

15 Please follow this, Mr Djokaba.

16 (Viewing of the video excerpt)

17 MR BOURGON: [14:46:54] (Interpretation)

18 Q. [14:46:55] Did you recognise this scene, Mr Djokaba?

19 A. [14:46:57] Yes.

20 Q. [14:46:59] Were you present?

21 A. [14:47:02] Yes, I am there in a three-piece suit.

22 Q. [14:47:11] So who else recognise in this brief clip?

23 A. [14:47:16] In the middle there, there is the president Ndjabu.

24 Q. [14:47:29] Did you recognise the person standing next to him?

25 A. [14:47:35] Next to him there is General Bosco Ntaganda.

1 Q. [14:47:38] Do you recall other people who were there on that occasion and who
2 also spoke?

3 A. [14:47:46] Yes, that evening we had representatives from the territorial
4 administration, the representative himself and his adjoint.

5 Q. [14:48:04] Do you recall their names?

6 A. [14:48:06] The head was the late - oh, I can't remember his name - Tshachu Lylo,
7 Tshachu Lylo. And Kiza Mateso, who has died -- is still alive. Tshachu Lylo is
8 a Lendu and Mateso is Hema.

9 Q. [14:48:54] And what was the position occupied by Mr Mateso, if you can recall?

10 A. [14:49:02] Kiza Mateso was the vice-governor of the province of Ituri in UPC/RP.

11 Q. [14:49:15] What is the symbolism, the importance of this event, the ceremony,
12 the meal, the parade and so on that you all went to together?

13 A. [14:49:31] Sorry, could you please repeat the question.

14 Q. [14:49:35] What was the significance of these two events, the rank ceremony and
15 the meal where Hema and Lendu are together?

16 A. [14:49:48] It was of capital importance, because the -- it showed that
17 reconciliation was a fact that had been consolidated, that it had happened, because if
18 people from these two groups, these two armed groups -- you could see -- and also
19 from the different ethnic groups who at a certain time were very much involved in
20 violent opposition, if they were able to spend time together to celebrate this size of
21 event, and then to eat together at this meal, I think that is an indication that
22 reconciliation has taken place.

23 Q. [14:50:53] Do you know a woman by the name of Dominique McAdams?

24 A. [14:51:02] Yes.

25 Q. [14:51:03] Who is she?

1 A. [14:51:05] At a certain time she was the head of MONUC.

2 Q. [14:51:15] Do you know when she took on this post?

3 A. [14:51:19] I think it was September 2003.

4 Q. [14:51:23] Do you know or have you heard what her position was regarding the
5 reconciliation between FNI and UPC?

6 A. [14:51:39] She was not happy with it -- not happy with the rapprochement
7 between the two groups. And she, she called it an unnatural marriage.

8 Q. [14:51:56] Do you know why?

9 A. [14:52:01] Well, I had understood Ms McAdams' position because I had
10 understood that a rapprochement of this type, I would have thought it would be very
11 satisfactory because it would have indicated a union within Congo.

12 Q. [14:52:31] Let us move on to another matter, the question of demobilisation and
13 disarmament, and I would like first to ask you when the UPC became a political
14 party?

15 A. [14:52:51] Officially the UPC became a political party on 2 July 2004.

16 Q. [14:53:02] During your term as interim president, how -- what did you know
17 about previous demobilisation programmes?

18 A. [14:53:23] There were two programmes, DRC, which was a national programme
19 under MONUC, and we also had DDR PN, disarmament, demobilisation and
20 reconciliation, and that was a national programme. That also included integration of
21 soldiers and having them integrated into the national force, national army.

22 Q. [14:54:06] What was the importance of the UPC's political party to cooperate
23 with those who were implementing these programmes?

24 A. [14:54:22] Those who were in charge of the parties in Congo stated clearly that,
25 that they could have an armed wing and it was very -- sorry, they could not have any

1 armed wings and therefore it was of great interest to the UPC to disband its armed
2 branch, making it available to the ministry of defence in a way that ensured that the
3 UPC's mission was purely political.

4 Q. [14:55:20] Who were the UPC's contacts with regard to the DDR programme, the
5 national programme?

6 A. [14:55:26] For this programme the UPC worked directly with the minister of
7 defence, ministry of defence, and -- and.

8 THE INTERPRETER: [14:55:46] I'm sorry, the interpreter missed the last part of the
9 sentence.

10 MR BOURGON: (Overlapping speakers)

11 PRESIDING JUDGE FREMR: [14:55:51] (Overlapping speakers) the interpreter
12 informed that he or she missed the last part of your sentence. Could you kindly
13 repeat the last part of the sentence.

14 MR BOURGON: [14:56:04] (No interpretation)

15 THE INTERPRETER: The witness.

16 PRESIDING JUDGE FREMR: [14:56:06] Sorry, the witness. Sorry, it was witness.

17 So, Mr Witness, could you just repeat - I was wrong - Mr Witness, could you just
18 repeat the last part of your answer, because the interpreters have not caught that, so
19 could you repeat the last sentence, if you remember.

20 THE WITNESS: [14:56:34] (Interpretation) Yes, certainly.

21 I was saying that the UPC became a political party on 2 July 2004. They addressed
22 the minister of defence to say that they had become a political party and were making
23 available to the ministry of defence the orders and the equipment and the soldiers so
24 that they could be incorporated into the national armed forces so that the UPC would
25 comply with the law governing political parties quite freely.

- 1 PRESIDING JUDGE FREMR: [14:57:33] Thank you very much, Mr Witness.
- 2 Mr Bourgon, please proceed.
- 3 MR BOURGON: [14:57:37] (Interpretation) Thank you, your Honour.
- 4 Q. [14:57:42] Mr Djokaba, I'd like to show you a document, number 38. It's
- 5 DRC-D18-0002-0063.
- 6 Could the -- could the document please be given to the witness.
- 7 PRESIDING JUDGE FREMR: [14:58:09] Ms Samson.
- 8 MS SAMSON: [14:58:10] No objection, your Honour.
- 9 PRESIDING JUDGE FREMR: [14:58:12] Many thanks.
- 10 THE COURT OFFICER: [14:58:29] I am informed that the witness has a paper copy
- 11 in front of him.
- 12 MR BOURGON: [14:58:35] (Interpretation) Thank you.
- 13 Q. [14:58:39] Witness, what does this document tell us, dated 12 September 2003,
- 14 and it has to do with dealings between the party and the ministry of defence?
- 15 A. [14:58:52] Yes.
- 16 Q. [14:59:22] Do you have the document?
- 17 A. [14:59:24] Yes, I do.
- 18 Q. [14:59:39] Are you in a position to answer the question? This document, does
- 19 this document talk about the dealings between the UPC and the ministry of defence
- 20 of the central government?
- 21 A. [14:59:58] I beg your pardon, could you repeat the question.
- 22 Q. [15:00:01] Yes. Does this document tell you something about the dealings
- 23 between the UPC and the central government's defence ministry?
- 24 A. [15:00:13] Yes. This document here is an illustration of the dealings that the
- 25 UPC had with the ministry of defence regarding the rank and file. And here, of

1 course, if we look at the document very carefully, mention is made of the purpose, or
2 the subject, rather, and the ministry draws the president's attention to the prohibition
3 on illicit recruitment. And you see, this is in the run-up to the integration of the UPC
4 soldiers into the national army.

5 MR BOURGON: [15:01:09] (Interpretation) Mr President, I would like this document
6 to be adduced as evidence.

7 PRESIDING JUDGE FREMR: [15:01:15] Ms Samson.

8 MS SAMSON: [15:01:16] Strictly speaking, Mr President, the witness hasn't
9 indicated his connection to the document.

10 PRESIDING JUDGE FREMR: [15:01:27] Mr Bourgon, could we by one question
11 maybe to -- (Overlapping speakers)

12 MR BOURGON: [15:01:31] (Interpretation)

13 Q. [15:01:36] Do you recognise this document, sir?

14 Can you hear me? This document that you have just answered a question about, do
15 you recognise this document? What is the link between you and this document?

16 A. [15:01:58] Yes, I do recognise the document. In actual fact, this is a letter that
17 the minister of defence sent to us, namely to the president of the UPC and to me as
18 the acting president, and so I was directly involved and concerned by this letter. In
19 the document the minister, the national minister of defence sees that --

20 PRESIDING JUDGE FREMR: [15:02:30] It's enough, thank you. It's sufficient for us.
21 Thank you for your explanation.

22 So this document is - specified by Mr Bourgon - is admitted into evidence as a further
23 defence exhibit.

24 Mr Bourgon, please proceed.

25 MR BOURGON: [15:02:45] (Interpretation) Thank you, your Honour.

1 Q. [15:02:50] Mr Djokaba, to the best of your knowledge, did FPLC members, were
2 they integrated into the central army in the year 2003 or the year 2004?

3 A. [15:03:09] Yes, some -- as early as December 2004, I believe at that time there was
4 a series of government orders signed by the president of the republic and it provided
5 for these people to join the army. Under the government order all FPLC men who
6 were -- were given ranks. For example, Bosco was one of them, he was appointed
7 brigadier general. Linganga became the colonel. Nembe became a colonel. Eric
8 Mbabazi became a colonel, and many others. It was a rather long list. And by way
9 of this integration in -- you see, the entire army of the UPC became part of the armed
10 forces of the Democratic Republic of the Congo.

11 Q. [15:04:18] A few moments ago you mentioned the DDR programme, the
12 national DDR programme, and you said that integration, you said some members
13 were integrated. Which people were integrated into the national army?

14 A. [15:04:38] Yes, the members who were integrated into the army were all those
15 who expressed a willingness to serve under the national flag.

16 Q. [15:04:54] Did Bosco Ntaganda have a role to play in preparing for these events
17 that led to the integration?

18 A. [15:05:04] Yes. As chief of general staff of the FPLC, he was the one who was
19 given the responsibility of preparing the lists, the lists of all those who wanted to be
20 in the national army and the lists of those who wanted to be demobilised. He took
21 care of all those preparations.

22 Q. [15:05:35] During your term as acting president, did you ever hear about FPLC
23 members being demobilised as part of the other programme?

24 A. [15:05:49] Yes, many soldiers belonging to the FPLC enrolled and agreed to be
25 demobilised and joined the demobilised person's camp in Nizi, that was the largest

1 demobilisation site. But there were others, others who ended up there.

2 Q. [15:06:22] And did Bosco Ntaganda play a role in the field within the group
3 preparing the way for demobilisation?

4 A. [15:06:37] Yes. Yes, demobilisation and reception of these former soldiers in
5 the community by way of a number of bodies that govern Ituri, we set up a special
6 committee to work together. And this group -- the national secretary responsible for
7 defence, minister responsible for defence, he was the person who was on that
8 committee and he worked in the field hand in hand with General Bosco, who was the
9 chief of staff, with a view to facilitating the implementation of the DRC programme
10 for the billeting of troops and so on and so forth.

11 Q. [15:07:30] And what was the attitude or the position taken by Bosco Ntaganda,
12 integration on the one hand or demobilisation on the other, in the year 2004?

13 A. [15:07:44] Well, of course both programmes to some extent ran parallel, but the
14 two programmes were complementary.

15 In the DRC programme, it was just a matter of demobilising people and re- -- having
16 them return to the community.

17 But you have to realise what the situation was. Within the FPLC there weren't just
18 people from one ethnic group. For example, we had some people from southern
19 Kivu, we had other soldiers from Orientale Province.

20 And there were some people really who had no community to go to, they could not
21 be returned to any community, and thus the complementary, the DDR PN
22 programme. You see, there were the two programmes and both programmes, you
23 see, were working towards the same outcome.

24 Q. [15:09:05] A few moments ago you mentioned one event in December 2003 and
25 Bosco Ntaganda was not at that event.

1 I'd like to show you a document. This is document 34 on our list and the reference
2 number is DRC-OTP-0018-0008.

3 This is for witness. If a copy could be provided to the witness, please.

4 PRESIDING JUDGE FREMR: [15:09:49] Ms Samson.

5 MS SAMSON: [15:09:50] No objection.

6 PRESIDING JUDGE FREMR: [15:09:52] Thank you.

7 MR BOURGON: [15:10:07] (Interpretation)

8 Q. [15:10:08] Do you have the document?

9 Now while we look for the document, could you answer this question: Why was
10 Bosco Ntaganda afraid of being arrested by the MONUC, as you mentioned earlier?

11 A. [15:10:45] I'm sorry, could you repeat your question.

12 Q. [15:10:47] Yes. Earlier today you said that Bosco Ntaganda was not present at
13 one particular event in December 2003 because he was afraid of being arrested.
14 Why?

15 A. [15:11:01] Yes, indeed. In December, December -- November, November,
16 November already, it was actually in November 2003, MONUC were giving people to
17 believe through -- well, by way of some broadcasts on radio Okapi that Bosco
18 attempted -- was planning to attack the headquarters and that Bosco was to be
19 arrested. That was on 2 November. So Bosco was the target of the MONUC and,
20 because of that, naturally he had to be afraid to go into the centre of Bunia town,
21 because he -- he was afraid to fall into this trap that had been set for him.
22 MONUC had already tried once to enter into the home of Rafiki, believing that Bosco
23 was there. And they didn't catch him then, so MONUC ended up taking Rafiki into
24 custody and so, obviously, that had to have frightened Bosco and so he did not
25 venture into the centre of town.

1 Q. [15:12:39] We only have a few moments, sir, but could you describe the dealings,
2 very briefly, between the UPC and MONUC between June 2003 and December 2003.

3 Quickly.

4 A. [15:12:56] Yes. First of all, you must realise that in May the UPC/RP regained
5 Bunia town, which for two months had been in the hands of the killers.

6 And when the UPC came into the town, as of 12 May, at least, you see, MONUC
7 looked favourably upon that development and the dealings were good, particularly
8 with the presence of the chief of the bureau, a very diplomatic man, and the dealings
9 with him were excellent, we could make ourselves understood.

10 But, you see, things started to deteriorate when Alfaso was transferred elsewhere, and
11 then there was a short time and General Iceberg, the Swedish general was in place,
12 and with him, well, dealings weren't so bad with him. And then after him, you see,
13 there was the incident on 15 September 2003 which, ultimately, it was marking the
14 third anniversary of the UPC/RP. Some celebrations had been organised, but on
15 15 March the headquarters of the UPC was attacked by the peacekeepers, by the
16 Moroccans, and at that time several high level people were arrested and a number of
17 residences were ransacked and all the documents taken away.

18 And once the people learned that UPC officials had been arrested, and I was one of
19 these officials, I found myself with Vicky -- Victor, who was the general secretary,
20 acting basis, and so people headed towards the headquarters, there was some
21 shootings, some shots were fired and a number of men died. Later on, when
22 McAdams, Ms McAdams took over, oddly enough, she became -- well, I don't know if
23 I should say she had a prejudice, but the first dealings with her very quickly showed
24 that she had come in with an agenda that she was to implement, and she was going to
25 destroy the UPC. And the proof of that was that, within the UPC, there was some

1 dissidence, some disagreements, and we could see McAdams pulling the strings.
2 When the UPC wanted to have its conference in November and to become a political
3 party, while, you see, the special administration had given the go-ahead and everyone
4 was going to be attending this conference or gathering, McAdams interfered and she
5 said that she was responsible for security in the region and the demonstration was not
6 to be held.

7 And once again the Pakistani troops were sent in to disperse people in an extremely
8 brutal fashion, all the people who had come together at the headquarters, so all these
9 men showed quite clearly that McAdams' agenda was to destroy the UPC for once
10 and for all. So that explains why the dealings with MONUC were not stellar, shall
11 we put it that way, during her tenure.

12 Now, during these -- when these people were arrested and when all the detained
13 people from the UPC were sent to the Makala Central Prison, other people arrested in
14 the same circumstances, you see, there were demonstrations and this truly bore
15 witness to the poor dealings between UPC and the -- between the two.

16 Q. [15:17:59] I'd like to show you some other documents and we're going to put
17 them up on the screen, because time is running out.

18 We'll begin with one particular document, this is document number 39 on our list,
19 and if we could put it up on the screen, DRC-D18-0002-0065.

20 PRESIDING JUDGE FREMR: [15:18:31] For your information, you still have
21 10 minutes.

22 MR BOURGON: [15:18:38] (Interpretation)

23 Q. [15:18:39] Can you see this document up on the screen?

24 A. [15:18:44] Yes.

25 THE COURT OFFICER: [15:18:45] Mr Bourgon, could you please confirm, first, that

1 the document is public.

2 MR BOURGON: [15:18:50] (Interpretation) Yes, this is a public document.

3 Q. [15:18:58] Do you recognise this document? What's it all about?

4 A. [15:19:04] The one I have right here --

5 Q. [15:19:06] Yes.

6 A. [15:19:07] -- entitled "*acte d'engagement*" --

7 Q. [15:19:12] No, no, another document.

8 A. [15:19:15] Oh, yes, yes, yes, I can see this other document, yes. This is

9 a document that I myself sent to General Iceberg. Yes, I see, I see.

10 MR BOURGON: [15:19:31] (Interpretation) Your Honour, I would like this letter to

11 be put on the record as evidence. This is a document that we showed the witness

12 during the preparation session.

13 PRESIDING JUDGE FREMR: [15:19:42] Ms Samson.

14 MS SAMSON: [15:19:43] No objection, your Honour.

15 PRESIDING JUDGE FREMR: [15:19:46] All right, the document specified by

16 Mr Bourgon is admitted into evidence as a further Defence exhibit.

17 MR BOURGON: [15:19:59] (Interpretation)

18 Q. [15:19:59] And now, sir, another document. This is on our list.

19 If you could take this document --

20 PRESIDING JUDGE FREMR: [15:20:37] (Overlapping speakers) Mr Witness, do you

21 have any request? Please go ahead.

22 THE WITNESS: [15:20:44] (Interpretation) Yes. Regarding this document that

23 Defence counsel already made reference to, which I have here with me, yes, that's

24 what I wanted to mention.

25 MR BOURGON: [15:21:01] (Interpretation)

1 Q. [15:21:02] Sir, this document --

2 PRESIDING JUDGE FREMR: [15:21:10] I guess we skipped that one what you have
3 in front of you.

4 THE COURT OFFICER: [15:21:13] I do have the number, if you are interested, to it,
5 DRC-OTP-0018-0108.

6 MR BOURGON: [15:21:22] (Interpretation) Indeed that is the correct document.

7 Q. [15:21:26] What's this all about, sir?

8 A. [15:21:30] Yes, this is a document entitled "*Acte d'engagement collectif*", a
9 document attesting to an undertaken, dated 22 September 2003, and this is
10 a document that sets out, and it's an official document, it sets out our commitment to
11 allow humanitarian workers to work within our areas of influence without any
12 interference.

13 Q. [15:22:08] Thank you.

14 PRESIDING JUDGE FREMR: [15:22:09] Hold on, Mr Bourgon. Ms Samson.

15 MS SAMSON: [15:22:11] Mr President, I want to be sure I'm looking at the correct
16 document. I see it's been moved on the screen now, because the witness just
17 provided the date of this document as 22 September 2003. I believe he was looking
18 at the last document that had been on the screen.

19 PRESIDING JUDGE FREMR: [15:22:30] I have to admit I also have been a little bit
20 confused, but I think now we are clear.

21 So, Mr Bourgon, now your question concerns which document, please clarify for us.

22 Mr Bourgon, don't be under pressure, it's not about one, two, three minutes, we can
23 add some time. So please don't hurry, and ...

24 MR BOURGON: [15:22:55] (Interpretation)

25 Q. [15:22:55] Sir, this document, "*Acte d'engagement*", and I will read out the number,

1 DRC-OTP-0018-0108. Now, do you see a date on this document?

2 A. [15:23:19] Yes.

3 Q. [15:23:20] Is this the document relating to the event missed by Bosco Ntaganda?

4 A. [15:23:24] Yes, indeed, because this is a document that we established on
5 25 September 2000 --

6 THE INTERPRETER: Inaudible.

7 THE WITNESS: [15:23:29] (Interpretation) And, you see, he could not come to that
8 meeting in Bunia, because, you see, he was facing this false accusation, he would have
9 been in a -- he was in the sights of MONUC. They were after him. He feared arrest.

10 MR BOURGON:

11 Q. [15:23:53] New document, number 35 on our list.

12 DRC-OTP-0014-0 -- document 45. We'll now put it up on the screen. This is a
13 document we provided to you during the preparation session. I think you shall
14 remember what it's all about.

15 THE COURT OFFICER: [15:24:21] Mr Bourgon, could you please confirm the level
16 of confidentiality of the document, please.

17 MR BOURGON: [15:24:26] (Interpretation) Public document, please.

18 Q. [15:24:54] Can you see the document up on the screen?

19 A. [15:24:56] Yes.

20 Q. [15:24:58] Do you recognise this document?

21 A. [15:25:02] Yes.

22 Q. [15:25:05] What is it?

23 A. [15:25:08] This is the -- well, the previous document is a document that attests to
24 the commitment that we made with another political/military movements in the
25 region. It was necessary to draft this document because, you see, the MONUC

1 wanted people to believe that the UPC, like other movements, did not want to allow
2 humanitarian workers to have entry into the area. Why? Because, you see, these
3 humanitarian services were of great interest to the people of Ituri and we made
4 a commitment to respect the commitment and allow humanitarian workers to move
5 freely about within the area. This is another document that attests to that.

6 Q. [15:26:07] Only three minutes, sir, and I am not being -- well, I'll show you
7 a document bearing another number, number 35 on the list, please.

8 DRC-OTP-0014-0245, number 35 on our list of items. Please look at the first page up
9 on the screen.

10 Do you recognise this document, sir?

11 A. [15:26:37] Yes. Yes, I do. Actually, this is a letter that I - inaudible - signed to
12 the director of MONUC, and there was a copy also to the hierarchy and other people,
13 and it sets out the position that the UPC had taken in relation to everything that the
14 UPC deplored, namely, the attitudes, the reaction of Ms McAdams. And by way of
15 this letter, the UPC made a firm commitment to cut off all cooperation with this lady
16 from MONUC until she came to her senses.

17 Q. [15:27:37] Thank you.

18 Your Honour, I would like this letter to be placed on the record.

19 Now, Mr Djokaba, you mentioned dissent (Overlapping speakers)

20 PRESIDING JUDGE FREMR: [15:27:51] Mr Bourgon, I have to --

21 MR BOURGON: (Overlapping speakers)

22 PRESIDING JUDGE FREMR: By the way, didn't you forget to ask for the same as
23 regards the previous document? I think you haven't asked to be admitted.

24 MR BOURGON: [15:28:01] Honestly, Mr President, I have not a clue where I am, so
25 I'm going, I'm doing my best --

1 PRESIDING JUDGE FREMR: Okay, so (Overlapping speakers)

2 MR BOURGON: -- to go document by document.

3 PRESIDING JUDGE FREMR: But may I take it that you also ask to (Overlapping
4 speakers)

5 MR BOURGON: Yes, Mr President.

6 PRESIDING JUDGE FREMR: [15:28:11] Okay.

7 So, Ms Samson.

8 MS SAMSON: [15:28:15] We have no objection to the admission of both documents.

9 PRESIDING JUDGE FREMR: [15:28:23] Thank you.

10 So the last two documents specified by Mr Bourgon are admitted into evidence as
11 a further Defence exhibit.

12 Mr Bourgon, go ahead.

13 MR BOURGON: [15:28:29] (Interpretation)

14 Q. [15:28:29] You mentioned dissent in December. What are you talking about
15 exactly?

16 A. [15:28:37] Yes, in December, on 3 December actually, General Kisembo Floribert,
17 may he rest in peace, along with a number of fellow soldiers, declared that he
18 had -- well, he was to be the leader of the UPC henceforth. In other words, a power
19 play overthrowing the president and he himself declared that he was now the
20 president. And you see, in the correspondence with the MONUC we made that
21 distinction, we mentioned UPC/K, and that bore witness to this dissidence within the
22 movement.

23 Q. [15:29:42] I have several documents to show you about rumours relating to
24 Bosco Ntaganda. My question: To your knowledge, as the acting president at that
25 time, tell us about the alleged rumours going about Bosco Ntaganda and alleged

1 criminal behaviour. Were these rumours based on anything?

2 A. [15:30:10] No, no.

3 PRESIDING JUDGE FREMR: [15:30:12] I have one additional question, which will
4 not be included in your time, Mr Bourgon.

5 Have you ever heard about nickname "Terminator"?

6 MR BOURGON: [15:30:33] (Interpretation)

7 Q. [15:30:35] Did you hear the question, Mr Witness? The Presiding Judge asked
8 you a question.

9 A. [15:30:39] Oh, yes. Well, the name Terminator, that is a name or a description
10 that was coined by Bosco Ntaganda's detractors. He never called himself
11 Terminator.

12 PRESIDING JUDGE FREMR: [15:31:00] Thank you, Mr Witness.

13 MR BOURGON: [15:31:02] (Interpretation)

14 Q. [15:31:04] Mr Djokaba, in February the dissident forces of -- were based in which
15 place -- of Kisembo?

16 A. [15:31:19] The dissidents, this faction of Kisembo were in Katoto, and they
17 occupied the north-east portion of the city, that's the north-east portion till Katoto.

18 Q. [15:31:43] Mr Djokaba, do you know an individual who goes by the name
19 (Redacted) -- sorry, your Honour, I'd like to go to private session, please.

20 PRESIDING JUDGE FREMR: [15:31:54] All right. Court officer, let's move into
21 private session.

22 And how much time you will need to complete, Mr Bourgon?

23 MR BOURGON: [15:32:01] Two minutes, Mr President.

24 PRESIDING JUDGE FREMR: [15:32:03] Perfect.

25 (Private session at 3.32 p.m.)

1 THE COURT OFFICER: [15:32:08] We're in private session, MrPresident.

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Open session at 3.43 p.m.)

17 THE COURT OFFICER: [15:43:24] We are in open session.

18 PRESIDING JUDGE FREMR: [15:43:26] Mr Bourgon.

19 MR BOURGON: [15:43:27] (Interpretation) Mr Djokaba, I would like to thank you
20 for having replied to my questions and for having provided an honest answer and
21 open answer. Thank you so much.

22 THE WITNESS: (Interpretation) Thank you.

23 PRESIDING JUDGE FREMR: [15:43:42] Mr Witness, I also thank you for the
24 moment.

25 We will break now for 30 minutes, so we will continue quarter past 4, and then we

1 will continue with your cross-examination which will be conducted by Office of the
2 Prosecutor.

3 So for the moment we break till quarter past 4.

4 THE COURT USHER: [15:44:03] All rise.

5 (Recess taken at 3.44 p.m.)

6 (Upon resuming in open session at 4.15 p.m.)

7 THE COURT USHER: [16:15:27] All rise.

8 Please be seated.

9 PRESIDING JUDGE FREMR: [16:16:01] Mr Witness, welcome back. The last
10 session will be devoted to your examination by main counsel of Prosecution,
11 Ms Samson.

12 Ms Samson, you have the floor.

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

14 QUESTIONED BY MS SAMSON:

15 Q. [16:16:28] Good afternoon, Mr Witness.

16 A. [16:16:31] Good afternoon.

17 Q. [16:16:33] We had the chance to meet previously. My name is Nicole Samson
18 and I will be asking you some questions this afternoon on behalf of the Prosecution.
19 You've indicated to the Court what your background has been in the UPC. Starting
20 in or about August or September 2004, is it right that you became spokesperson for
21 the UPC?

22 A. [16:17:08] Yes. In August. Excuse me?

23 PRESIDING JUDGE FREMR: [16:17:19] Mr Witness, please go ahead.

24 THE WITNESS: [16:17:23] (Interpretation) I became the spokesperson, it was during
25 the second half of September 2004.

1 MS SAMSON: [16:17:43]

2 Q. [16:17:43] And what was your role as spokesperson? What were your duties in
3 that capacity?

4 A. [16:17:55] As a spokes -- I became the spokesperson of the political party of the
5 UPC and I had certain duties. I had to shed light on the national and international
6 opinion, on the political vision of the UPC and the -- from time to time, to convince
7 militants. And I also had to shed light on the past of the UPC.

8 Q. [16:18:37] And is it right then to say that you in this role and throughout your
9 time in the UPC, espoused UPC values and doctrine?

10 A. [16:18:53] Yes.

11 Q. [16:19:00] We looked today at a document that you sent to Dominique
12 McAdams on 7 November 2003.

13 I will ask the court officer to bring it up on the screen or to hand it to you if you have
14 a copy available.

15 The ERN is DRC-OTP-0014-0245, it's number 69 on the list of documents. And it
16 remains public.

17 Do you recognise the document --

18 A. [16:20:01] Yes. Yes, I do recognise this document.

19 MS SAMSON: [16:20:10] I will ask the court officer to please turn to
20 page 0050 -- pardon me, it's not 0050, it is 00 -- 0248.

21 PRESIDING JUDGE FREMR: [16:20:37] Ms Samson, unfortunately the document
22 uploaded in eCourt is ending in number 0247.

23 MS SAMSON: [16:20:53] May I ask that the court officer turn to the signature
24 page of the document, please. It might be the last page.

25 THE WITNESS: [16:21:31] (Interpretation) I think it's the same document.

1 MS SAMSON: [16:21:52] On the Prosecution's list of documents, your Honour, we
2 have a different version of the same document, which contains the witness's signature.
3 I was trying, for ease of reference, just to use the document that had been used by
4 the Defence today, but I will move to use the document that's on the Prosecution's list.
5 And on our list it is DRC-OTP-0089-0047, which is number 39.

6 PRESIDING JUDGE FREMR: [16:22:33] I thank you for your flexibility.

7 MS SAMSON:

8 Q. [16:23:04] Sir, for your reference, we have a copy in front of you of a document
9 on UPC letterhead dated 7 November 2003 to Dominique McAdams, director of
10 MONUC. Can you see the document?

11 A. [16:23:31] Yes, I can see the document. But the document is illegible.

12 Q. [16:23:39] We'll move to another page of the document, which might become
13 more legible for you, particularly if we enhance it and make it bigger.
14 Could you please, madam court officer, move to page 0050.

15 Sir, I just want to confirm with you that this is your signature on the document,
16 correct?

17 A. [16:24:24] Absolutely, it's my signature.

18 Q. [16:24:31] And if we look at the very first paragraph on this page, I will read
19 what you wrote and I will read in French: (Interpretation)
20 "This is why the UPC/RP resolves this day to suspend all its participation in formal
21 and informal meetings in the institutions like the CPI and the others that basically
22 support MONUC Bunia, until its good faith has been established."

23 (Speaks English) You had indicated already in your testimony today, sir, that with
24 this letter UPC made a firm commitment to cut off all cooperation with this lady from
25 MONUC until she came to her senses, and I just wanted to confirm that you were also

1 with this letter saying that the UPC was withdrawing cooperation from the CPI or
2 Ituri pacification committee?

3 A. [16:26:00] Yes.

4 Q. [16:26:11] You've also said this afternoon that you were aware of reports and
5 allegations of attacks and planning of attacks between the UPC and MONUC forces,
6 correct?

7 A. [16:26:36] That's not what I said. I said that the Okapi radio station was
8 making people to believe that Bosco, General Bosco wanted to attack the headquarters
9 of MONUC.

10 Q. [16:27:01] And was it just Radio Okapi through whom you heard these
11 allegations, or did you not hear them from MONUC directly?

12 A. [16:27:17] No, only through the Okapi radio.

13 Q. [16:27:41] I'd like to show you a document, sir.

14 It's DRC-OTP-0004-0164, it's item number 20 on our list.

15 The document is a political affairs briefing note dated 6 February 2004. And if you
16 scroll a bit further down in the document towards the end of the page, under the
17 heading "Bunia" we see a note, and I'll read it in English and it can be translated for
18 you:

19 "MONUC Bunia sought explanations from the UPC/Lubanga leadership regarding
20 the incident on 4 February" - referring to the heading 2004 - "during which the
21 MONUC mission team trying to head to Gobu by boat on Lake Albert came under
22 heavy fire in their COS [chief of staff] Bosco's stronghold of Joo. UPC
23 representatives condemned the attacks, which they blamed on some undisciplined
24 elements within their ranks, and committed to conducting their own investigation in
25 order to hand over the culprits to MONUC. MONUC firmly refused their request

1 for a one-week deadline for the inquiry, instructing them to quickly complete their
2 investigation and report on their findings without delay."

3 End quote.

4 Sir, as part of the UPC/Lubanga leadership in February 2004, did you not meet with
5 MONUC or hear about a meeting with MONUC to discuss these serious allegations?

6 A. [16:30:46] Yes, at this time I was still president *ad interim* of the UPC and this
7 type of accusation, well, those are accusations which arise from time to time. Once,
8 when it says, the section of political affairs of MONUC says -- the section of political
9 affairs section run by the head of MONUC herself was unwilling to accept the
10 presence of Bosco at the head of the organisation. I need to stress this. So all
11 actions that the blue helmets were carrying out there were of a nature that meant that
12 they were aimed at the person of Bosco. And in fact they were not at Joo, Bosco was
13 not at Joo. He was either --

14 THE INTERPRETER: [16:32:23] Somewhere, the interpreter missed.

15 THE WITNESS: [16:32:29] (Interpretation) -- or Largu. But this was never -- there
16 was never an invitation from MONUC to come and discuss this incident at the lake.
17 But the relations with McAdams was not good and we were not invited or were not
18 involved in any exchange to discuss this or similar incidents.

19 MS SAMSON:

20 Q. [16:32:59] So to be clear, you deny that there were meetings between MONUC
21 Bunia or that MONUC Bunia sought explanations from the UPC/Lubanga leadership
22 in relation to this incident; is that right?

23 A. [16:33:30] Yes, indeed.

24 Q. [16:33:33] Did you ever investigate these types of allegations within the UPC or
25 with its military wing?

1 A. [16:33:49] No, because we were not requested by the MONUC -- we were never
2 informed by MONUC of such things.

3 MS SAMSON: [16:34:05] Mr President, I seek to admit this document, in particular
4 the paragraph I read, for the purposes of impeachment.

5 PRESIDING JUDGE FREMR: [16:34:13] Mr Bourgon.

6 MR BOURGON: [16:34:17] No objection, Mr President.

7 PRESIDING JUDGE FREMR: [16:34:24] So the document and particularly the
8 paragraph specified by Ms Samson is admitted into evidence for the purpose of
9 impeachment as a further Prosecution exhibit.

10 Ms Samson, please proceed.

11 Mr Bourgon.

12 MR BOURGON: [16:34:48] Mr President, of course I note for the record that the
13 document here does not say who was contacted within UPC or so-called Lubanga
14 leadership. Thank you.

15 PRESIDING JUDGE FREMR: [16:34:59] Noted.

16 MS SAMSON: [16:35:09]

17 Q. [16:35:10] Are you aware, Mr Djokaba, of MONUC's repeated reports in 2003,
18 2004 and 2005 regarding the UPC and Bosco Ntaganda's failure to cooperate with
19 MONUC in the disarmament and peace process?

20 A. [16:35:57] In 2004, 2004, personally I made some effort to ensure that
21 Bosco Ntaganda and MONUC came closer together to try and establish some form of
22 harmony between them, to try and do away with all misunderstandings. It was
23 a very tense time, but I was very much involved in trying to lighten this situation.

24 Q. [16:36:44] But you knew then that in, starting with, say, January 2004, that
25 MONUC considered Bosco Ntaganda to be the major hurdle in the peace process in

1 Ituri?

2 A. [16:37:12] I think we need to look at things here, because MONUC never
3 accepted that the UPC made Bosco Ntaganda general -- chief of general staff after the
4 incident with Kisembo. So from then, Bosco Ntaganda was the target of all
5 accusations. And we on the political side, we ensured that at a certain point we tried
6 to try and oppose things that were being said about his person. And when MONUC
7 had a change within the intelligence service, we were approached by the new head of
8 the intelligence section, Arthur, who gave us to understand that he was the eyes and
9 ears of the head with regard to Bosco. And then we talked about the programme in
10 question and -- Bosco and the head met -- that he did agree to meet with the head.

11 THE INTERPRETER: [16:39:10] The interpreter apologises, there was a problem
12 with the sound for that last section.

13 MS SAMSON: [16:39:19]

14 Q. [16:39:19] Mr Djokaba, there was an issue with the sound in the last part of your
15 answer. Would you care to repeat it?

16 A. [16:39:40] I was saying that we didn't want Bosco to be an obstacle, that he
17 accept to meet with the head of MONUC in order to get -- do away with the
18 misunderstandings about all the points of which he was being accused by
19 Radio Okapi.

20 Q. [16:40:49] Now all Ituri armed groups were ordered and instructed to submit
21 details of their combatants by mid-October 2003, do you recall that?

22 A. [16:41:14] Yes.

23 Q. [16:41:20] And at that time the UPC had not submitted lists of combatants, child
24 and/or women soldiers or details of their weapons, correct?

25 A. [16:41:52] I think when we look at the whole report of the army where the

1 minister of defence and the UPC representative of military matters, there we had
2 available all the data, data from the UPC, and I think this was done in May 2004,
3 May 2004 there was a big delegation involving the vice-minister of defence, and the
4 UPC was told that they were the star pupil for having given the information about the
5 troops. If there were to be a concrete discussion, then I would have this to say.

6 Q. [16:43:14] Well, you're familiar, are you not, with the group called CIAT,
7 *Comité international d'accompagnement de la transition*, CIAT?

8 A. [16:43:42] Yes.

9 Q. [16:43:45] Can you tell us what the role or function of the CIAT was?

10 A. [16:44:04] The mission of the CIAT was to accompany the political aspect of
11 things for purposes of the transition.

12 Q. [16:44:20] The CIAT, as an oversight body, was composed of the five permanent
13 members of the Security Council and another number of other countries within Africa
14 and within Europe and North America, correct?

15 A. [16:44:56] Yes.

16 Q. [16:44:56] And the CIAT worked closely with those institutions that had been set
17 up to assist in this transition period, including disarmament, correct?

18 A. [16:45:26] Yes, this programme for disarmament was integrated in the
19 international arena and we were partners in this.

20 Q. [16:45:48] Now, were you aware that in April 2005 the CIAT issued
21 a communiqué about the progress of the DCR programme, *désarmement et réinsertion*
22 *communautaire*?

23 A. [16:46:17] * I couldn't say because at that time I was deprived of my freedom and
24 I was in detention.

25 Q. [16:46:31] That's fine. I will read to you some of the conclusions of the CIAT in

1 that communiqué of April 2005. The document is at DRC-OTP-2103-1205. That's
2 the first page.

3 PRESIDING JUDGE FREMR: [16:47:03] Hold on, Mr Witness.
4 Mr Bourgon.

5 MR BOURGON: [16:47:04] Just the item number in the list, please.

6 MS SAMSON: [16:47:07] Yes, number 45 on the list.

7 If I could ask the court officer to please move to page 1267.

8 THE COURT OFFICER: [16:47:48] Ms Samson, could you please confirm that the
9 document can be shown publicly, at least this page.

10 MS SAMSON: [16:48:03] Yes, it can.

11 PRESIDING JUDGE FREMR: [16:48:12] Mr Bourgon.

12 MR BOURGON: [16:48:15] Thank you, Mr President. I would like to seek
13 the Chamber's guidance with the issue of documents which have been added to the
14 list of items the Prosecution intends to use, a very long list of items, and these are
15 documents that some of them were requested as supplementary evidence and were
16 not admitted. I understand that my colleague wants to use these documents to get
17 more, but in this case this was not even a document that was requested as
18 supplementary evidence.

19 Now the Prosecution was aware that this witness would be on the stand and should
20 have requested this document be either admitted or used with this witness
21 beforehand. At this point in time, especially a document like this and a long
22 document like this, a foundation at a minimum must be established if the
23 Trial Chamber allows the Prosecution to use documents entirely not in evidence, not
24 on their list of documents, and not requested as supplementary evidence for
25 sentencing.

1 Thank you.

2 PRESIDING JUDGE FREMR: [16:49:27] So do I understand well, Mr Bourgon, then
3 you are objecting against the use?

4 MR BOURGON: [16:49:34] Yes, Mr President.

5 PRESIDING JUDGE FREMR: [16:49:35] Ms Samson.

6 MS SAMSON: [16:49:37] Thank you, Mr President.

7 The document is on our list of items to be used in cross-examination.

8 PRESIDING JUDGE FREMR: [16:49:45] They were made known to the Defence
9 what time?

10 MS SAMSON: [16:49:51] With our original list. It wasn't added late. It was
11 submitted with our list yesterday. And it is a completely new --

12 PRESIDING JUDGE FREMR: [16:50:02] So yesterday, but not 24 hours in advance?

13 MS SAMSON: [16:50:05] When the Prosecution submitted its list of items to be used
14 in cross-examination, it submitted this item along with all the other items.

15 The only amendment that we made to our list was because we had neglected to
16 include the five documents that were the subject of the Chamber's order, oral ruling
17 yesterday morning at the Defence's request. So this document has always been on
18 our list and it is a new rule that a party cannot use a document in cross-examination if
19 it hasn't been previously authorised for use by the Chamber. Not the rule that we
20 have been using for the last two witnesses, for sure.

21 PRESIDING JUDGE FREMR: [16:50:44] Mr Bourgon, are you satisfied with this
22 explanation?

23 MR BOURGON: [16:50:47] No, I am not, Mr President, because it's
24 a document -- looking at the length of this document, this should have been requested
25 when the Prosecution was informed that Mr Djokaba would be testifying. And it

1 did not request, the Prosecution did not request this document to be admitted as
2 supplementary evidence and now is using a 100-and-some pages document
3 disclosed -- or given to the Defence -- disclosed is not the right word, but given to
4 the Defence just a minute or hours before the testimony of this witness.

5 But if you allow the document to be used, first, we should establish if the witness has
6 any information about this document. He just mentioned that he was detained at
7 the time this document was published. Thank you.

8 PRESIDING JUDGE FREMR: [16:51:40] But I have been persuaded by arguments
9 made by Mr Bourgon, so I don't allow to use the document.

10 Please move, Ms Samson.

11 MS SAMSON: [16:51:55] Mr President, I seek clarification of this decision --

12 PRESIDING JUDGE FREMR: [16:51:58] Maybe we can just use it if you want only to
13 use it for impeachment purposes.

14 MS SAMSON: [16:52:04] Yes, your Honour, that is indeed what I am seeking to use
15 it for. I would like to put relevant information from a body, an entity that this
16 witness is familiar with, who was overseeing, which he has agreed to, the
17 disarmament process about conclusions that it reached on the UPC's cooperation.
18 It's relevant to this witness's evidence on the active cooperation by the UPC.

19 PRESIDING JUDGE FREMR: [16:52:33] Okay, then I agree. Okay, then proceed.

20 MS SAMSON: [16:52:38]

21 Q. [16:52:39] Mr Witness, I am going to read out the section of the CIAT's
22 communiqué with their observations on the DCR process, in particular, as it relates to
23 participation and cooperation by the UPC.

24 The document should be on your screen. I would ask the court officer to ensure that
25 paragraph 2 of page 1267 is visible.

1 I will read it now in French for the transcript:

2 (Interpretation) "The CIAT condemns most strongly the assassinations and tortures
3 that have occurred in recent days at the order of the military hierarchy of
4 UPC/Lubanga, particularly of commanders Bosco Ntaganda and Liganga, vis-à-vis
5 the combatants who had chosen to hand in their weapons and to speak in favour of
6 a return to peace and also to the group chiefs and other notables of the Hema
7 community who continue the awareness raising process in favour of the DCR
8 programme."

9 PRESIDING JUDGE FREMR: [16:54:31] Hold on, hold on, Ms Samson and
10 Mr Witness.

11 Mr Bourgon. Sorry, and it's possible to make your comment in the presence of
12 Mr Witness? It's up to you, I don't know, but you shouldn't influence him.

13 MR BOURGON: [16:54:45] I think it's better if he doesn't hear what I have to say,
14 Mr President.

15 PRESIDING JUDGE FREMR: [16:54:50] Okay. So please, court officer, manage
16 that.

17 So at the moment I was informed that Mr Witness can't hear us. So please proceed,
18 Mr Bourgon.

19 MR BOURGON: [16:55:17] Mr President, I want to be short, but this document dates
20 from 2005 and events which take place in 2005, when the witness is not there. Even
21 for impeachment purposes, Mr President, it has no value. The witness was detained
22 at the time and this is two years after the events. A document that comes from the
23 government. We don't know the source. We don't know if the witness has any
24 knowledge of the document. Even for impeachment, Mr President, I could take any
25 document and read a story and ask him to impeach him whether he knows or doesn't

1 know or confirm or not confirm. I believe this is inappropriate and not part of what
2 we are trying to accomplish in these proceedings. Thank you.

3 PRESIDING JUDGE FREMR: [16:56:03] It's important information we would take
4 into account in evaluation if we would admit it for impeachment, but I think
5 Ms Samson could also focus on that problem using the right questions to either dispel
6 or confirm those doubts.

7 So, Ms Samson -- court officer, please renew the connection with Bunia and,
8 Ms Samson, then you will have the floor.

9 Ms Samson, you may proceed.

10 MS SAMSON: [16:56:51] Thank you, Mr President.

11 Q. [16:56:53] Now, sir, doesn't this information about the activities and conduct of
12 the UPC/Lubanga and the commanders Bosco Ntaganda and Linganga contradict
13 your testimony that you were cooperating with the authorities for disarmament and
14 demobilisation?

15 A. [16:57:30] Thank you for the question. I would like to come back to what I
16 heard earlier from the Prosecutor, that I was in contact with CIAT. That was not the
17 case. I think that needs to be clarified. That was not the case, because at that time I
18 was detained. And also I would like to add something. They were claims from the
19 chief of staff integrating the whole of the general staff into the national army, the UPC
20 had no control at that time of the information -- of the equipment at that time. This,
21 at the time, was in 2004 when the UPC was a political party and everything had been
22 handed over to the ministry of defence and all the members of the UPC general staff
23 had been created generals and included into the national forces. So that what you
24 said does not apply to the UPC, be it Lubanga or whatever, because at this time we
25 are talking about people who were integrated into the national forces.

1 PRESIDING JUDGE FREMR: [16:59:34] Ms Samson, allow me one additional
2 question.

3 Mr Witness, you said "I had been detained." Could you be more specific, at what
4 time and for -- what time had you been detained?

5 THE WITNESS: [16:59:57] (Interpretation) Incarcerated, incarcerated at the central
6 prison, Makala prison in March 2005, 19 March 2005, owing to events in April. I
7 could not have missed that. So the UPC had no responsibility as a political party,
8 even if such information were to be true.

9 PRESIDING JUDGE FREMR: [17:00:29] And how long have you been detained,
10 roughly?

11 THE WITNESS: [17:00:38] (Interpretation) Nine years in prison. I served nine years
12 in prison.

13 PRESIDING JUDGE FREMR: [17:00:42] Thank you, Mr Witness.

14 Ms Samson, please go ahead.

15 Mr Bourgon.

16 MR BOURGON: [17:00:48] Mr President, I guess the Chamber, with all due respect,
17 Mr President, is incomplete because we should ask him what happened after nine
18 years. I think this would be -- this would really complete the Chamber's enquiry as
19 to what happened to him.

20 PRESIDING JUDGE FREMR: [17:01:01] But I think you can make it during the cross,
21 but I can -- okay, I will follow your -- I believe it's for the benefit of finding the truth.
22 So, Mr Witness, could you, but please briefly, add what occurred after you have been
23 released?

24 THE WITNESS: [17:01:31] (Interpretation) Yes, on 27 September 2013 I was released.
25 I was initially held in Kinshasa and then released. But there was no trial. Nine

1 years of prison I served and there never was a trial.

2 When I was released, I was not allowed to leave the city of Kinshasa so I stayed in
3 Kinshasa in 2015. And it was later that I was given the right to free movement
4 throughout the republic, and at that time I went back to Bunia and I took care of -- I
5 did a few odds and ends of things and then I also became involved in politics there.

6 PRESIDING JUDGE FREMR: [17:02:23] Thank you, Mr Witness.

7 Ms Samson, you may proceed.

8 MS SAMSON: [17:02:26] Thank you, Mr President.

9 Mr President, I would like to admit for the purposes of impeachment the paragraph
10 of the CIAT document dated 7 April 2005 to which I referred.

11 PRESIDING JUDGE FREMR: [17:02:44] For the record we need to specify paragraph,
12 so --

13 MS SAMSON: [17:02:49] Yes, your Honour. It's paragraph 2 of
14 DRC-OTP-2103-1205 at page 1267.

15 PRESIDING JUDGE FREMR: [17:03:01] For the impeachment purpose. Okay.
16 Mr Bourgon, any objection to that request?

17 MR BOURGON: [17:03:08] Not for impeachment purposes, although we say that
18 this document has got no value for that, but we have no objection. Thank you.

19 PRESIDING JUDGE FREMR: [17:03:18] All right. Then the request to admit into
20 evidence for impeachment purpose, paragraph specified, of the document specified
21 by Ms Samson is granted and this part of the document is admitted into evidence as
22 a further Defence exhibit.

23 Ms Samson, please -- sorry, further Prosecution exhibit. Ms Samson, please proceed.

24 MS SAMSON: [17:03:44]

25 Q. [17:03:47] Mr Djokaba, on several occasions during your examination and I

1 think also during your examination-in-chief you referred to the decree naming certain
2 individuals as generals in the army, including Bosco Ntaganda. He did not integrate
3 and take up that position in 2004 or 2005, as far as you know?

4 A. [17:04:26] Well, first of all, there was the government decree and, to you best of
5 my knowledge, he was in the army, he served within the armed forces. He led, they
6 led a number of missions, joint missions, even in the eastern part of the republic. He
7 had been integrated, according to my information, he was a brigadier general within
8 the armed forces of the DRC. He worked alongside General Don Mundi (phon) as
9 part of a joint operation within the eastern part of the country. This is obvious, this
10 is well known.

11 Q. [17:05:17] Sir, your evidence, just so I'm clear, is that Bosco Ntaganda integrated
12 as a general into the FRADC by 2005? Which was my question.

13 A. [17:05:41] Yes, but there's one thing. Right at the beginning there I was trying
14 to understand what you were saying and when you were outside, because the ones
15 who came immediately, for the little time that we were free, those people, I believe
16 that with that wave, all those people who -- well, you see, the senior officials within
17 the UPC army, I believe they wanted to have all possible assurances that ever -- if
18 they ever went to Kinshasa that they would not be arrested like Colonel Nembe or
19 General Godas Sukpa, or many other high-ranking officers from armed groups in
20 Ituri.

21 I believe that there was a crisis in terms of trust or assurances. The facts speak for
22 themselves. People went to Kinshasa and quite often were then arrested and
23 incarcerated. I'm quite sure that if he did not -- you see, if he hadn't been -- if he
24 didn't integrate immediately, it's because he wanted assurances. But I know later he
25 integrated the armed forces. I'm not his advocate, of course, but I think, you see,

1 what counts here in the final analysis is that he served within the armed forces.

2 Q. [17:07:50] Now, sir, as the UPC leadership in Bunia in 2004, I take it you're
3 aware of Dominique McAdams' continued reports and letters regarding violations of
4 the act of engagement that you had signed in December 2003.

5 A. [17:08:31] Well, in fact, if, if there was correspondence sent to the interim
6 presidency, I couldn't have missed that.

7 Q. [17:08:47] I would like to show you one of those letters. It is number 4 on the
8 list. It is DRC-OTP-0142-0038. It's a public document.
9 The document that you see before you dated 16 November 2004 is from MONUC,
10 from the headquarters of MONUC. And if you -- if we turn to page 2, it's from
11 Dominique McAdams. On the first page -- (inaudible) so you can see and verify it's
12 from Dominique McAdams.

13 A. [17:10:25] Yes.

14 Q. [17:10:25] And if you go back to the first page --

15 A. [17:10:28] Yes, I see that.

16 Q. [17:10:30] And the object or subject of the letter from MONUC relates to threats
17 by the UPC/L to the humanitarian community. Do you remember reading this letter
18 and hearing about these reports?

19 A. [17:11:03] I never read this letter. This letter is to the minister, madam minister,
20 and no copy was sent to the UPC. I don't see anything along the lines of cc.
21 Nothing for the UPC. So, you see, I can't imagine a letter for which there was no cc
22 to me or to the UPC. Honestly, no, I can't envisage that. And what seems strange is
23 that, because in the administrative correspondence, when you mention a third party
24 you have to provide another copy to the third party so he or she can defend himself
25 or herself. This comes as a surprise to me today.

1 Q. [17:12:05] The letter from Ms McAdams is asking that Mr Lubanga be informed
2 of the content of her letter. And I'm referring to paragraph 4 and I will read it out in
3 French: (Interpretation)

4 "Thus, it seems to me that it is urgent to draw Mr Thomas Lubanga's attention to the
5 negative consequences for the people of Ituri if the international NGOs based in Ituri
6 were to decide to leave the district because of actions taken by the militia members."

7 THE INTERPRETER: [17:13:01] Note from the interpreter: The letter also mentions
8 that Mr Lubanga was in Kinshasa.

9 MS SAMSON: [17:13:08]

10 Q. [17:13:09] Now, did the reports of UPC threats to the humanitarian community
11 never get to you? You never ever heard of those from any source, this one or any
12 other?

13 A. [17:13:37] Never.

14 Q. [17:13:40] And at no time during your interim presidency or before had you
15 heard of this sort of report of conduct by UPC against humanitarian workers?

16 A. [17:14:06] No. But, well, first of all, I should clear up one thing, because I don't
17 even have comments about this correspondence from the director of MONUC that
18 was sent to the minister, madam minister. Because in this regard here I
19 would -- well, I said earlier, nothing was -- no such information came our way.

20 However, towards the end of 2003, towards the end of 2003, some people wanted
21 people to believe that various armed groups in Ituri were blocking humanitarian
22 workers. This led us to meet with the other members or officials of humanitarian
23 groups and we signed the document setting out a commitment. This document that
24 Defence counsel showed just -- and the document bore witness to the commitment we
25 made to allow humanitarian workers to move about freely and do their work

1 wherever they wanted to.

2 So to make it a long story short, because of these gratuitous accusations, we thought
3 we needed to issue this document with this commitment regarding humanitarian
4 workers and we also informed MONUC of this and I believe at one point the
5 humanitarian organisations --

6 THE INTERPRETER: Inaudible.

7 THE WITNESS: (Interpretation) -- day-to-day activities.

8 MS SAMSON:

9 Q. [17:16:21] Sir, at the end of your last answer, a part of it was inaudible. You
10 said, "I believe at one point the humanitarian organisations (inaudible) day-to-day
11 activities." What did you say about their activities?

12 PRESIDING JUDGE FREMR: [17:16:46] Mr Bourgon.

13 Hold on, Mr Witness.

14 MR BOURGON: [17:16:48] We have the words in French, which have been correctly
15 captured where the witness said. (Interpretation) "I don't think even at one time
16 humanitarian workers may have had difficulties in the day-to-day activities."

17 (Speaks English) (Overlapping speaking) the correct translation. I mean, we can ask
18 the witness to confirm what he said.

19 PRESIDING JUDGE FREMR: Mr Witness.

20 THE WITNESS: [17:17:15] (Interpretation) I said, of course I said this. At the end of
21 2003, 25 March, just to make a long story short, just to deal with these accusations
22 regarding all armed groups in Ituri, we gathered and we signed this document, this
23 commitment that wherever we had influence within the area, humanitarian workers
24 would be able to go about their activities without any problems or hassles. That was
25 at the end of 2003. But right now we are talking November 2004, I was already in

1 Kinshasa then.

2 PRESIDING JUDGE FREMR: [17:18:07] Thank you, Mr Bourgon, for assistance.

3 And thank you, Mr Witness, for clarification.

4 Ms Samson, please proceed.

5 MS SAMSON: [17:18:15] Thank you, Mr President.

6 Q. [17:18:19] But you do know, Mr Witness, don't you, that in June 2004 when you
7 were still in Bunia that MONUC, the head of MONUC, sent a letter to Mr Lubanga to
8 report violations of the *acte d'engagement*, including by both yourself and Mr Lonema
9 in relation to the passage and the free passage of humanitarian workers through UPC
10 zones, correct?

11 A. [17:19:18] Well, if I could review this letter, because there are some
12 things -- something seems odd here. I was in Bunia, McAdams was in Bunia and she
13 preferred to send a letter. I don't even know if that letter -- so I can't really attest to it.
14 If I am involved in this letter, how couldn't I have received a personal copy of the
15 letter? I don't know what the administration said, because, you see, if I was
16 mentioned in this letter, we were all in Bunia and the letter was sent to the president
17 in Kinshasa without even a copy to me and I was -- if I was one of the people
18 involved. So, so I don't see the link with me and this letter.

19 Q. [17:20:15] I will show you the letter, sir. But I understood from an earlier
20 answer today posed to you by counsel for the Defence that if a letter was sent to
21 Thomas Lubanga, you, as interim president, received it. Wasn't that your evidence?

22 A. [17:20:39] No.

23 PRESIDING JUDGE FREMR: [17:20:53] Mr Bourgon.

24 MR BOURGON: [17:20:54] Mr President, to the best of my recollection, I don't have
25 the reference, I did ask if the witness was in contact with Thomas Lubanga and his

1 response was "Yes, by telephone". And I don't have the exact transcript reference.
2 But, I stand to be corrected, he never said anything about receiving letters addressed
3 to Thomas Lubanga.

4 PRESIDING JUDGE FREMR: [17:21:13] If he has, then the Prosecution should find
5 and refer to concrete part of the transcript. But I also don't remember that.

6 MS SAMSON: [17:21:26] Your Honour, that is my recollection, when the Defence
7 showed a document that was being sent to Thomas Lubanga, that the witness
8 indicated that he would receive word of it.

9 PRESIDING JUDGE FREMR: [17:21:39] But as we can't rely either on your or my
10 recollection, you have to refer to the transcript. If you can find it, fine. If not, please
11 proceed.

12 MS SAMSON: [17:21:47] Yes, I will have my colleague look for that and come back
13 to --

14 PRESIDING JUDGE FREMR: Fine.

15 MS SAMSON: -- your Honours with an answer once we have reviewed the
16 transcript.

17 Q. [17:21:56] So, sir, I do want to show you this letter. It is number 4 on the
18 list -- no, it's not number 4. It is number 3 on the list, DRC-OTP-0151-0306. It's
19 a public document. It's been admitted.

20 So this document has been sent by MONUC to Thomas Lubanga about violations of
21 the *acte d'engagement* by the political wing of the UPC. In the first paragraph, and
22 perhaps I'll read it for the record, I'll read in French: (Interpretation)

23 "To follow up on our earlier telephone conversations, I would like to hark back to an
24 ongoing or chronic attitude on the part of Mr Djokaba and Lonema in particular."

25 (Speaks English) And then I'll continue: (Interpretation)

1 "For your information, we have brought together all the various humanitarian
2 partners involved regarding their efforts to ease the problems of the civilian people to
3 contribute to the disarmament and community return programme for Ituri,
4 a programme that the UPC, which you lead, made a commitment to before the
5 government and the Republic of the Congo and the international community, you
6 made a commitment to respect the programme and implement it.

7 It so happens that political officials of your movement are saying something
8 completely different to all the humanitarian workers in the areas where your militia
9 are to be found.

10 The completely unacceptable message that is being sent out can be summarised as
11 possible: 'NGOs are welcome and the UPC commits to ensuring their security as
12 long as they only intervene on their own, without MONUC.'

13 I will spare you the details that have been reported to us by several NGOs."

14 (Speaks English) Some of the reports relate, sir, to inability to pass through areas
15 under UPC control. Had you not heard of these allegations from Thomas Lubanga
16 at that time?

17 A. [17:25:26] Well, in fact, this is about the humanitarian workers and, well, we are
18 mentioned here.

19 I think I should clarify one thing. In the area that was under the control of the
20 UPC/RP in the interior, we were deploring, speaking out against the unacceptable
21 behaviour of the Pakistani peacekeepers and what they subjected the civilians to.
22 They thought everyone was a militia member. The humanitarian workers were
23 supposed to be accompanied, escorted by peacekeepers, because of course, you see,
24 the excuse was it was for their security, but really people were afraid that the
25 peacekeepers would transit through an area and create unnecessary incidents or

1 clashes while people were experiencing extreme hardship. There were examples,
2 cases of people being beaten up around Nizi, and even in Bunia, humiliating
3 treatment, abuse, harassment by the Pakistani peacekeepers. So it was not a good
4 idea from a political point of view to allow or to go along with such a situation, unless
5 there was a real reason for humanitarian workers to go to an area to provide the good
6 services that they provided to the afflicted people within our zone of influence. So I
7 think this is what you need to understand.

8 Once I do remember, this was in 2004, I remember the Special Representative of the
9 UN Secretary-General, Swing, came and he was leading a large delegation and we
10 had to clarify this position that we took. And there were misunderstandings because
11 even humanitarian workers were saying that they remembered -- I think
12 Doctors Without Borders were saying they felt it was better for them to do their work
13 without being encumbered by these peacekeepers with them.

14 When the intelligence officer of Dominique McAdams, Mr Arthur, went to the central
15 area -- to Centrale to meet Bosco, he did not go with tanks and Pakistani peacekeepers,
16 no. He was -- you must realise there was no concerns when it came to security.

17 Q. [17:29:15] Sir, I just want to clarify from your answer then, you agree that you or
18 the UPC leadership would not allow humanitarians to proceed in certain areas
19 because they were accompanied by MONUC peacekeepers; is that right?

20 A. [17:29:45] There was access to all the areas, but we thought it was a bad idea to
21 have these people accompany, to have the peacekeepers accompany the workers,
22 because we did not want pointless skirmishes. These peacekeepers, particularly the
23 Pakistani peacekeepers, were always beating people up, giving people a hard time, all
24 these people whom they perceived as militia members.

25 Q. [17:30:38] Sir, did you ever get to know of requests by Dominique McAdams to

1 the, I'll say it in French (Interpretation) representatives of religious confessions in Ituri
2 (Speaks English) where she was asking them to take action and speak to the UPC, in
3 particular in relation to certain conduct in early 2005?

4 A. [17:31:26] Could you please repeat the question.

5 Q. [17:31:31] Certainly. Did you ever get to know, as part of the UPC leadership
6 in February 2005, that Dominique McAdams had written to the bishop and other
7 persons of religious confessions in Ituri for the purpose of having them speak to the
8 UPC about conduct they considered a problem to peace?

9 A. [17:32:13] At that time point I wasn't the acting president. I was at Kinshasa
10 and I never heard about this at all.

11 MS SAMSON: [17:32:31] Your Honour, we found the reference that I was referring
12 to earlier. It is page 114, lines 1, and it was in relation to a question that I had asked
13 about the witness's awareness of the UPC leadership in Bunia and being aware of
14 letters from Dominique McAdams, continued reports and letters regarding violations
15 of the *acte d'engagement*, letters which were sent to Thomas Lubanga. And what the
16 witness answers is that: "Well, in fact, if there was correspondence sent to the
17 interim presidency, I couldn't have missed that." But because the letter was sent to
18 Thomas Lubanga, I understood it to mean the presidency.

19 PRESIDING JUDGE FREMR: [17:33:31] Mr Bourgon.

20 MR BOURGON: [17:33:32] Mr President, this is absolutely incorrect. When the
21 witness refers to the interim presidency, he is referring to himself. If a letter was
22 addressed to me, I couldn't have missed it, that's what he said. He didn't say
23 anything about Thomas Lubanga, anything about Kinshasa in that reference.

24 Thank you.

25 PRESIDING JUDGE FREMR: [17:33:48] Anyway, Ms Samson, first of all, we are

1 approaching the end of your examination, but still I have problem with the fact that
2 here we are to listen to evidence, additional evidence which should determine
3 sentence for Mr Ntaganda and I still have an impression that we are dealing with
4 factors which are a little bit remote to those factors because it's not about
5 Mr Ntaganda, it's not about collective leadership of the UPC, their relationship with
6 MONUC and so on. So I am not sure that it really will have great impact on our
7 deliberation.

8 MS SAMSON: [17:34:31] Yes, Mr President. I have only one small line of enquiry
9 left in my 10 minutes.

10 PRESIDING JUDGE FREMR: All right.

11 MS SAMSON: And it relates to Mr Ntaganda.

12 Q. [17:34:41] Now, sir, you mention that Mr Ntaganda had met with
13 Dominique McAdams. That happened once, to your knowledge?

14 A. [17:34:55] According to my information, yes.

15 Q. [17:35:02] And it was in September 2004; is that right?

16 A. [17:35:15] It was actually when I was in Bunia -- sorry, Kinshasa. It was
17 actually after my departure. It was in 2004. I was already in Kinshasa. And I
18 gained this information, I knew about this when the director of MONUC herself told
19 me in person.

20 Q. [17:35:53] What did she tell you?

21 A. [17:36:00] The director, Dominique McAdams, was with Colonel Patrick and we
22 met at the Grand Hotel in Kinshasa and it was at that point that she told us that she
23 managed to meet General Bosco Ntaganda and she found him to be a gentleman and
24 she could talk about various subjects with him. And with respect to the question of
25 DRC, he was actually -- had a very -- he was cooperating on that aspect.

1 Q. [17:36:53] Were you aware that Ms McAdams called for Bosco Ntaganda's arrest
2 formally to the Bunia prosecutor in 2005?

3 A. [17:37:16] I'm sorry, could you please repeat the question.

4 Q. [17:37:22] Yes, certainly. Were you aware that Dominique McAdams formally
5 requested Bosco Ntaganda's arrest to the Bunia prosecutor in April 2005?

6 A. [17:37:37] No.

7 MS SAMSON: [17:37:45] Mr President, I have one request to make. I have to make
8 it initially in private session and out of earshot of the witness.

9 PRESIDING JUDGE FREMR: [17:37:53] All right.

10 So, court officer, please let's move into private session.

11 (Private session at 5.38 p.m.)

12 THE COURT OFFICER: [17:38:06] We are in private session, Mr President.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

1 (Redacted)

2 (Open session at 6.11 p.m.)

3 THE COURT OFFICER: [18:11:35] We are in open session, Mr President.

4 PRESIDING JUDGE FREMR: [18:11:40] Thank you, court officer.

5 So that concludes today's hearing.

6 One additional information, other than one item that the Defence will disclose to
7 the Prosecution and Legal Representatives tomorrow and on which the Chamber will
8 decide on Friday, all further evidence in relation to sentencing has now been decided
9 on and admitted or came before the Chamber through testimonies we have seen.

10 We will reconvene on Friday - one caveat, please not at 9.30 as usual, but at 9 o'clock,
11 so please have it in mind - to hear the oral submissions on sentencing.

12 You know that both parties were granted one hour for their oral submissions while
13 Legal Representatives were granted 30 minutes each in maximum.

14 So our plan is to start at 9, to have first session filled by Prosecution submission first,
15 then submissions made by Legal Representative of Victims, then we will break and
16 the last session will be devoted to submissions made by Defence, and the last word
17 will belong to Mr Ntaganda.

18 Any comments or questions concerning our Friday's programme?

19 I don't see any request for the floor. So I thank you very much. I also very much
20 thank to all those who loyally supported us at this late, late hour. I thank all
21 interpreters, type recorders, security officers. And what I can promise, because on
22 Friday we have only morning programme, I can promise that it will never happen
23 again. So thank you very much. I wish you a nice evening and see you on Friday.

24 THE COURT USHER: [18:13:41] All rise.

25 (The hearing ends in open session at 6.13 p.m.)