

Trial Hearing

(Open Session)

ICC-01/04-02/06

1 International Criminal Court  
 2 Trial Chamber VI - Courtroom 1  
 3 Situation: Democratic Republic of the Congo  
 4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06  
 5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and  
 6 Judge Chang-ho Chung  
 7 Trial Hearing  
 8 Thursday, 21 January 2016  
 9 (The hearing starts in open session at 4.33 p.m.)  
 10 THE COURT USHER: All rise.  
 11 The International Criminal Court is now in session.  
 12 Please be seated.  
 13 PRESIDING JUDGE FREMR: Good afternoon.  
 14 Court officer, please call the case.  
 15 THE COURT OFFICER: Thank you, Mr President.  
 16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor  
 17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.  
 18 We are in open session.  
 19 PRESIDING JUDGE FREMR: Thank you.  
 20 Appearances, please, starting with Prosecution.  
 21 MS SAMSON: Good afternoon, Mr President and your Honours. Appearing for the  
 22 Prosecution today are Ms Marion Rabanit, associate trial lawyer; Ms Claudine Umurungi,  
 23 legal assistant; Ms Selam Yirgou, case manager; and myself Nicole Samson, senior trial  
 24 lawyer.  
 25 PRESIDING JUDGE FREMR: Thank you.

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1 Defence, please.

2 MR BOURGON: (Interpretation) Good afternoon, your Honours. I'm having a  
3 problem with the interpretation.

4 Representing Mr Bosco Ntaganda we have today Ms Berta Casas Rochel,  
5 Ms Margaux Portier and myself, Stéphane Bourgon. I wish to point out that  
6 Mr Ntaganda is present in the courtroom this afternoon. Thank you.

7 PRESIDING JUDGE FREMR: Thank you.

8 And Legal Representatives now.

9 MS PELLET: (Interpretation) Thank you, your Honour. The former child soldiers are  
10 represented by myself, Sarah Pellet, and Mohamed Abdou, OPCV.

11 MR SUPRUN: (Interpretation) Good afternoon, your Honours. The victims of the  
12 attacks are represented by the OPCV, namely by myself, Mr Suprun, and my colleague,  
13 Ms Grabowski.

14 PRESIDING JUDGE FREMR: Thank you very much, both of you.

15 Before we continue with the testimony of the witness, I would like to move for a very  
16 short time to -- into private session in order to ask Mr Bourgon to inform us about  
17 current -- Mr Boutin's status. Mr Bourgon, please.

18 But before that, court officer, please let's move into private session.

19 (Private session at 4.36 p.m.) \*(Reclassified partially in public)

20 THE COURT OFFICER: We are in private session, Mr President.

21 PRESIDING JUDGE FREMR: Thank you.

22 Mr Bourgon, you have the floor, please.

23 MR BOURGON: Thank you, Mr President.

24 I did not have the opportunity to speak to my colleague today, but I did speak to him  
25 yesterday. The situation is as follows: Is that he is out of play, if I can use this

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1 expression, for at least a period of 5 to 10 days (Redacted)

2 (Redacted) Therefore, he will be unavailable for

3 this block. Of course, I certainly hope that he will be returning rapidly, but there is

4 absolutely no, no information in this regard.

5 Of course, as I indicated yesterday in my last mail addressed to the Chamber, I need to

6 take measures in order to facilitate the proceedings during this coming block. I have had

7 a few conversations with my colleague from the Prosecution and the best we could arrive

8 with is to inform the Chamber that we would like to maybe raise the issue and discuss the

9 issue with the Chamber at the Chamber's convenience. Maybe today is not the best day

10 because we would like to proceed as quickly as we can with the witness who is on the

11 stand.

12 Thank you, Mr President.

13 PRESIDING JUDGE FREMR: Thank you very much.

14 So we also believe that Mr Boutin will recover soon. Please hand over to him our regards

15 and our support.

16 Now we can move into open session.

17 (Open session at 4.38 p.m.)

18 THE COURT OFFICER: We are in open session, Mr President.

19 PRESIDING JUDGE FREMR: Mr Witness, welcome back. I think we faced some

20 troubles with -- that forced us to postpone your testimony, but we will continue today.

21 So as usually, I would like to remind you that you are obliged to speak the truth and

22 nothing but the truth. You understand that?

23 WITNESS: DRC-OTP-P-0790 (On former oath)

24 (The witness speaks Swahili)

25 THE WITNESS: Ndiyo -- (Interpretation) Yes, I've understood.

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1 PRESIDING JUDGE FREMR: Okay. Mr Bourgon, you may proceed with

2 cross-examination of this witness.

3 MR BOURGON: Thank you, Mr President.

4 QUESTIONED BY MR BOURGON: (Continuing)

5 Q. Good afternoon, Mr Witness.

6 A. Good afternoon.

7 Q. My name is Stéphane Bourgon. I was here the first day when you began your

8 testimony; however, I now have to take over from my colleague, as you well understand.

9 I apologise for the delay, and we will try to proceed as swiftly as we can with your  
10 testimony.

11 I take it that you understand the situation?

12 A. Yes.

13 Q. I would like to begin, Mr Witness, by confirming or asking you whether you do  
14 speak English?

15 A. No, I don't speak English. I speak Swahili. I don't even understand English.

16 Q. I will proceed with my cross-examination in English, so I apologise for that. The  
17 reason I do this, even though I speak French, is simply to -- because for logistical purposes.

18 But, by all means, we have interpretation; and if there is any question that you do not  
19 understand, I invite you to stop me immediately so that I can repeat my question. Do  
20 you understand this, sir?

21 A. Yes.

22 Q. A number of questions have already been asked to you by my colleague, and I will  
23 endeavour to avoid repeating any of these questions. There are, however, a couple of  
24 areas I wish to get into, which were already at least -- where you had some introduction or  
25 introductory question put to you. I would like to begin by confirming that in

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1 January 2015 you met with the Prosecution for a period of five days; is that correct, sir?

2 A. Yes.

3 Q. And those meetings were attended by representatives from the Prosecution; is that  
4 correct?

5 A. Yes.

6 Q. And there was also an interpreter present. You recall this, sir?

7 A. Yes.

8 Q. According to the information that I have in your statement which was  
9 communicated to us, you met with the Prosecution representatives for five days - I said  
10 that previously - but it was approximately three hours every day. Do you recall this, sir?

11 A. Yes, I remember.

12 Q. Now, when you -- I'd like you to explain how the interview proceeded with the  
13 Prosecution, given that the statement that I have is in English. Can you recall simply  
14 explaining how you proceeded during this interview?

15 A. Well, when I met with the representatives of the OTP, some of them spoke English,  
16 and there was an interpreter, a Swahili interpreter, who provided interpretation into  
17 Swahili, and I answered in Swahili. That is how we proceeded because, you see, I don't  
18 speak English.

19 Q. Thank you, sir. So I take it that language was not an issue, that you were able to  
20 express your -- the -- what -- the information in your possession without any difficulties; is  
21 that correct?

22 A. Yes.

23 Q. And it's my understanding that at the beginning of these interviews, you were  
24 informed by the Prosecution that at the end they would provide you with a copy of a  
25 statement which you could read and make any corrections if anything did not match what

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1 you believe was the truth. Is that so, sir?

2 A. Yes. That's what they said to me.

3 Q. Now, as I mentioned earlier, we were provided with a statement, which includes  
4 some 34 pages. And it's my understanding that this statement was translated to you and  
5 that you are familiar at the time with the contents of your statement; is that so?

6 A. Yes, I did receive that information. However, some parts of my statement contain  
7 some differences between the kind of Swahili I spoke and the Swahili of my interpreter,  
8 and I asked for those parts to be corrected.

9 Q. Now, what I have here in this statement is the following sentence -- and  
10 Mr President, I quote here from the witness statement, which bears the number  
11 DRC-OTP-2078-2373, and I quote from page 2405.  
12 Witness it says here, "This Statement has been read over to me in the English and Swahili  
13 languages and is true to the best of my knowledge and recollection."  
14 The paragraph goes on, but I'd like to know if you are -- if this statement is accurate.

15 A. Yes, I see this document, but this particular document is in English.

16 Q. Were you ever provided with a copy of this document in Swahili?

17 A. No. This statement was written in English, but the statement was translated to me  
18 into Swahili orally.

19 Q. It is my understanding, sir, that this statement was not drafted by yourself; is that  
20 correct?

21 A. It was me.

22 Q. Did you -- who drafted the statement, you or the Prosecution representatives?

23 A. Yes. All that I was saying in response to the questions was recorded, and there was  
24 translation into Swahili.

25 Q. And at the end of the process, you were satisfied with the result; is that correct?

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1 A. Well, I wasn't satisfied because I was aware that given these problems that I had had,  
2 I had to give a statement. I was asked questions about the events that had happened to  
3 me, and it was my job to give explanations, even though it was a very painful thing for me  
4 to do.

5 Q. My question, sir, is simply: What is included in the statement you agree with and  
6 you stand by this today; is that correct?

7 A. Yes.

8 Q. One last question with this statement, sir: At the end of the statement, you were  
9 informed also, meaning this is back in January of 2015, that this statement could be used  
10 in legal proceedings before the International Criminal Court and that you could be called  
11 to give evidence in public. And on 19 January you signed this statement; is that correct,  
12 sir?

13 A. Yes, I signed the statement on that date.

14 Q. And you were aware that you could be called to testify publicly before the Court at  
15 that time; is that correct?

16 A. I was asked whether I could come and give testimony before the Court about the  
17 events that I had told them about, and I said I could, I said yes because these events -- well,  
18 I was a witness to these events, the events that have affected me personally.

19 Q. Now, my question, sir, is the following: As of 19 January you were willing to come  
20 and testify publicly before this Court; is that correct?

21 A. I was willing to come and give testimony before the Court because I had given a  
22 statement about the events which I was familiar with and which had affected me  
23 personally.

24 Q. Maybe my question is not clear, sir. You were willing to do so publicly; is that  
25 correct? Because this is what the statement says here.

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1 A. Yes, I was ready to do that, I was willing.

2 Q. Sir, I move on to your arrival in The Hague last week. And it's my understanding  
3 that you met with the Prosecution on 13th and 14th January of last week. Do you recall  
4 those two days of meeting, sir?

5 A. Yes, I remember.

6 Q. It's also my understanding, sir, that the purpose of these two days was explained to  
7 you and that it was for you to review the material you had provided to the Prosecution to  
8 ensure that it was accurate; is that correct?

9 A. Yes.

10 Q. And, in fact, you had an opportunity to review all the material that was presented to  
11 you by the Prosecution with the assistance of an interpreter; is that correct?

12 A. Yes. An interpreter was there. The interpreter translated for me in my language.

13 Q. So it's my understanding, as you just said, that all of your material was translated to  
14 you in Swahili and that you could understand what was read to you, or what was said to  
15 you in Swahili; is that correct?

16 A. Yes.

17 Q. And I take it it is also correct that after reading the material you had the opportunity  
18 to make a few corrections and a few clarifications to the material that was translated to  
19 you; is that correct?

20 A. Yes. There were a few discrepancies in some passages, discrepancies between what  
21 I had said and the actual reality, discrepancies in the way the information had been taken  
22 down, and I asked for corrections to be made.

23 Q. So, sir, other than for these corrections or discrepancies, my understanding is that  
24 you stand by the contents of the documents which were shown to you during those two  
25 days?

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1 A. Yes. I agreed and, yes, that was my statement.

2 MR BOURGON: Mr President, for the record, I just wish to point out that I'm referring  
3 to document number DRC-OTP-2090-0287 and that we will be returning to this document  
4 later on during the remainder of my cross-examination.

5 Q. One issue I would like to cover with you, sir, is the following: Before you met with  
6 the Prosecution for these interviews in January 2015, it is my understanding that you met  
7 with Prosecution representatives on a number of occasions before that; is that correct?

8 A. Yes, before that date I had met them on a few occasions only.

9 Q. Can you assist us, sir, with how many occasions you met with Prosecution  
10 representatives, for whatever reason, before January 2015?

11 A. Well, what I can say for now is that I do not remember how many times I met them.  
12 It's difficult for me to remember. I met with the investigators of the OTP, yes, but I don't  
13 remember how many times we met.

14 Q. If I say between 5 and 10 times, would that be reasonable?

15 A. I could provide an exact answer to that question if I were able to refer to the dates  
16 indicating the meetings I had with them; however, unfortunately, I didn't take down the  
17 number of times I met with them. It's difficult for me to remember.

18 Q. Well, let me assist you with a couple of these dates, sir. I have a note before me, it's  
19 called an investigation note.

20 And the number for the record, Mr President, is DRC-OTP-2080-0590. And the title of  
21 this document is "Investigation note."

22 Now, sir, according to this document that I have before me you had a first meeting with  
23 the Prosecution on 3 September 2013. Do you recall this meeting, sir?

24 A. Yes, I do.

25 MR BOURGON: Mr President, it's being brought to my attention that we should maybe

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- 1 be going into private session for this part of the testimony.
- 2 PRESIDING JUDGE FREMR: Good point.
- 3 Court officer, let's move into private session.
- 4 (Private session at 5.04 p.m.) \*(Reclassified partially in public)
- 5 THE COURT OFFICER: We are in private session.
- 6 PRESIDING JUDGE FREMR: Thank you.
- 7 Mr Bourgon, you may proceed.
- 8 MR BOURGON: Thank you, Mr President.
- 9 I made a quick mistake in referring to this 3 September meeting. The note I have,
- 10 according -- which talks about a meeting on 3 September bears the following number:
- 11 DRC-OTP-2080-0601. (Redacted)
- 12 (Redacted)
- 13 Q. (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 A. (Redacted)
- 17 Q. (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 A. (Redacted)
- 24 Q. (Redacted)
- 25 (Redacted)

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1 A. (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 (Redacted)

5 A. (Redacted)

6 Q. I would also like to refer to paragraph 4 of this document where some words are  
7 attributed to you, and I quote here the beginning of this paragraph: "P-0790" - I take it  
8 you understand that this is the number which refers to you in the Prosecution  
9 language - "advised that he had fled prior to the arrival of the UPC, but that others within  
10 the community may hold relevant information."

11 Do you recall informing the Prosecution in this regard?

12 A. No.

13 Q. So this sentence here which I read from this document is, according to you, incorrect?  
14 But let me read that again. There's really no point in showing you the document because  
15 it is in English, but also let me quote from the document at the beginning, paragraph 4:  
16 "P-0790 advised that he had fled prior to the arrival of the UPC, but that others within the  
17 community may hold relevant information."

18 Are you saying that this is incorrect, sir, or correct?

19 A. Well, now I have understood. A question was put to me in that regard and I  
20 provided an answer. Now, where there is gunfire, nobody can afford to stay in that area.  
21 They asked me whether I was in that area or whether I had fled. My answer to them was  
22 that I had fled because no one could stand the rattling of bullets in any place. And as I  
23 have just testified, other members of the community can also provide you with additional  
24 information in this regard.

25 Q. Thank you for this clarification.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 A. (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. (Redacted)

13 Q. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 A. (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. (Redacted)

22 (Redacted)

23 (Redacted)

24 A. (Redacted)

25 MR BOURGON: Mr President, I will be asking for these two documents to be admitted

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1 into evidence for the purpose of -- not for the truth of their contents, but for  
2 cross-examination purposes. So the first document with number DRC-OTP-2080-0601,  
3 dated 21 September 2013; and the second document, DRC-OTP-2080-0590, also dated 21  
4 September 2013.

5 PRESIDING JUDGE FREMR: Prosecution, any objection?

6 MS SAMSON: Your Honour, these documents are investigation notes drafted by the  
7 Prosecution. In relation to the second note, the witness has agreed to its content, so the  
8 purpose of admission falls away, the need to admit the document falls away because the  
9 witness has agreed to its content in our submission.

10 As for the first document, we have no objection. Thank you.

11 PRESIDING JUDGE FREMR: Mr Bourgon, any reaction to objection submitted by  
12 Ms Samson?

13 MR BOURGON: Yes, Mr President. I think the second document is a different meeting,  
14 and it is important to have this meeting and the contents thereof before the Chamber.  
15 And there will be other documents also which I will seek to be admitted for the same  
16 purpose. So I'm not seeking to admit the documents for the truth of their contents.  
17 There is the testimony of the witness and there is a document, and it is my submission  
18 that the Chamber will require both at the end to assess the credibility of the witness.

19 PRESIDING JUDGE FREMR: Give me a second.

20 (Trial Chamber confers)

21 PRESIDING JUDGE FREMR: So after silent deliberation, our decision is in fact that the  
22 objection is sustained because we would like to remain -- or to follow our previous  
23 approach. So the first document which was, if I'm not wrong here, document ending  
24 with ERN 0601 is admitted, while the second one ending with ERN number 0598 -- no,  
25 0590 is not admitted because we would like to have -- we would like this, if I'm not wrong,

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1 we faced the same objection in the past, and we would like to remain consistent with our  
2 previous decisions on in fact the same matter.

3 Now you may continue, Mr Bourgon. Do you want to still remain in private session?

4 MR BOURGON: Indeed, Mr President, because I will refer to subsequent meetings  
5 between the witness and the Prosecution.

6 PRESIDING JUDGE FREMR: Okay then, proceed.

7 MR BOURGON: Thank you, Mr President.

8 Q. (Redacted)

9 (Redacted)

10 (Redacted)

11 A. (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 A. (Redacted)

24 Q. (Redacted)

25 (Redacted)

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1 \*A. (Redacted)

2 (Redacted)

3 (Redacted)

4 MR BOURGON: Mr President, I would like to have this document admitted - this is  
5 document DRC-OTP-2066-0101 - for the purpose of cross-examination and not, of course,  
6 for the truth of its content.

7 PRESIDING JUDGE FREMR: Ms Samson.

8 MS SAMSON: Your Honour, we object on the same basis as previously. There's no  
9 impeachment in this document because the witness has accepted the content as reflected  
10 in the transcript. Thank you.

11 (Trial Chamber confers)

12 PRESIDING JUDGE FREMR: Okay, as in previous case, the objection is sustained and  
13 this document is not admitted into evidence. I already have mentioned the reasons why  
14 we decided this way. So the reasons are the same now.

15 MR BOURGON: Thank you, Mr President.

16 Q. Sir, I now move to another document which I have, but this document now refers to  
17 a meeting you had with the Prosecution. (Redacted)

18 For the record, the number of the document is DRC-OTP-2078-2903.

19 (Redacted)

20 (Redacted) Basically, that's when you met with the Prosecution and you agreed to  
21 provide -- to be interviewed. Do you recall this meeting with the Prosecution, sir?

22 A. Yes, yes, I remember.

23 Q. (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. (Redacted)

4 (Redacted)

5 Q. (Redacted)

6 (Redacted)

7 (Redacted)

8 A. (Redacted)

9 Q. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 A. (Redacted)

14 Q. The purpose of this document, according to what I have here, is a screening note.  
15 Basically that's when they meet with you to assess if you can be a witness. Do you recall  
16 this meeting, sir?

17 A. Yes, yes, I do remember.

18 Q. And it's my understanding that in such a meeting the investigators ask you some  
19 questions and allow you to explain how you think you can be of assistance to their  
20 investigation. Is that the way this meeting proceeded to the best of your recollection?

21 A. Yes. When we met, when I met the investigators they asked me questions about  
22 the events that had occurred and I gave them the information that I had and they said that  
23 I was to come and give testimony about what I had told them.

24 Q. Just to be sure, sir, we're talking about a document which is different from your  
25 statement (Redacted); do you understand that?

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1 A. Yes, yes. I can distinguish between what you're saying.

2 Q. Now, according to this document, and I will quote here from paragraph 1 of the  
3 document, or at least the first section of the document, which bears the title "Basis for  
4 contact."

5 And it says here the "Background to approaching individual." And this is what the  
6 investigator is supposed to do, I believe. (Redacted)

7 (Redacted)

8 Now, the information provided here, please listen carefully, it says the following:

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Do you agree with this information, sir?

14 A. Yes, I've understood.

15 Q. Now, I refer to this document at the fourth section. And this fourth section has the  
16 following title: (Redacted)

17 (Redacted)

18 And this is the information found in this document. Please listen carefully. I will read  
19 the document.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. \*And, sir, do you recall that (Redacted) you did not remember the name of  
4 what is referred to as the deputy of Bosco Ntaganda; is that correct, sir?

5 A. I remembered his name, because when someone asks me a question, I have to think  
6 before I give an answer. When I was asked that question, that was after several days. It  
7 was the first time I had been asked that question. I was asked about the conflict and I  
8 thought, and then I was able to remember that name and I mentioned it.

9 Q. Now, sir, in this document here, which is what the investigator believed to be the  
10 \*"Summary of the information received from the screened individual, based on general  
11 questions related to his/her position, role and experience during the relevant time period  
12 in matters relevant to the case theory." That's what the investigator is supposed to put in  
13 this box.

14 (Redacted)

15 (Redacted) Is there a reason for this, sir?

16 A. Yes, I will explain. I shall explain to you. There were many versions about what  
17 happened during the war. At one particular point in time I was asked questions and I  
18 had to answer the questions that were put to me. And as I was speaking about  
19 everything that had happened to me, then I had that opportunity to tell them what had  
20 happened to me. (Redacted)

21 (Redacted)

22 Q. Thank you, sir.

23 Mr President, I would like to have this document admitted into evidence. This is, for the  
24 sake of purpose of cross-examination, the document is DRC-OTP-2078-2903. This is a  
25 screening note.

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1 Mr President, in advance of any objections by my colleague, this includes information  
2 provided by the witness, and the witness does not agree with the information. And I  
3 respectfully submit that it is important for impeachment purposes, Mr President.

4 PRESIDING JUDGE FREMR: Ms Samson.

5 MS SAMSON: No objection, your Honour.

6 PRESIDING JUDGE FREMR: Okay then, then document ERN number ending with 2903  
7 is admitted into evidence as a Defence exhibit.

8 Mr Bourgon, you have the floor.

9 MR BOURGON: Thank you, Mr President.

10 Q. (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 A. (Redacted).

15 Q. And if I suggest to you, sir, that you met with the Prosecution on no less than 11  
16 occasions between (Redacted) and each time for more than one  
17 day, would that be a fair statement?

18 A. Yes, that's right.

19 MR BOURGON: Now, I can, Mr President, I can cut short, because I have this document  
20 with the dates of each meeting, rather than go and ask him for each date which he may or  
21 may not recall, I would prefer to have this document admitted into evidence. It provides  
22 the dates when he met with the Prosecution, depending on my colleague, or I can proceed  
23 and ask him every single date.

24 PRESIDING JUDGE FREMR: What is the ERN number of this document?

25 MR BOURGON: ERN number is -- I referred to it earlier, I believe, as

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1 DRC-OTP-2090-0129.

2 PRESIDING JUDGE FREMR: Ms Samson, your position?

3 MS SAMSON: Your Honour, I question what the relevance of the question is only  
4 because the document that the Defence is referring to is a list of expenses provided to the  
5 witness. It details certain meetings, but it doesn't detail necessarily every meeting. I'm  
6 just not certain what this document is going to assist us in identifying. It is a list of  
7 payments.

8 PRESIDING JUDGE FREMR: And you are saying it does not cover all meetings?

9 MS SAMSON: Well, it isn't intended to do that; it is simply intended to cover moments  
10 when the witness received payments. So it really depends on what Mr Bourgon intends  
11 to use the document for. If he's purporting to put it forward as a list of all meetings with  
12 the Prosecution, it will not show that. I ask the question to your Honours, but perhaps it  
13 needs to be addressed to Mr Bourgon.

14 PRESIDING JUDGE FREMR: Mr Bourgon?

15 MR BOURGON: Thank you, Mr President. My purpose is simply to establish dates  
16 upon which the witness met with the Prosecution before providing his statement of  
17 (Redacted). It may be all, it may not be all, but at least it does establish that he met the  
18 Prosecution for a number of days and was working alongside the Prosecution as I put to  
19 him earlier on on those dates.  
20 We could show the document to the witness and he could see the dates, these are  
21 numbers, and he could confirm whether he did meet with the Prosecution on every one of  
22 these days; or we could simply admit the document.  
23 I'm not looking at the payments issue, I'm looking simply at the dates, the number of  
24 occasions he met with the Prosecution.

25 PRESIDING JUDGE FREMR: Would it be easy again to repeat, repeat it now to the

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1 witness? If you just read out the list of dates, please.

2 And, Mr Witness, please, the question after that would be whether you can confirm that  
3 you met with Prosecution on all those dates that now will be mentioned by Mr Bourgon.

4 So please be on alert.

5 MR BOURGON: Thank you, Mr President.

6 Q. Sir, I will read you some dates here. According to the document I have before me,  
7 you met with the Prosecution (Redacted)

8 (Redacted)

9 PRESIDING JUDGE FREMR: (Redacted)

10 (Redacted)

11 MR BOURGON: (Redacted)

12 (Redacted)

13 PRESIDING JUDGE FREMR: (Redacted)

14 (Redacted)

15 (Redacted)

16 MR BOURGON: (Redacted)

17 Q. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. Thank you, sir. I move to a different topic.

2 And I believe, Mr President, we can go into public session.

3 PRESIDING JUDGE FREMR: Very well. Court officer, please move into public session  
4 now.

5 (Open session at 6.16 p.m.)

6 THE COURT OFFICER: We are in open session.

7 PRESIDING JUDGE FREMR: Thank you, court officer.

8 Mr Bourgon, you may proceed.

9 MR BOURGON: Thank you, Mr President.

10 Q. Sir, during your testimony to this point, both with the Prosecution and with certain  
11 questions asked by my colleague, you can confirm that you referred to four attacks; is that  
12 correct?

13 A. That is correct.

14 Q. And I understand from your testimony that, according to you, all four attacks were  
15 conducted by the UPC, the first three with the Ugandans and the fourth one the UPC  
16 alone; is that a fair summary of your testimony?

17 A. Yes. That was my testimony, in those exact terms.

18 Q. I'd like to refer to paragraph 51 of your testimony -- sorry, of your statement.

19 For the record, Mr President, I referred to the statement previously. It is

20 DRC-OTP-2078-20 -- 2373, and I quote from page 2381, at paragraph 51.

21 It states here, sir, that "UPC is a political party, but I do not know when they were created  
22 and when the military wing was created."

23 Do you stand by this statement, sir?

24 A. Yes, that is true. I stand by my testimony because I do not know when the UPC  
25 started, I do not know when the political party was born, and all of that is simply because

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1 I do not know and I did not have any -- I was not able to meet them.

2 Q. Are you familiar, sir, with the term FPLC?

3 A. I'm not familiar with that abbreviation.

4 Q. I suggest to you, sir, that the FPLC is the forces patriotiques pour la libération du  
5 Congo and that this was the military wing of the UPC. Does that ring a bell, sir?

6 A. Yes.

7 Q. Is this something that you learned later or that you knew at the time?

8 A. Okay. Well, the name that you have mentioned, is it UPC? I became aware of  
9 that name during the events. Now, as the events unfolded those people continued to  
10 bear the name UPC, those soldiers.

11 Q. Sir, in your testimony as well as in your statement, you referred a number of times  
12 to the FNE. Do you know what FNE stands for?

13 A. FNE, is that it, FNE, or FNI? E in French, I in English? Well, the FNI, it was  
14 like -- it was like a group. It really wasn't a group. It was some kind of organisation. I  
15 can say that the FNI was an organisation that brought together all Lendu people. I think  
16 at the time the FNI was -- was not a military organisation as such, it was an organisation  
17 which had taken on a name force negative, negative forces. I think it was the young  
18 people who went out to provide help in times of conflict and that is how they took on the  
19 name FNI. It wasn't really the name of a military organisation as such.

20 PRESIDING JUDGE FREMR: Ms Samson.

21 I'm sorry, you finished, Mr Witness? I'm sorry whether I -- if I interrupt you. Do you  
22 want to finish your response?

23 THE WITNESS: (Interpretation) Yes. So what I was saying in relation to the name  
24 FNI is that they should have asked me this question before and I would have told them  
25 what FNI stands for, but they did not ask me what FNI stands for.

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1 PRESIDING JUDGE FREMR: I saw Ms Samson rising. Please, Ms Samson.

2 MS SAMSON: Thank you, Mr President. It was just to correct that, to my recollection,  
3 the witness did not mention FNI during his testimony as was put to him by counsel for  
4 the Defence. I just wanted to make that correction.

5 PRESIDING JUDGE FREMR: Okay.

6 Mr Boutin, you may proceed. Mr Bourgon. Sorry, I said Boutin. Sorry.

7 MR BOURGON: Thank you, Mr President.

8 In all fairness to my colleague, I do not have any reference where FNI was used during the  
9 testimony, however it was used in a number of occasions in his statement. And I refer to  
10 \*page 23/79 of the statement at paragraph \*52.

11 Q. And the witness here said - and, sir, that's my question to you: "They" - meaning the  
12 UPC - "fought against the FNI who were on the Lendu side."

13 And then you said, "I think FNI means Force Negative."

14 Sir, I suggest to you that the FNI is an official movement which was created in  
15 November 2002. Would you agree with this statement or are you familiar with this  
16 statement?

17 A. The FNI was not a party that was created. The FNI was a group of youth which  
18 went out to help whenever war broke out in a village. So those young people went out  
19 to help. It was not a military organisation, no.

20 Q. Would you then agree with the statement that the FNI included of course the Lendu  
21 combatants?

22 A. Lendu combatants were there. And I can explain this to you, if possible. Yes,  
23 there were Lendu combatants there who started fighting with arrows and spears and  
24 machetes. And those people were referred to as the combatants.

25 Now, when it comes to FNI, the so-called Negative Forces, this was a group of young

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1 people, or youth, who went to help out during the war. That is the name that was given  
2 to these people. It was not a military organisation of soldiers or people who were doing  
3 military work so to speak. No, it was not.

4 Q. So, sir, when you say at paragraph 42 of your statement that "Floribert Njabu was  
5 the leader of" the "FNI", what did you mean if this is not an official group?

6 A. Okay, I can explain that. At that time in our area the chief was the person in charge  
7 of the fate or condition of the population at large. His name was Floribert Njabu. He  
8 was the chief at the time and he was in charge, not of the Centre as such, but of the entire  
9 Lendu area; Walendu-Pitsi, Walendu-Djatsi, Walendu-Bindi and the entire Lendu region.  
10 He was in charge of it. And in case the -- any problems arose, he would be informed  
11 accordingly. That was Floribert Njabu's job.

12 Q. Sir, I --

13 PRESIDING JUDGE FREMR: Mr Bourgon. Mr Bourgon, I'm sorry, I have to interrupt  
14 you because the time we have reserved for this session is over. So, sorry for that but we,  
15 because it is 6.30, we have to finish.

16 Mr Witness, thank you very much. We finish for today. And you have been already  
17 informed that under special circumstances we will have to keep you here till Monday.  
18 And I firmly believe they will be able to finish your testimony by Monday, late afternoon.  
19 So thank you for your understanding.

20 Again, I have to remind you during the weekend you must not discuss the content of your  
21 testimony with anybody else.

22 So now the witness may be escorted out of the courtroom.

23 And I would like just to utilise the last two, three minutes for discussing our further  
24 schedule.

25 Mr Bourgon, according to my information, the Defence so far exhausted four hours for

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1 cross-ex, so you still will have at your disposal two hours. Do you think you will need  
2 the whole two hours?

3 MR BOURGON: Yes, Mr President, I will need the two hours.

4 PRESIDING JUDGE FREMR: Okay, it's fine. It's your right.

5 Even if -- a rather premature question to, Ms Samson. Do you think at this moment, Ms  
6 Samson, that you will need some time for re-examination? If yes, what time you would  
7 like to get?

8 MS SAMSON: Yes, your Honour. For the moment I have just several questions. And  
9 I know that the remaining time is 30 minutes, including questions from the Judges, so I  
10 will limit any re-examination to 10 minutes if that would be approved.

11 PRESIDING JUDGE FREMR: Excellent.

12 Our idea, and this is my last announcement, is, to be said, that we will finish this witness  
13 and not to prolong his stay any more by Monday, that we would like to start quarter past  
14 4. And we got confirmation that we will be able to sit since 7 o'clock. I know that it is  
15 rather extraordinary, but extraordinary circumstances require extraordinary solutions.  
16 So our plan is to sit from 4.15 till 7 o'clock on Monday to be sure that we will definitely  
17 conclude this testimony.

18 I thank all of you for your flexibility, also thank you to interpreters, type recorders.

19 And see you on Monday.

20 THE COURT USHER: All rise.

21 (The hearing ends in open session at 6.31 p.m.)

22 RECLASSIFICATION REPORT

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