

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 3
8 Monday, 19 September 2016
9 (The hearing starts in open session at 9.42 a.m.)
10 THE COURT USHER: [9:42:08] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:42:27] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:42:33] The Court is sitting in the case of The Prosecutor
16 versus Bosco Ntaganda.
17 PRESIDING JUDGE FREMR: [9:42:39] Thank you, court officer.
18 Now appearances as usually.
19 MR IVERSON: [9:42:47] Good morning, your Honours. Appearing for the
20 Prosecution today are Claudine Umurungi, assistant legal officer; Selam Yirgou, case
21 manager; and myself, Eric Iverson, trial lawyer.
22 PRESIDING JUDGE FREMR: [9:43:00] Thank you, Mr Iverson.
23 Defence, please.
24 MR BOURGON: [9:43:06] (Interpretation) Good morning, your Honour, your Honours,
25 as well as everybody present in the courtroom. This morning for the Defence

1 Jules Guillaumé, Isabelle Martineau and myself, Stéphane Bourgon. Thank you,
2 your Honour.

3 PRESIDING JUDGE FREMR: [9:43:22] Thank you, Mr Bourgon.

4 And Legal Representatives of Victims, please.

5 MS PELLET: [9:43:29] (Interpretation) Thank you, your Honour. The former child
6 soldiers are represented by Mohamed Abdou and myself, Sarah Pellet, Office of Public
7 Counsel for Victims.

8 MR SUPRUN: [9:43:44] (Interpretation) Good morning, your Honour, your Honours.

9 The victims of the attacks are represented by the Office of Public Counsel for Victims,
10 Anne Grabowski, associate lawyer, and myself, Dmytro Suprun, counsel.

11 PRESIDING JUDGE FREMR: [9:43:59] Thank you, Ms Pellet. Thank you, Mr Suprun.

12 Before we continue we were informed that Mr Bourgon would like to address the
13 Chamber in the absence of our witness.

14 Before I will give the floor to you, Mr Bourgon, I would like just to note that as concerns
15 issue of visit of your client with his wife this issue I guess will not be subject of your
16 submission because it -- I think you have been informed that this issue is in fact in
17 progress? So what is the subject of your --

18 MR BOURGON: [9:44:45] It does not, Mr President. It's a disclosure matter.

19 PRESIDING JUDGE FREMR: [9:44:48] All right. So go ahead. But anyway please be
20 brief because you all know that this evidentiary block is really full of witnesses. We have
21 even some slight delay, so please be brief.

22 MR BOURGON: [9:45:02] Thank you, Mr President. Our request this morning
23 addresses a request for the lifting of redactions to one document. It is an investigator's
24 note which bears the number DRC-OTP-2089-0415.

25 Mr President, I will try to make it as short as possible.

1 We initially sent a request for the lifting of redactions to this document on 3 August. We
2 received a response on 7 September, after the beginning of the block.
3 On 16 September, this witness was scheduled to take the stand. Our evaluation, when
4 preparing for the witness shortly before the 16th, revealed that we disagree with the
5 position taken by the Chamber in this document. They refuse to lift the redactions
6 pursuant to Rule 81(1) which, as you well know, Mr President, is internal work product.
7 This document, Mr President, very quickly includes a section, which is entitled
8 "Credibility of the witness." This section comprises nine paragraphs. Based on
9 paragraph 1, which drew our attention to the fact that this section includes observations
10 made by the investigator on the demeanour and the deportment of the witness during the
11 investigation phase.
12 We immediately contacted the Prosecution on that -- before the beginning of the
13 testimony. Initially they said "we will stick to our decision." Then they revealed one
14 sentence and then we went on with your discussions and they revealed a little more in the
15 paragraph.
16 As I mentioned to the Trial Chamber last week, I kept the matter under consideration.
17 Immediately following the hearing, I met with my colleague and the senior trial lawyer
18 from the Prosecution basically giving them our argument that we would likely send them
19 a request over the weekend insisting on the lifting of these redactions. I did send this
20 request on Saturday and we received a response last night. And pursuant to this
21 response, the Prosecution lifted some redactions, but maintained others.
22 The redactions that are maintained can be found in paragraph 2 in its entirety. And
23 when I say paragraph 2, it's the second paragraph of the specific section entitled
24 "Credibility of the witness."
25 Paragraph 4 bears only a title with no further information. We don't believe that there is

1 a problem with paragraph 4, although we don't know because it appears to be an analysis
2 and then that could amount to internal work product in certain circumstances.

3 However, in paragraph 7 there is a mention that the investigator says that he has grounds
4 to believe that the witness, although he does not have a criminal record, participated in
5 the defence of his village. And then the rest of the paragraph is redacted.

6 There must be a basis for this statement on the behalf -- on behalf of the investigator as to
7 how he can conclude that the witness -- he has grounds to believe that the witness
8 participated in the defence of his village.

9 Then there are paragraphs 8 and 9, always in the same section, which are -- still remain
10 redacted at this point.

11 Our request, Mr President, and we have had quite cordial discussions with the
12 Prosecution, we believe that it's a matter for the Trial Chamber to look at these nine
13 paragraphs and to rule on what should be -- what redactions should be lifted in
14 accordance with the disclosure and redaction of information protocol.

15 Mr President, Rule 81(1) internal work product cannot be extended, but I won't make any
16 argument on this. I just raise the issue and I think that is enough at this time for the Trial
17 Chamber to rule on the matter. Thank you, Mr President.

18 PRESIDING JUDGE FREMR: [9:49:52] And as concerns timing, I understand that you
19 would like to get this information that are so far redacted before the beginning of
20 cross-examination?

21 MR BOURGON: [9:50:06] Indeed, Mr President.

22 PRESIDING JUDGE FREMR: [9:50:09] Mr Iverson, are you able to respond?

23 MR IVERSON: [9:50:15] Yes, Mr President.

24 Essentially, Prosecution agrees with what Defence counsel has stated, with the exception
25 of we disagree on the nature of the remaining redacted paragraphs. We believe that they

1 are validly redacted under Rule 81(1). It is a report or internal document prepared by the
2 Prosecution in connection with the investigation of this case.

3 This document is -- is relatively old, it's from April 2005, and we provided it to the
4 Defence because -- and it is in a bit of a strange format. This was before -- these are early
5 days of the OTP, but we provided the factual information to the Defence that was
6 necessary for it to prepare for this witness, but there are, mixed in with the factual
7 information, an OTP investigator wrote down recommendations, which would be internal
8 work product, in paragraphs 7, 8, 9 and 5.

9 And then in paragraph 2, it contains observations by the investigator. And so we
10 provided what we believe are the factual bases for those observations to the Defence but
11 not the observations of the investigator, which we consider to be internal work product
12 validly redacted under Rule 81(1). So that's the Prosecution's position.

13 I think essentially what we disagree with, with the Defence, and I'm sure Defence counsel
14 will correct me if I'm wrong, is the redactions apply to that paragraph 2 that he mentioned
15 and then the redactions applied to 7, 8, 9 and 5 at the end of the document.

16 Those are the Prosecution's submissions, pending any questions from your Honours.

17 PRESIDING JUDGE FREMR: [9:52:25] All right. In order to have a chance to
18 adjudicate those -- the character of those paragraphs, we will need immediately the text
19 and we will try to do our best to decide in a time which would make it clear before the
20 cross-examination.

21 Mr Bourgon, anything you want to say?

22 MR BOURGON: [9:52:47] Yes, Mr President, I wish to add very briefly that paragraph
23 5 last mentioned by my colleague bears the title "Conclusions and recommendations."
24 For us per se we would not be looking for this information. We are really looking for the
25 information that is in the section bearing the title "Credibility of the witness."

1 Now, Mr President, my colleague said something here that I -- requires a comment. He
2 said that the document is an internal work product. Mr President, it is our submission
3 that investigation reports are not per se internal work product, although in some cases
4 information contained therein might meet the requirements of Rule 81(1), but the
5 document itself, it is an investigation note, and investigation notes per se, for us, are
6 disclosable material. Thank you, Mr President.

7 PRESIDING JUDGE FREMR: [9:53:47] Point taken.

8 Now, before we -- Mr Iverson, but absolutely briefly.

9 MR IVERSON: [9:53:53] Just briefly, I agree with the submissions of Defence counsel.
10 I'm -- I didn't mean to state that the whole investigation note was covered by 81(1). If I
11 stated that, that was in error. Obviously, portions of it, large portions of it, have already
12 been provided to the Defence. And the Prosecution realises that disclosable information
13 can take any format. It doesn't -- you know, calling something an investigator's note
14 doesn't protect it from disclosure.

15 PRESIDING JUDGE FREMR: [9:54:20] As I said, as far we will be aware of the
16 character of those portions, then we can decide.

17 Now, before Mr Witness is brought into the courtroom, I would like, again, briefly, to
18 mention our position concerning the absence of Mr Ntaganda.

19 The Chamber was informed that this morning Mr Ntaganda was declared fit to be
20 transported to the courtroom. Video link facilities from the detention centre were also
21 again made available.

22 Mr Ntaganda has refused to attend and, therefore, our reasoning remains as it was.

23 Regardless of whether Mr Ntaganda's absence is the result of his self-induced condition or
24 deliberate refusal to attend, the Chamber considers it to be disruptive and to constitute a
25 voluntarily waiver of his right to be present. Mr Ntaganda is aware of the Chamber's

1 intention to continue proceedings.

2 The Chamber notes that there is no foreseeable time frame in which the situation may
3 change. Noting that legal advice remains available to Mr Ntaganda and that, pursuant to
4 the Chamber's order of last week, his rights continue to be represented in the courtroom,
5 the Chamber sees no reasonable alternative but to continue the proceedings.

6 The Chamber again directs Defence counsel to convey this ruling to Mr Ntaganda.

7 MR BOURGON: [9:55:53] Thank you, Mr President. I would just like to clarify, was
8 he declared fit to come to the courtroom, or just the video room?

9 PRESIDING JUDGE FREMR: [9:56:04] I can quote from the report we received this
10 morning. This morning, which is signed by Mr Paulus Falke, which is medical officer of
11 the detention facility, "...has been examined this morning by a medical officer. Due to the
12 ongoing voluntary protest fast and due to the psychological stress, he shows fatigue. No
13 alarming physical or mental symptoms," but his conclusion, "fit for transport and fit to
14 attend Court."

15 Now, court officer, please bring in Mr Witness.

16 MR BOURGON: [9:56:43] Mr President, I'd just like to add that to the best of my
17 knowledge, we have not received this report. On Friday Mr Ntaganda signed the forms
18 that I informed the Trial Chamber about. Those forms were submitted, and this morning
19 I wrote to the chief custody officer requesting that all medical information pursuant to
20 both authorisation forms signed by Mr Ntaganda be provided to the Chamber, but also to
21 us, including this early report, because I did not speak to Mr Ntaganda this morning.

22 Thank you, Mr President.

23 PRESIDING JUDGE FREMR: [9:57:16] Yes, noted. Thanks.

24 (The witness enters the courtroom)

25 PRESIDING JUDGE FREMR: [9:58:10] Good morning, Mr Witness. Welcome back. I

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1 would like just to verify that you are well enough to continue with your testimony.

2 Mr Witness, could you hear me?

3 I don't think so. So please assist Mr Witness.

4 WITNESS: DRC-OTP-P-0105 (On former oath)

5 (The witness speaks Swahili)

6 THE WITNESS: [9:59:07] (Interpretation) Now I can hear.

7 PRESIDING JUDGE FREMR: [9:59:09] Very well, Mr Witness. So I will just repeat,
8 my first question was whether you feel okay to testify with your testimony today.

9 THE WITNESS: [9:59:22] (Interpretation) I slept. I was a bit tired, but I continue -- I
10 can continue nevertheless.

11 PRESIDING JUDGE FREMR: [9:59:35] Very well. So, again, Mr Witness, it is my duty
12 to remind you that you are still under oath, which means that you have to speak the truth
13 and nothing but the truth. And also to remind you practical aspects of giving testimony,
14 that you respected very well on Friday, which means to speak slowly, to speak clearly,
15 and also to keep those pauses at least three seconds between the question is put to you
16 and before you start to respond. Is it clear to you?

17 THE WITNESS: [10:00:27] (Interpretation) I've understood well.

18 PRESIDING JUDGE FREMR: [10:00:29] Good.

19 Then I move the floor to Mr Iverson who will be continuing with your
20 examination-in-chief.

21 MR IVERSON: [10:00:42] Thank you, Mr President.

22 QUESTIONED BY MR IVERSON: (Continuing)

23 Q. [10:00:45] Welcome back, sir.

24 MR IVERSON: And could I request actually that we move right into private session,
25 Mr President.

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1 PRESIDING JUDGE FREMR: [10:00:56] Certainly.

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

3 (Private session at 10.00 a.m.) *(Reclassified partially in public)

4 THE COURT OFFICER: [10:01:04] We are in private session, your Honour.

5 PRESIDING JUDGE FREMR: [10:01:23] Thank you, court officer.

6 Mr Iverson, please proceed.

7 MR IVERSON: [10:01:28]

8 Q. [10:01:28] So on Friday afternoon when we left off, I had asked you to explain the
9 third meeting on 25 February 2003 with UPC members. You explained context, so what
10 was going on in that area at the time, around the time of the meeting. If I could just -- I'd
11 like to just key in on certain aspects of the meeting, and then I have a few additional
12 questions about a few other topics and then I believe I will be finished with my
13 questioning. So I believe that my questioning can be completed quite quickly if you
14 listen carefully to the question and provide a succinct but yet full answer. Will you be
15 able to do that, sir?

16 A. [10:02:28] Yes, I've understood. Thank you. Thank you for your question.

17 Q. [10:02:34] All right. If you can recall, could you tell the Court who among the
18 UPC was present at this 25 February 2003 meeting?

19 A. [10:03:00] Well, on the meeting of 25 February 2003, various dignitaries were
20 present and Lendu leaders had also been called to attend by a certain commander who
21 lived in Kobu, and his name was Salumu.

22 It was Salumu who had invited us to the meeting of 25 February 2003, on a hill called
23 Sangi; that's not far from Kobu.

24 Q. [10:03:55] And apart from Salumu, could you approximate or estimate how many
25 UPC members were present at Sangi on that day, 25 February?

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1 A. [10:04:26] At the meeting of 25 February 2003, the person who was responsible for
2 the meeting was Commander Salumu, and he was accompanied by a large number of
3 soldiers. (Redacted)

4 (Redacted)

5 (Redacted)

6 The soldiers were just there to oversee the meeting.

7 Q. [10:05:29] And of the population of the Lendu leaders who was present that you
8 can remember?

9 A. [10:05:55] There was a problem. Given the importance of the invitation, they had
10 called in a number of Lendu leaders, and all of the village chiefs and the groupement
11 chiefs, traders, intellectuals had all been invited to attend. We all were living in different
12 places. The meeting of the 25th was to be attended by dignitaries from Kobu, traders
13 and they were all to attend.

14 Given at that point in time we were all located in different places, there were various
15 people who lived in Kobu who had fled to Gutsi. And the Nyangarai population and
16 people and us, we were together. Villagers from Lipri and from the environs as well as
17 from Nyangarai were all there.

18 You know, Salumu, Commander Salumu had sent a Nyali person with invitations to Buli,
19 and then the message was passed on from Buli to the various locations where Lendu
20 people were. For example, the message was sent to the uplands, up in the hills, and the
21 message was also sent to Lendu people who were closer to Fali (phon) and people in
22 Gutsi.

23 However, the turnout was not great because the people living in Gutsi, that is to say the
24 Lendu from Gutsi came, but I'd really like to explain to you in detail how things went. I
25 want to tell you the whole truth.

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1 The dignitaries from Kobu had fled in the direction of Gutsi and they came. They had a
2 Motorola phone and they were the ones who pushed the Lendu not to turn out in large
3 numbers at the meeting because they used the Motorola, at the time I didn't know how
4 the Motorola worked, but there was one dignitary from Gutsi who was in Kobu and he
5 found those UPC Motorolas. The Motorola in Gutsi was connected to a certain
6 frequency and they had heard that if they all went to the meeting they would be captured.
7 And that's what spurred the residents of Gutsi not to go to the meeting.
8 They also sent *someone called (redacted) to Buli to say that the Lendu should not attend
9 the meeting because the meeting was a trap.
10 We who were located by (Redacted) the message was sent a bit later, or a bit late to Buli,
11 but that encouraged the people of Buli and Gutsi not to attend the meeting. Now, we
12 who were living in (Redacted) did not receive the information and so it was we who had
13 travelled to attend the meeting.
14 Now, in the delegation there was (Redacted) somebody called Burombi, and a prefect or
15 somebody who was a leader at the school in Nyangarai, a person called (Redacted) and
16 somebody called Dyikpanu. (Redacted)
17 (Redacted)
18 (Redacted)
19 There was also a person called (Redacted), who attended. He
20 was the first to go to travel to Buli. When he got to Buli he heard that a message
21 was -- had come from Gutsi saying that the locals should not attend the meeting, so he
22 *did not come with us to the meeting. At the meeting we saw other people from
23 Ngabulo and went to the meeting.
24 Now, when we actually got there, Salumu and his soldiers were already waiting for us at
25 the location. When we arrived, the local people saw us and followed us until we joined

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1 Salumu on Sangi hill.

2 Now, I can cite the names of a few people who were organising or organised that meeting.

3 Now, on that day (Redacted)

4 (Redacted), but other

5 people left with those soldiers in Kobu. And all of this was because Salumu had issued

6 threats against us. So that was the third meeting. I've mentioned people, Burombi,

7 Dyikpanu. All of those people were killed. And all the other peoples whose names I

8 mentioned.

9 Q. [10:13:55] You mentioned a name, and in the English transcript it was captured as
10 Dyikpanu. Could I ask you to spell that name if you're able to spell the name of the
11 person you mentioned. Igwanu (phon) or Dyikpanu?

12 A. [10:14:20] It is Dyikpanu. Dyikpanu is D-Y-I-K-P-A-N-U. I think that's how one
13 would write his name.

14 Q. [10:14:48] So Dyikpanu, is that correct?

15 A. [10:14:56] Dyikpanu. Dyikpanu.

16 Q. [10:15:01] All right. Thank you for that clarification.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

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25 (Redacted)

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12 THE INTERPRETER: [10:22:55] Your Honour, could you ask the witness to please slow
13 down. This is a request from the Swahili booth.

14 PRESIDING JUDGE FREMR: [10:23:00] Mr Witness, as I told you in the beginning and
15 I have to repeat that sometimes you are too fast so we then don't get precise translation, so
16 please in the interest of really get everything you said, please slow down, all right?

17 MR IVERSON: [10:23:32] Thank you, Mr President.

18 Q. [10:23:32] Sir --

19 A. [10:23:34] Yes, I will.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE FREMR: [10:27:15] Again, slow down a bit, yes?

18 THE WITNESS: [10:27:20] Ndiyo.

19 MR IVERSON: [10:27:23]

20 Q. [10:27:23] And, sir, could I ask you -- sir, could I ask you -- I'd like to ask you to
21 explain to the Chamber what happened to the Lendu dignitaries and merchants who
22 stayed behind at the meeting?

23 A. [10:27:55] Well, as I said before, and maybe I should say it slowly, the message was
24 sent from Gutsi. The dignitaries of Gutsi had a Motorola phone which they had obtained
25 at the Mongbwalu battle when all of the Lendu were repelled from Mongbwalu. That

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1 was in October, September 2002.

2 So all of the Lendu leaders had left Mongbwalu, they'd all been forced out. And since
3 then the main road had been occupied by the UPC. It was then that they got their hands
4 on a Motorola phone and they took it to Gutsi. All of us, all of our leaders, all of our
5 merchants that day was the day of our death because that day they wanted to get all of the
6 Lendu and exterminate all the Lendu.

7 However, the Lendu heard what the UPC were saying via the Motorola phone, they heard
8 the UPC soldiers' discussions and they heard those people say "Apprehend all of them."
9 They heard that via Motorola.

10 And a dignitary called (Redacted) was sent from Gutsi to inform all of the Buli dignitaries
11 to not attend the peacemaking meeting. "If you go, we've heard what they are planning
12 and we've heard it via Motorola."

13 Now, personally I don't know, I've never used a Motorola, I don't know how to or I
14 wouldn't know how to change frequencies. And that's why the leaders of Gutsi and Buli
15 did not attend the meeting. And if we had had the information, we wouldn't have gone
16 to the peacekeeping meeting or peace-making meeting, but we didn't get the information
17 sent by the Gutsi residents.

18 Q. [10:30:54] Sir, I'm sorry -- I'm sorry to interrupt you, but you've been over this, you
19 mentioned this before. It was interpreted, just to make sure that you understand that.
20 My question is if you could explain what happened to the Lendu dignitaries and
21 merchants who stayed at that meeting in Sangi, if you know?

22 A. [10:31:33] Well, not many Lendu dignitaries actually turned out for the meeting
23 because they knew what the UPC soldiers had been saying about the meeting at Sangi via
24 the Motorola.

25 Now, those of us who were in (Redacted) hadn't been aware of the message and that's

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1 why we had gone to attend the meeting. They had followed the messages via Motorola
2 and that's why many Lendu dignitaries did not turn out for the meeting.

3 Q. [10:32:17] All right. When (Redacted) Sangi, were there other Lendus
4 who stayed behind? And you can answer that with a yes or a no.

5 A. [10:32:44] Now, when (Redacted), when we left Sangi -- I'm afraid I
6 haven't -- I don't recall what your question was.

7 Q. [10:32:58] All right. You described a meeting at Sangi with Salumu on 25
8 February 2003. (Redacted)

9 (Redacted). What I'm asking you is what happened to those
10 people who stayed behind at the meeting? Not the UPC members but the other people,
11 what happened to them if you know?

12 A. [10:33:39] (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted) It was just at the time that I had left the Sangi hill. And sometime afterwards,
17 when we arrived in Ngabulo, I heard shooting from Sangi where the meeting was being
18 held and I hurried and I fled. Everybody who went to Ngali turned around. As
19 regards the others who were at the meeting, that is to say Burombi, Dyikpanu and other
20 people, as well as the civilian population who had participated in the meeting, all of them
21 were caught and they were taken to Kobu. And they killed them, they massacred them,
22 all of the people who remained at that meeting. If God hadn't given us the grace to
23 (Redacted) to flee, then we would have also died on that day, that is to say 25
24 February. And that is how even today when I go through that place, Sangi, I am very
25 sorrowful. And afterwards, after this event, I stayed for a whole week. I was ill. I

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1 didn't go out. And this incident still torments me to this very day. It was 29 February
2 that we went to see that these people had been executed.

3 Q. [10:36:47] And I understand that this may be difficult, sir, but I'd like to ask you to
4 describe the scene you witnessed when, on 29 February, you went to see these people that
5 had been executed.

6 A. [10:37:20] This is what happened: On the 25th, when I heard gunfire around
7 Sangi, it was around where I was, there was Petsi, Sangi, Kobu, Lipri, they were behind us.
8 I would say I heard gunfire, and soldiers apprehended everybody who had been at the
9 meeting and they took them to Kobu. And in Petsi there were soldiers who were
10 shooting as well. They took the Petsi road. It has to be said as well that in Kobu they
11 also planned that everybody would go to Buli, that's to say those who were in Petsi where
12 there was the shooting, they also had to go to Buli. And those who were in Kobu, they
13 also had to go through Sublenja (phon) and they also had to go to Kobu, to Buli. It was
14 on that day that we heard the words that were addressed to the Lendu, "Shika na mukono.
15 Shika na mukono." Commander Salumu said them. And all night they were singing in
16 Buli. They spent the night in Buli. And it was on that day that in Buli, Sangi and all the
17 localities in the surrounding area, Pelié (phon), *Litchoue (phon) were pillaged. The
18 villages were set alight. All the people who were on their way were pillaged as well. It
19 happened all night. And that is how we were asking ourselves, "what are we going to do?
20 We don't have any other means. Everybody has to await their death."
21 So I'm speaking about the Lendu, but the Lendu know their region very well and so they
22 were going to hide and see what was happening from a hiding place. All these groups
23 stayed in Buli on the 26th. All the Lendu, they had to meet in Buli. And that is how on
24 the 26th, 26 February, goods were pillaged, motorbikes, goats, were also pillaged from
25 this locality. And the following day, the 27th, all the Lendu who were around saw troop

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1 movements, UPC troop movements. They were coming from Mongbwalu. They were
2 arriving in Kobu, and from Kobu they took the Petsi road in order to go to Lipri.
3 So the Lendu population saw troop movements of the UPC who were continually going
4 and these inhabitants, the members of the population, they were asking themselves, "Why
5 are all these troops going through?" And they said to themselves, "Well, perhaps it's the
6 goods that have been pillaged which have been taken." And they also thought perhaps
7 there were people who had taken their goods in a vehicle to take them to Bunia.
8 And at that time the radio was speaking about what would -- what happened in the war.
9 We were following the radio at all times. Radio Candip was taken by the UPC.
10 It was only on 29 February that we went to see what had happened. The chief of general
11 staff of the UPC, according to the information that we had been given, was called
12 Kisémbu. So there was the chief of general staff responsible for operations, called Bosco,
13 and here I'm speaking about the 29th. As for me personally, I followed that from
14 the -- via radio. And there was an order given to their troops to leave different positions
15 where they were in order to return to Bunia, and that's the reason why those who were in
16 Mongbwalu and Kobu left those localities in order to get to Bunia. Even those who were
17 in Lipri, left Lipri in order to go to Bunia. And in Bunia they had to reorganise
18 themselves in order to plan more attacks together with the UPDF forces, and that is why
19 they asked their troops to return to Bunia. It was the 29th.
20 Now, we had been informed that the UPC troops had left Kobu and that's what gave us
21 the courage to leave where we were in order to go to Kobu, in order to check up on what
22 had happened, coming from (Redacted)
23 (Redacted)
24 (Redacted) We went to see what had really happened. And it was on that day
25 that we noted that there really was a plan to execute all the Lendu. They'd called them to

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1 a meeting with the intention of executing them. Burombi, Dupenyié (phon) and other
2 people, even pregnant women were disembowelled. And from that day on, I suffer.
3 From what I experienced myself, I suffer from (Redacted) as a result.

4 PRESIDING JUDGE FREMR: [10:45:33] Mr Bourgon, I guess that -- Mr Bourgon.
5 Mr Witness, the question, I think, was clear, whether you could describe your knowledge
6 of this execution of those who had been captured, but you are describing many other facts
7 which are not so relevant to this question. So, please, could you just tell us whether you
8 have seen the execution and, if not, how you get knowledge of this execution, please?
9 And please focus just on this.

10 THE WITNESS: [10:46:09] (Interpretation) The bodies of Burombi and other people
11 with whom we were, as well as people who I wasn't able to identify, all these bodies, I can
12 say there were approximately 54. And what really shocked me as well was to see
13 Burombi and all the other people with whom we had been, to see their bodies in the
14 banana field near the Paradiso.

15 MR IVERSON: [10:47:22]

16 Q. [10:47:24] And you mention Burombi. Do you know what happened to
17 Dyikpanu --

18 A. [10:47:35] Yes, I was together with Burombi. There were other people there as
19 well with whom we were and their bodies were lying on the ground.

20 Q. [10:47:52] Let me ask that again: Do you know what happened to Dyikpanu, the
21 other person that you mentioned?

22 A. [10:48:23] A lot of people weren't executed with a rifle. I think they were
23 strangled or they were killed by machetes. Others had been executed without using
24 rifles. I would say a lot of people were executed by hand, with machetes. They used
25 strength to execute them. Some of them were disembowelled, even pregnant women as

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1 well. They took the foetus out of the women. And you don't use a rifle to do that, you
2 use something else, in order to disembowel a woman. All that made me very sad. The
3 civilian population arrived to identify their families. It created great sorrow. I also
4 found the body of (Redacted)

5 PRESIDING JUDGE FREMR: [10:50:00] Mr Witness, how many bodies approximately
6 you had seen there?

7 THE WITNESS: [10:50:13] (Interpretation) We counted all the bodies, including
8 children; it was approximately 54. It was very hard to stay a long time in that place. A
9 lot of people had been killed. A lot of people came to see who had been killed.

10 PRESIDING JUDGE FREMR: [10:50:47] Thank you.

11 MR IVERSON: [10:50:49]

12 Q. [10:50:49] And, sir, can you tell the Chamber whether the person you previously
13 named Dyikpanu was among those you found dead in Kobu?

14 A. [10:51:13] I'm sorry, I didn't get your question. Please excuse me, I didn't
15 understand your question.

16 Q. [10:51:31] You previously mentioned a person named Dyikpanu, and I'm sure my
17 pronunciation is not 100 percent correct, can you tell the Chamber whether this person
18 Dyikpanu was among those dead in Kobu?

19 A. [10:51:58] Dyikpanu, he was one of the people who was executed. Those who
20 had been executed in Kobu, his body was with the other bodies. Burombi too, he was
21 also there, his body was among the other bodies. All the people who had been
22 apprehended in Sangi, and others too, those who had gone to the meeting, had been
23 executed.

24 Q. [10:52:59] And I'd like to ask you about a different topic, so in the same time frame,
25 in the months surrounding February 2003, both before and after, what information, if any,

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1 did you hear about the UPC's commission of sexual violence?

2 A. [10:53:43] I would say the following:

3 PRESIDING JUDGE FREMR: Sorry, Mr Witness --

4 THE WITNESS: (Interpretation) We were the persons (Redacted)

5 (Redacted)

6 PRESIDING JUDGE FREMR: [10:53:55] Mr Witness, please hold on. We have to listen
7 to Defence counsel first.

8 Mr Bourgon.

9 MR BOURGON: [10:54:01] Thank you, Mr President. We object to this line of
10 questioning, which is much too broad and much too vague. The question itself is:
11 What did you hear about? Many people in the area at the time heard about different
12 rumours. The probative value that could be attached to any answers to be provided by
13 the witness would be so little that I don't think we should get into this line of questioning.
14 Thank you.

15 PRESIDING JUDGE FREMR: [10:54:32] Mr Iverson, I have to say that I also may
16 appreciate at least if Mr Witness have some, even conveyed knowledge of some specific
17 crimes of this type, but not really to articulate questions what you heard about any crimes,
18 maybe just some specific, specific crime.

19 MR IVERSON: [10:54:56] Respectfully, Mr President, I would like to ask the general
20 question first and depending on his answer, I can explore it further, or if he says no, then
21 that's the end of this line of questioning.

22 PRESIDING JUDGE FREMR: [10:55:07] But please have in mind my
23 yesterday's -- Friday's guidance about the way how this witness should be --

24 MR IVERSON: [10:55:15] I do understand that --

25 PRESIDING JUDGE FREMR: -- guided.

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- 1 MR IVERSON: -- Mr President.
- 2 PRESIDING JUDGE FREMR: [10:55:17] Fine, fine.
- 3 MR IVERSON: [10:55:18] And I will do my best --
- 4 PRESIDING JUDGE FREMR: [10:55:19] Because sometimes --
- 5 MR IVERSON: -- I promise.
- 6 PRESIDING JUDGE FREMR: -- general questions are not ideal in this case.
- 7 Okay, go ahead.
- 8 MR IVERSON: [10:55:24] All right. Thank you.
- 9 Q. [10:55:26] Sir, had you heard any specific information about the UPC committing
- 10 sexual violence during this time frame?
- 11 PRESIDING JUDGE FREMR: [10:55:53] Sorry, Mr Bourgon.
- 12 THE WITNESS: [10:55:54] (Interpretation) I would say --
- 13 MR BOURGON: [10:55:55] Which time frame, Mr President? It's much too broad.
- 14 Are we talking about the events in February? Are we talking about the war? What are
- 15 we talking about? Thank you.
- 16 PRESIDING JUDGE FREMR: [10:56:08] Yes, I would also appreciate at least some
- 17 specification of time.
- 18 MR IVERSON: [10:56:13] I'll do that. When I say "this," I'm of course referring back to
- 19 my last question where I specified the time frame.
- 20 Q. [10:56:21] So the time frame I'm asking you about is the months surrounding
- 21 February 2003, so say from November 2002 until approximately March or April 2003, are
- 22 you aware of any specific information about the UPC's commission of sexual violence?
- 23 A. [10:57:03] With regards to sexual violence I would state the following: (Redacted)
- 24 (Redacted)
- 25 (Redacted), when the UPC had

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1 occupied Nyangarai, Lipri and the members of the population were in the bush, people
2 arrived into the fields to steal their harvest. There were people who came to pillage their
3 harvest and that's the reason why the members of the population started to defend
4 themselves.
5 (Redacted) a report saying
6 three young women, one from Longbu (phon), a surrounding village, so three young
7 women had gone to the fields to get sweet potatoes, and at that time UPC forces were
8 close to Nyangarai. These UPC troops, therefore, met these young women who were in
9 the fields and they tied them up with their pagnes, their wraps, and the village chiefs saw
10 that, and they said that the troops tied them up with their pagnes, they raped them and
11 they executed them. And an elder who was in Longbu, as he couldn't flee, he was burnt
12 when he was in his house. They also set fire to other houses.
13 (Redacted) in Nyarara two women, one called
14 (Redacted), and UPC forces from
15 Lipri also found them in their fields but didn't kill them, but they took them as their wives
16 and they took them as sexual slaves, they took them to Lipri. And they held them as
17 their wives but they didn't kill them.
18 And when these troops were sent elsewhere these women fled. They took the
19 Gueli (phon) road through the forest. There's a stream which went to Nyarara, their
20 home, and these women were taken there to get health care in the health care centre in
21 Buli where they do a blood sample analysis. And the woman from Kobu transported the
22 property of a soldier to Buli and this woman had also been raped.
23 That's the information (Redacted)
24 (Redacted). These
25 were events which took place between the 18th and the 25th.

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1 It's -- it was a period which was extremely difficult.

2 PRESIDING JUDGE FREMR: [11:02:02] Sorry to interrupt. You said they reported,
3 did they report it orally or in writing?

4 THE WITNESS: [11:02:27] (Interpretation) Well, you see after all of these events,
5 when the UPC soldiers had pulled out of the locality, (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 PRESIDING JUDGE FREMR: All right. That's fine.

10 THE WITNESS: (Interpretation) -- came to us, the (Redacted) as well.

11 PRESIDING JUDGE FREMR: [11:03:11] And what was the purpose of those reports, if
12 any?

13 THE WITNESS: [11:03:32] (Interpretation) Well, what did they need back then?

14 They needed facts such as the three women who had been executed in their fields.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted) had been executed but later he discovered that they had not been executed

19 and had been able to escape.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 PRESIDING JUDGE FREMR: All right.

24 THE WITNESS: (Interpretation) All they could do was report what they knew, nothing
25 more, and then it was up to us to note what we were told, if something had happened or

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1 (Redacted)

2 (Redacted)

3 PRESIDING JUDGE FREMR: [11:05:19] Mr Iverson, sorry for interrupting you, if you
4 want just to finish, maybe still -- even if we -- generally, I wanted to break but if you
5 wanted to wrap up, you can just put one or two questions.

6 MR IVERSON: [11:05:33] That's what I'd like to ask to do and I think I can --

7 PRESIDING JUDGE FREMR: Yes.

8 MR IVERSON: -- I hope I can do that relatively quickly.

9 PRESIDING JUDGE FREMR: All right.

10 MR IVERSON:

11 Q. [11:05:37] Sir, you mentioned that these events happened between the 18th and the
12 25th, would that be the 18th and 25 February 2003?

13 A. [11:05:48] Ndiyo.

14 MR IVERSON: [11:05:50] All right. That answers all my questions. I have no further
15 questions, sir.

16 THE WITNESS: (Interpretation) Yes.

17 MR IVERSON:

18 Q. Thank you very much.

19 PRESIDING JUDGE FREMR: [11:05:56] Thank you. So we will break now and we
20 will continue at 11.35.

21 And first, please, court officer, take Mr Witness out of the courtroom. I would like to put
22 one question in his absence. And in the meantime, court officer, let's move into open
23 session.

24 (The witness stands down)

25 (Open session at 11.06 a.m.)

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1 PRESIDING JUDGE FREMR: [11:06:44] Mr Iverson, as concerns timing, according to
2 my information, you still have roughly 1 hour 30 minutes. Do you think you will need
3 all that time?

4 MR IVERSON: [11:06:53] I'm sorry, I didn't make myself clear, I've actually completed
5 my questioning.

6 PRESIDING JUDGE FREMR: [11:06:59] Oh, okay.

7 MR IVERSON: [11:07:01] Yes, completely.

8 PRESIDING JUDGE FREMR: [11:07:02] All right, that's fine. So it means that we will,
9 after the break, continue with cross-examination. And since we still, there's some time
10 passed in the meantime, so we will then continue at 11.40.

11 Mr Bourgon.

12 MR BOURGON: [11:07:23] Mr President, two quick points: One, will the Chamber be
13 issuing a ruling on the request for the lifting of redactions? And number two is I would
14 like to ensure that although my colleague ended his examination-in-chief quicker than
15 expected, that I will have all the time allotted because I have many questions for this
16 witness. Thank you, Mr President.

17 PRESIDING JUDGE FREMR: [11:07:49] As to the ruling on redactions, as I said, we
18 will first see this material, so I originally hoped that they will be able to make it during the
19 break.

20 And you have been allotted four and a half hours, so did I understand well that you
21 would like to get more than four and a half?

22 MR BOURGON: [11:08:18] No, Mr President, just the four and a half I have been
23 allotted, but because my colleague was shorter, I just don't want to be -- that my time be
24 taken off because my colleague was shorter.

25 PRESIDING JUDGE FREMR: [11:08:30] Yeah, yeah, I see. Understood. It is all right.

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1 So now Mr Iverson.

2 MR IVERSON: [11:08:35] Yes, Mr President, I would just like to put on the record the
3 Prosecution's position in light of the fitness of the accused, stated this morning that he is
4 fit to attend, that we would ask the Chamber to enforce its 9 September 2016 order, and
5 that if he is fit to be present in the courtroom, and not, that he should be sanctioned for
6 every day that he fails to attend the proceedings. That's the Prosecution's position.
7 Also, we would ask, we're not aware of the -- the background of the medical personnel
8 looking into the matter. The request is simply that we ensure that someone with a
9 forensic background is used to ensure that the -- the issue of malingering is looked at
10 carefully, malingering being faking an injury or illness in order to avoid some kind of
11 duty, his duty to be present, and not just looking at the accused as a patient, but rather as
12 a subject and that there's a forensic examination into these matters. Thank you.

13 PRESIDING JUDGE FREMR: [11:09:50] Yeah, there are some steps in progress, so I
14 guess we will inform you on that in good course.

15 Now, we break and I believe we can continue at 11.40.

16 THE COURT USHER: [11:10:07] All rise.

17 (Recess taken at 11.10 a.m.)

18 (Upon resuming in open session at 11.57 a.m.)

19 THE COURT USHER: [11:57:16] All rise.

20 Please be seated.

21 PRESIDING JUDGE FREMR: [11:57:36] So I was ready to render our oral ruling
22 concerning request on further disclosures, but we were informed that Mr Bourgon would
23 like to address the Chamber again.

24 Mr Bourgon, any new issue that we should know?

25 MR BOURGON: [11:57:59] There's not -- not a new issue, Mr President, however, I'd

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1 like to follow up on the Prosecution's request for sanctions to be imposed on Mr Ntaganda,
2 and the fact that the doctor, the chief medical officer from the detention centre, concluded
3 this morning that Mr Ntaganda was fit to travel to court.
4 The first issue, of course, is that we still do not have any detailed medical report.
5 The -- last week I informed the Chamber I did not have sufficient information. I was
6 contacted by the chief medical officer of the detention centre. I was informed that I had
7 received a medical report which was not the proper medical report because it contained
8 erroneous information because it had to be done over again, and even that the report was
9 prepared for a different patient, which was quite kind of confusing.
10 We did find a report that was addressed to me and we did -- we acted -- we did not act
11 upon this report. This report was compiled in the Dutch language.
12 I requested, of course, from the chief medical officer, this is Dr Falke who was referred to
13 this morning, for the medical report which we have not received. Mr President, we
14 believe that it is very important to get not only the medical report but an independent
15 medical assessment, especially in light of the conclusion that Mr Ntaganda is fit to be
16 brought to court, to travel to the court.
17 Last week, on Tuesday, we are talking about 13 September, Mr Ntaganda was found by
18 the same doctor not to be fit to travel to court. We are one week later. Mr Ntaganda has
19 not eaten since that time. I -- it is surprising, to say the least, that today we would be
20 found to be fit to travel to court. And we are also waiting for a copy of that medical
21 report.
22 So I think, Mr President, that it is important, one, to obtain the information and, two, to
23 have a real independent assessment, both psychological, but also even physical
24 examination.
25 Thank you, Mr President, that's all I wanted to put on the record before we started the

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1 cross-examination. Thank you.

2 PRESIDING JUDGE FREMR: [12:00:46] Well noted.

3 Mr Iverson, do you want to make any comments from the Prosecution part?

4 MR IVERSON: [12:00:56] No, thank you, Mr President.

5 PRESIDING JUDGE FREMR: [12:00:58] All right.

6 Then I now can deliver our oral ruling on Defence request for lesser redacted version of
7 investigation note DRC-OTP-2089-0415; and it is possible to deliver it in public session.

8 The Chamber will now deliver its oral ruling on the Defence request for a lesser redacted
9 version of investigation note DRC-OTP-2089-0415.

10 As a preliminary matter, the Chamber commends the parties for following the procedure
11 under the redaction protocol and first attempting to resolve the issue inter partes before
12 seizing the Chamber.

13 However, in the future, and as previously stated, the Chamber expects such disputes to be
14 resolved or brought to the Chamber's attention well in advance of the testimony of the
15 relevant witness.

16 The Chamber notes that the contested redactions are at paragraphs 1 to 9 in the section of
17 investigation note entitled "Credibility of the witness."

18 These portions have been redacted by the Prosecution on the basis of being Rule 81(1)
19 material; namely, so-called internal work product, and which the Prosecution submits
20 should not be subject to disclosure.

21 Having reviewed an unredacted version of the investigation note, the Chamber is of the
22 view that certain redactions to the investigation note do not appropriately fall under Rule
23 81(1) of the Rules. The Chamber, therefore, orders the following portions to be disclosed:

24 The second paragraph of section 2 in the "Credibility of the witness" section, with the
25 exception of the first seven words and the first sentence of paragraph 3 of that section.

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1 The remaining redactions are considered to fall appropriately under Rule 81(1).
2 This concludes the Chamber's ruling. In fact, not concludes because I would like to add
3 that, in our view, and it should also be guiding parties for further similar cases, that we
4 made a distinction between subjective conclusions made by investigator and those parts
5 of logs that really contain some information that were of objective nature. So we defer
6 also that the parties should find distinction in those kinds of information and proceed
7 accordingly with our, today's, decision.
8 Now -- so please, Prosecution, we would like to allow at least -- because it is just a very,
9 very short part of this log, to disclose it to Defence in order to allow them at least during
10 the break to become acquainted with that and use it, if they would find such a need to use
11 them for the rest of their cross-examination.
12 Now, court officer, please bring our witness into the courtroom. And we will give floor
13 to Defence of their cross-examination of this witness.
14 (The witness enters the courtroom)
15 PRESIDING JUDGE FREMR: [12:05:47] Welcome back, Mr Witness.
16 Before we start, because now it will be Defence who will cross-examine you, I would like
17 to emphasise two things.
18 First of all, the fact that even if you are called as a Prosecution witness, you have a duty to
19 respond to all questions put to you by the Defence in the same style how you did it with
20 questions put to you by Prosecution because both parties should be treated equally, in
21 accordance with a principle that is governing this court and it is the principle of fair trial.
22 And the second issue, I don't want to cut you when you are giving your responses, but
23 sometimes I have to make it because, and why? Because sometimes you are, after the
24 question is put to you, providing a lot of information, and some of them, even if they are
25 interesting, might not be relevant for the counsel. So please try to focus just on the

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1 question and limit your response to the fact closely relating to this question. Do you
2 understand?

3 THE WITNESS: [12:07:36] (Interpretation) Yes, I understand.

4 PRESIDING JUDGE FREMR: [12:07:41] Very well.

5 Mr Bourgon, you have the floor.

6 And, sorry, habitual question, do you want to proceed in open or in private session?

7 MR BOURGON: [12:08:00] I believe we need to begin in private session, Mr President.

8 PRESIDING JUDGE FREMR: [12:08:05] All right.

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

10 (Private session at 12.08 a.m.) *(Reclassified partially in public)

11 THE COURT OFFICER: [12:08:26] We're in private session, your Honour.

12 PRESIDING JUDGE FREMR: [12:08:29] Thank you, court officer.

13 Mr Bourgon, you may proceed.

14 MR BOURGON: [12:08:33] Thank you, Mr President.

15 QUESTIONED BY MR BOURGON:

16 Q. Good morning, Mr Witness.

17 A. [12:08:46] Good afternoon.

18 Q. [12:08:48] We've had the -- you have had the opportunity to meet with my

19 colleagues last week, but unfortunately I was not present, so I'd like to begin by

20 introducing myself. My name is Stéphane Bourgon, I am the counsel representing

21 Bosco Ntaganda. Do you understand this, sir?

22 A. [12:09:19] Yes, I have understood.

23 Q. [12:09:23] I have quite a few questions to ask you, and we'll spend the next few

24 hours together. And I don't think I need to say anything further in terms of taking a

25 pause between answer and question, and also to try and keep your responses as short and

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1 as focused as possible.

2 The first topic I would like to address is your meeting with the Prosecution last week. It's
3 my understanding that you recall meeting with the Prosecution representatives last week
4 between 9 and 13 September; is that correct?

5 A. [12:10:28] Yes.

6 Q. [12:10:31] Sir, these meetings between witness about to testify and the Prosecution
7 are common procedure, and once these meetings are over, the Prosecution provides the
8 Defence with a document which is called a "Preparation session log." Were you aware of
9 that, sir?

10 A. [12:11:19] No. What, for example?

11 Q. [12:11:22] I would just like to confirm that -- or, to inquire whether you were
12 informed that what you discussed with the Prosecution last week would be reported to us
13 by way of a written note; were you informed of this, sir?

14 A. [12:12:01] No, they didn't say that to me.

15 Q. [12:12:04] Well, I just thought it was important for me to mention that because I
16 have a few questions related to what you told the Prosecution during these meetings, and
17 I just wanted to ensure that you were aware that I have this information with me.

18 Sir, during this session, or these sessions, would I be correct in saying that you were able
19 to see your previous statements?

20 A. [12:12:59] Yes, they gave me that statement.

21 Q. [12:13:03] According to the information that I have here, it says that you had the
22 opportunity to review some material, and I'd like to show you this material just to be sure
23 that you did -- that you recognize what material you were shown. I'd like to begin by
24 showing you the first page of a witness statement.

25 MR BOURGON: And if I can have on the screen, please, DRC-OTP-0073-0381.

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1 Q. Sir, this statement will appear on the screen before you.

2 Sir, do you see this page before you on the screen?

3 A. [12:14:24] Yes, I can see it.

4 Q. [12:14:27] Now, I'm not sure whether you can read what is on this page. What is
5 important to me is I'd like to confirm that what is written there, that you can confirm that
6 you met with Prosecution representatives in the republic -- the Democratic Republic of the
7 Congo and that took place on (Redacted); do you recall this meeting, sir?

8 A. [12:15:21] Yes, I recall. It was in Bunia.

9 Q. [12:15:27] And, sir, would you agree with me that --

10 A. [12:15:43] Yes.

11 Q. [12:15:46] -- would you agree with me that when you answered the questions of
12 the Prosecution during this interview, that you answered all questions to the best of your
13 knowledge; is that correct?

14 A. [12:16:16] Yes.

15 Q. [12:16:20] Now, I'd like to turn to page 14 of this document.

16 MR BOURGON: If I can have on the screen, please, the last three digits is 394.

17 Q. [12:16:41] Sir, do you see this page before you?

18 A. [12:16:55] Yes.

19 Q. [12:16:56] Do you recognize your signature?

20 A. [12:17:12] Yes, that's my signature.

21 Q. [12:17:16] Sir, I will just read you the first sentence of this page and ask you to
22 confirm. This paragraph reads as follows; I will read in French:

23 (Interpretation) "I declare by honour and in full -- on the full basis of my conscience that
24 the information set out in this statement has been re-read by me personally and correctly
25 reflects (Redacted)

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1 (Speaks English) You confirm this, sir?

2 A. [12:18:05] Yes, I confirm.

3 Q. [12:18:11] I return now to your meeting with the Prosecution last week, during
4 which a second document was shown to you, and this is a statement which was obtained
5 (Redacted). I will show you the first
6 page of this document.

7 MR BOURGON: [12:18:51] And I would like to have on the screen
8 DRC-OTP-2058-0002.

9 Q. [12:19:25] Sir, I draw your attention to the page that is before you on the screen and
10 I'd like to focus on the times and the dates when you meet -- or, when you met with the
11 Prosecution. And according to what I have this -- on this first page, you met with the
12 Prosecution representatives on (Redacted)
13 (Redacted). Does that -- do you recall those meetings with the Prosecution on
14 those dates?

15 A. [12:20:46] Yes, that was in (Redacted). I met with that delegation. We were invited
16 to attend in (Redacted) on a number of occasions.

17 Q. [12:21:01] As I did for the previous statement, I would like to call the last page of
18 this statement and ask you to recognize your signature.

19 MR BOURGON: Again, this is page 14, and the last four digits of the number is 0015. If
20 I can have this page on the screen, please.

21 Q. [12:21:39] Sir, do you recognize your signature?

22 A. [12:21:58] Yes, I recognize my signature.

23 Q. [12:22:06] I will proceed to read the first sentence of this paragraph, which goes as
24 follows, in French:

25 (Interpretation) "I have read this statement in French and I confirm that it is truthful to

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1 my knowledge and recollection."

2 (Speaks English) Do you maintain this testimony today, sir, or this statement? Sorry.

3 I'm not sure if you did respond. I'm just asking you if you confirm this statement that

4 you read this statement I have just shown you in French and that you confirmed that it

5 was (Interpretation) "Truthful to my knowledge and recollection."

6 A. [12:23:33] Yes, I agree. And you see my signature there also.

7 Q. [12:23:47] The first topic I'd like to address, Mr Witness, is the circumstances in

8 which you came to meet with the Prosecution the first time. So we go back to your

9 statement (Redacted). Explain to us how this took place that you

10 became -- that you were called upon to be interviewed by the Prosecution.

11 Sorry, I made a mistake, sir. I'm talking about the first, I'm talking about of course

12 (Redacted) I apologise. The first statement.

13 A. [12:24:57] Yes, I'm following you. Do continue.

14 Q. [12:25:06] So I'd like to hear from you, sir, how is it, how did that take place that

15 you met with the Prosecution to provide this statement?

16 A. [12:25:43] Yes. Well, I had no problem with it, none of us had a problem with it.

17 All we knew was that a delegation was going to come and was going to investigate what

18 had happened. We didn't know the people from the Prosecutor's office. We were living

19 at home in (Redacted)

20 So we received a call and we received a delegation of prominent people who live in

21 (Redacted) Then when they came they told us that a delegation had come to conduct

22 investigations into what had happened in our area. And that is how these (Redacted)

23 (Redacted).

24 (Redacted)

25 (Redacted). So similarly, on this day I

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1 was called, and so it was that I went with somebody called (Redacted)
2 (Redacted). That was for the first meeting. Lendu were
3 asked to attend. We heard that a delegation had come from Europe and that we should
4 go and explain to them what had happened.
5 So that's how (Redacted) and I came to go and meet with the representatives of the Office
6 of the Prosecutor.

7 Q. [12:28:42] Following up on your answer, sir, my question first is: You mention
8 "us" and you mention "we". Who are you referring to? Just limit yourself to who is "us"
9 and who is "we."

10 A. [12:29:15] Well, I don't know what you mean by specifically. We received a
11 message from (Redacted) telling us that we had to go
12 and meet with investigators who had come from Europe to recount what had happened in
13 our area. I can't say specifically who. What I know is that people had come from here
14 and that's how we came to make a statement.

15 Q. [12:29:53] Maybe my question was not precise enough. When you say "We
16 received information and that's how we came about to provide a statement," are you
17 talking about you personally or you and other people?

18 A. [12:30:34] There are (Redacted). They came to us
19 to tell us that a delegation had come from Europe to carry out an investigation into what
20 had happened in our area. And that's how we came to travel, (Redacted) and myself,
21 that is to say. However, (Redacted) because
22 they were meeting with a lot of people, they would meet with each person individually.

23 Q. [12:31:22] So I understand from your answer, sir, that the first step was the -- the
24 visit from (Redacted). Who were they? Can you give us
25 their names?

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1 A. [12:31:51] The (Redacted) who came was called (Redacted).

2 Q. [12:32:07] Can you please -- I see the spelling on the screen here for (Redacted)

3 (Redacted) Are you able to confirm that this is the correct spelling?

4 A. [12:32:38] (Redacted)

5 Q. [12:32:51] Sir, who is this individual? How -- what kind of (Redacted) is he and
6 what do you know of him before he came to see you?

7 A. [12:33:30] (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted) and we often met there.

15 Q. [12:35:16] Sir, could you provide us the full name of this (Redacted)? Do you
16 have his first name, or...?

17 A. [12:35:45] I do not remember his first name.

18 Q. [12:35:50] If I mention to you, sir, the name (Redacted), would that be -- does
19 that refresh your memory?

20 A. [12:36:13] Thank you, I had -- I had forgotten his first name. We all knew his
21 name. We all knew him by the name (Redacted). We even
22 used to spend the night at his place. We know him very well. His names are (Redacted)
23 (Redacted)

24 After we went to (Redacted), then we met with the delegation that had come.

25 Q. [12:37:07] I'll come back to the meeting you had with (Redacted) at his place.

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1 You mentioned a little earlier that there were other (Redacted) working
2 together. Do you have any other names you can share with us that you are familiar
3 with?

4 A. [12:37:40] (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted). He is the one

9 we met before meeting with the representatives of the Office of the Prosecutor.

10 Q. [12:39:08] Thank you, sir. And when you met with (Redacted) before meeting with the
11 Prosecution, were there any other persons present at his house, if you can recall?

12 A. [12:39:38] No. It was just us and (Redacted). He took us to (Redacted) the
13 next day, but I do not know anyone else because I didn't see anyone else. We came with
14 (Redacted)

15 Q. [12:40:40] So am I right in saying that this meeting at (Redacted) place, there is yourself,
16 there is (Redacted) So only the three of you; is that correct?

17 A. [12:41:12] We did not stay at his place. The goal was for him to get us to meet
18 with the delegation. So (Redacted) and myself, we spent the night at his home. He and his
19 wife took us to the place where we met with the delegation. No one else was there. We
20 had spent the whole day at his place and then we went back after two days.

21 Q. [12:42:00] Thank you, sir. While you were at (Redacted) place, that you spent the
22 night there, do you -- it's my understanding, based on what you said, that he informed
23 you why this delegation had come from the Prosecution to speak with people from
24 (Redacted) is that correct?

25 A. [12:42:39] He came to (Redacted) in person and that is how we went back with them.

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1 Q. [12:42:50] Now, that was not the first time that you met with (Redacted) was it not?

2 A. [12:43:05] Pardon?

3 Q. [12:43:06] When (Redacted) it was not the first time you met with
4 him; you knew this man from before, correct?

5 A. [12:43:34] What I said is that (Redacted). When many people fled because
6 of the war, we had spent time with (Redacted) and in the forest to which
7 we had fled. What I'm saying then is that (Redacted) also experienced the war
8 with us in Lipri. We knew him during the time of war when we were hiding in the bush.
9 You see, it was difficult to return to (Redacted)

10 (Redacted)

11 (Redacted)

12 But we had been with (Redacted) in Lipri, all over the place, and during the war. You see,
13 even in 2002 when the governor came to Lipri with another delegation, I had a discussion
14 with (Redacted). We had discussions with the governor and
15 members of the UPDF at the time in 2002 or slightly before 2002.

16 Q. [12:45:45] Sir, before meeting the Prosecution in (Redacted) on the dates that we know,
17 would I be right in saying that you had the opportunity to discuss what happened during
18 the war on many occasions with (Redacted) Would that be a fair statement?

19 A. [12:46:32] Yes, we fled with (Redacted) during the war. I know (Redacted) very well
20 because he was the one who used to speak a lot. He -- when the FRDC troops came and
21 inflicted suffering on us and on the population, we went to seek refuge at (Redacted)
22 (Redacted)

23 So during the war we spent some time with (Redacted) in the forest, in the bush. We were
24 all in hiding together with him. So that was not my first meeting with (Redacted) Even
25 when they went to (Redacted) he was the one who talked about everything that happened

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1 during the war. (Redacted)

2 Q. [12:47:48] Sir, in fact, when I look at the statement that you provided to the
3 Prosecution, I'm talking about your (Redacted) statement, there's no need to show you the
4 page number, I'll simply refer to paragraph 25, when you say that (Redacted)
5 (Redacted) on the hill during the events that you testified about; is that correct, sir?

6 A. [12:48:36] Well, I have already said so. We were together with (Redacted) throughout
7 the war. (Redacted)

8 (Redacted) He is with someone with whom we went through the war together. It is
9 only after the war that he went to (Redacted)

10 (Redacted)

11 Q. [12:49:22] Sir, are you aware of (Redacted)

12 (Redacted)

13 A. [12:49:57] I have no specific information about that. You see, (Redacted)

14 (Redacted)

15 (Redacted) throughout that period.

16 Q. [12:50:41] Sir, are you familiar with the ONG called (Redacted)

17 A. [12:51:07] Yes, I have also -- I have already heard mention of such an NGO but I
18 don't know much about it. I live far away from (Redacted) and I do not know who does
19 what in (Redacted) It's difficult to be aware of these things. All I know, however, is that
20 (Redacted)

21 Q. [12:51:38] Sir, are you familiar with the ONG called (Redacted)

22 A. [12:52:13] Well, I'm not familiar with those types of NGOs. I'm not in a position
23 to know whether such-and-such (Redacted) NGO. So I
24 don't have any specific information about that. I am not familiar with the NGOs.

25 Q. [12:52:30] Sir, were you ever approached or did you have any dealings with the

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1 two ONG I just mentioned, (Redacted) I'm talking about you, yourself.

2 A. [12:53:19] Generally speaking, after the war, many NGOs were set up. Yes, there
3 were many NGOs but you need to be more specific to help me remember. I am not
4 familiar with the business of NGOs. I am not familiar with that. Only those living in
5 Bunia can provide you with clear information, so I don't know whether (Redacted)
6 (Redacted) I know nothing about that.

7 Q. [12:54:16] Sir, let me make my question more precise. I was simply inquiring
8 whether you had dealings with one of these two ONG, (Redacted)

9 A. [12:54:47] Well, I am telling you the truth here, I have never had any contact
10 whatsoever with an NGO so I'm not in a position to know what any of the NGOs were
11 doing. There were many NGOs in Bunia and I think it is only those who live in Bunia
12 who are in a position to give you information about NGOs. Those of us who live in the
13 village, we do not know anything about the activities of the NGOs. We had no contact
14 with them. We were not even in a position to know whether such-and-such an NGO
15 was doing such-and-such an activity because we had no contact with them. We had no
16 contact with the NGOs. I never saw any NGO anywhere, so I am not in a position to
17 know anything whatsoever about NGOs. Maybe, maybe those working with NGOs can
18 provide you with information about the NGOs.

19 Q. [12:55:47] Sir, as I've mentioned at the beginning when I started to ask questions,
20 you could have simply answered that you had no dealings with these NGOs so that we
21 could progress. I'm just inquiring into issues, and if you can answer the question by a
22 "yes" or a "no," it would be better.

23 My next question has to do with (Redacted) You mentioned earlier that he came to (Redacted) and
24 I'm asking you whether you are familiar with the fact that he recruited or that he selected many
25 people from (Redacted) to meet with the Prosecution; are you familiar with that, sir?

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1 A. [12:56:52] No, I was not aware of that. What I know is that we left (Redacted)
2 (Redacted), just two of us. Well, what happened is that (Redacted) and
3 went back. After (Redacted)

4 Q. [12:57:42] You mentioned earlier, sir, that there were many people who were
5 interviewed by the Prosecution on those days; do you recall saying that?

6 A. [12:58:04] No, I did not say many people from the OTP. What I know is that we
7 went with (Redacted), but I do not know whether he was interviewed on that day
8 because people were being received one by one, individually.

9 Now, when I went, I was interviewed alone. Now, whether he interviewed other people
10 or not, I do not know. The person who invited us is (Redacted)

11 Q. [12:58:54] Sir, are you familiar with the name (Redacted) Maybe I should be more
12 precise by saying (Redacted)

13 A. [12:59:33] Are you talking about (Redacted) I know an old man
14 in (Redacted) whose name was (Redacted) but I don't know who (Redacted) is. The one
15 I know is called (Redacted)

16 Q. [13:00:03] Sir, we were informed by the Prosecution that the individual who
17 established contact between them and you is called (Redacted). Does that
18 refresh your memory? (Redacted)

19 A. [13:00:48] Perhaps (Redacted) is connected with (Redacted), but the
20 person who acted as contact for me was (Redacted) So perhaps (Redacted)
21 (Redacted) is certainly the person who made it possible for me to meet
22 with the delegation, but I don't know (Redacted)

23 Q. [13:01:27] Sir, I have here an investigation note. It's a document drafted by an
24 investigator, and which was disclosed to us by the Prosecution, where the name
25 (Redacted) is mentioned. So I will read that paragraph or that note and ask you to

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1 provide an observation on it.

2 For the record I'm talking about DRC-OTP-2089-0415. I'm -- I believe this is the first page
3 of the document. And I'm quoting from page 1. And there is a section called "credibility
4 of the witness" and the second part of the first paragraph. Here's what we have here, sir.
5 Now, this information comes from the Prosecution.

6 "Witness (Redacted)" - we are in private session, sir - "gave demonstration of serious
7 misconducts as on the second day scheduled for the interview, he disappeared without
8 any further notice, spending the entire day (Redacted)
9 (Redacted). In addition, he claimed to not having been fed by intermediary
10 (Redacted)

11 Sir, do you recall the second day of your interview with the Prosecution?

12 A. [13:03:31] Well, we spent a number of days there. I don't know anything specific
13 about (Redacted) I can talk about (Redacted), however. The only person who
14 provided information to me was (Redacted)

15 Now, perhaps because both of them live in (Redacted), perhaps (Redacted) had contacts
16 with (Redacted), but I personally only know (Redacted) And it was (Redacted) who
17 passed on the information, who said that they needed us. If you've questions regarding
18 (Redacted) suggest that you put those to (Redacted) I have no information on him. I
19 didn't speak with this person (Redacted). I had no discussions with him.

20 Q. [13:04:37] Well, sir, my last question before we break for the lunchtime is simply,
21 the investigators here, based on what they say, is that "he," talking about you, "claim to
22 not having been fed by intermediary (Redacted)

23 Is this correct or is this not correct, sir?

24 A. [13:05:25] Really, I must apologise, but, for instance, when I came here I didn't
25 know how that would go, how that would come about. There's quite a number of people

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1 who assisted me with coming here, but (Redacted) no. I don't know (Redacted) The
2 only person I know is (Redacted) You're referring to (Redacted), but that really cannot
3 concern me. I only know (Redacted) All I knew was that representatives of the Court
4 were coming and I didn't pay any heed to who was coming, the only person I knew was
5 (Redacted) Perhaps this (Redacted) was also involved. Maybe I saw him, but I didn't have
6 any contact or any discussions with him. Really, I have not much information to give
7 you on this topic. As I said, perhaps (Redacted) had contact with (Redacted) But really I
8 don't have any further thoughts on that.

9 Q. [13:06:57] Thank you, sir. We'll pick up on that after the lunch break.

10 MR BOURGON: [13:07:01] Mr President, I believe the time has come for our lunch
11 break.

12 PRESIDING JUDGE FREMR: [13:07:05] It was even 7 minutes ago, but no problem.
13 Now let's move into public session.

14 (Open session at 1.07 p.m.)

15 THE COURT OFFICER: [13:07:24] We are in open session, your Honour.

16 PRESIDING JUDGE FREMR: [13:07:28] Thank you, court officer.

17 So we are going to take our regular lunch break, taking 90 minutes, which means that we
18 will reconvene at 2.40.

19 THE COURT USHER: [13:07:46] All rise.

20 (Recess taken at 1.07 p.m.)

21 (Upon resuming in open session at 2.42 p.m.)

22 THE COURT USHER: [14:42:31] All rise.

23 Please be seated.

24 PRESIDING JUDGE FREMR: [14:42:50] Good afternoon, everybody.

25 So we are going to continue with cross-examination of our witness. And this session will

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1 take until half past 4.

2 So now, Mr Bourgon, you have the floor.

3 MR BOURGON: [14:43:39] Thank you, Mr President. Just before I begin, I would like
4 to, with the Chamber's leave, to stop my cross-examination at five minutes before the end
5 just to address the situation of Mr Ntaganda.

6 PRESIDING JUDGE FREMR: [14:43:55] And are you sure that five minutes will be
7 enough for you?

8 MR BOURGON: [14:43:59] Well, I just have a question to ask as to where do we go
9 from here.

10 PRESIDING JUDGE FREMR: [14:44:04] All right.

11 MR BOURGON: [14:44:05] Thank you, Mr President.

12 Q. [14:44:09] Good afternoon, Mr Witness.

13 A. [14:44:16] Good afternoon.

14 (Redacted)

15 (Redacted)

16 PRESIDING JUDGE FREMR: [14:44:39] Sorry. Sorry, Mr Bourgon, I can see
17 Mr Iverson on his feet.

18 Mr Iverson.

19 MR IVERSON: [14:44:47] I would just that kindly that we go into private session,
20 please.

21 PRESIDING JUDGE FREMR: [14:44:51] Good point. I guess you are also in favour of
22 that.

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

24 (Private session at 2.45 p.m.) *(Reclassified partially in public)

25 THE COURT OFFICER: [14:45:19] We're in private session, your Honour.

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1 PRESIDING JUDGE FREMR: [14:45:21] Thank you.

2 Mr Bourgon, please proceed.

3 MR BOURGON: [14:45:24] Thank you, Mr President. I believe we have to redact
4 because I did say the name in my question.

5 PRESIDING JUDGE FREMR: [14:45:30] Exactly. I can confirm.

6 MR BOURGON: [14:45:34]

7 Q. [14:45:35] Mr Witness, I was referring to the last issue we covered before the break.

8 And I wanted to quote your response from lines 12 to 16 where you said the following:

9 "Perhaps this (Redacted) was also involved. Maybe I saw him, but I didn't have any
10 contact or any discussions with him. Really have not much information to give you on
11 this topic. As I said, perhaps (Redacted), but really I don't have
12 any further thoughts on that."

13 And my first question, Mr Witness, is the following: Did you see -- I need to -- based on
14 the information that we have, it is clear to us that (Redacted) was working very closely
15 with (Redacted) and, on this basis, I would like to ask you whether you saw these
16 two individuals together at the time when you provided your interview?

17 A. [14:47:15] Well, as he lived in (Redacted)
18 (Redacted) but I don't know which people he was in contact with. (Redacted) spoke with
19 several people who I do not know.

20 Q. [14:47:44] Sir, my question -- I require an answer to my last question: Did you
21 yourself ever see (Redacted) together?

22 A. [14:48:13] No because I don't know who (Redacted) is. Maybe he was there,
23 but I didn't know him.

24 Q. [14:48:23] After you provided your interview, your statement, we are of course in
25 (Redacted), it's my understanding, based on the information that I have, that you had

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1 further meetings with (Redacted); would that be correct?

2 A. [14:49:00] Yes, with (Redacted). We would meet each time I went to (Redacted)

3 Q. [14:49:17] And how many times would that be, in what frequency, sir, would these
4 meetings or visits to (Redacted) take place?

5 A. [14:49:46] Well, after that meeting (Redacted) and I never met on this topic, but as
6 (Redacted), each time we would go there we would meet with him.

7 Also when he would travel from (Redacted) to our village we would meet there.

8 But when it comes to this matter, he came and he invited us to speak with the delegation
9 that came from here and that's all.

10 Q. [14:50:28] Sir, is it your testimony that after (Redacted) even though you did meet
11 with (Redacted) on a number of occasions, you never discussed the events of
12 February 2003 with him; is that your testimony, sir?

13 A. [14:50:59] No, never. Since then we have met, but we no longer have discussed
14 these matters, no. We no longer discuss these matters. We meet, (Redacted)
15 (Redacted), we talk about other things but not this. He also comes to the
16 village to do with other matters, other topics, but not in relation to this matter.

17 Q. [14:51:34] Sir, I suggest to you that you are fully aware that there is a campaign or
18 efforts by the Lendu community of Kobu, Bambu and Lipri to ensure that what they
19 would have went through in February 2003 is a well-known event; would you agree
20 with me?

21 A. [14:52:16] Yes, indeed. All of the events of February 2003 in Lipri, Nyangarai and
22 Kobu are known by everyone. Everybody in those areas know what happened. Even if
23 you invite somebody else they will tell you the same thing.

24 Q. [14:52:47] And I suggest to you, sir, that you have had the opportunity of
25 discussing these events with many people who were involved in them on many occasions;

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1 would that be correct?

2 A. [14:53:10] Well, all the people who live in Lipri, Nyangarai and Kobu know about
3 these matters, they know them very well.

4 Q. [14:53:28] My question, sir, goes beyond their knowledge, is that people in (Redacted)
5 and you, personally, have had the opportunity of discussing these matters on numerous
6 occasions with the people, with other people; is that correct?

7 A. [14:53:51] It's a matter that everybody's familiar with. Everything that happened
8 is common knowledge amongst all the people.

9 Q. [14:54:09] Is -- do I understand from your testimony, sir, that there is one version of
10 events that everybody is aware of as to what happened during that time period?

11 A. [14:54:31] Yes.

12 Q. [14:54:37] Sir, we -- in your statement, as well as in your testimony, you referred to
13 an individual by the name of (Redacted) Do you recall mentioning this name?

14 A. [14:55:03] Yes, I do. I know him.

15 Q. [14:55:09] Have you met with (Redacted) after providing your statement to the
16 Prosecution and before this day today?

17 A. [14:55:35] Well, yes, I meet from time to time with (Redacted)
18 (Redacted). And I still meet with him right up until
19 today. He lives in (Redacted)

20 Q. [14:56:01] Another individual you mention in your statement as well as in your
21 testimony is (Redacted) you're familiar with that name, or (Redacted)

22 A. [14:56:22] Yes, I remember the name. I know the name (Redacted)

23 Q. [14:56:27] And (Redacted) is also an individual that you have regular encounters
24 with since providing your statement to the Prosecution; would that be a fair statement?

25 A. [14:56:48] I don't meet with (Redacted) often. He lives in (Redacted) and I live

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1 elsewhere. He's currently living in (Redacted) and I'm currently living in (Redacted) We
2 meet from time to time but not often. We converse by telephone. He is a colleague so
3 to speak. We escaped death together.

4 Q. [14:57:27] Well, I was just getting to that point because you, according to your
5 testimony, escaped a very important event together. And I suggest to you that you had
6 the opportunity of discussing this event with him on a number of occasions; would that be
7 a fair statement?

8 A. [14:58:02] After the event, we met, (Redacted), but we have
9 not discussed it since. It's a matter that's now far in the past.

10 THE INTERPRETER: [14:58:20] The interpreter corrects: Not filmed, but finished.

11 MR BOURGON: [14:58:26]

12 Q. [14:58:28] Sir, we had information that -- I'm not sure if my last question was
13 captured. I only have one microphone on. We have information that people involved
14 in these events had the opportunity to meet in the past after the events, after you provided
15 your statement with the Prosecution and before this trial.

16 Now, I have one document here where the name (Redacted) appears, the name (Redacted)
17 (Redacted) appears, the name (Redacted) appears and there is another name which I will
18 spell for you (Redacted) Is that how we spell your name, sir?

19 A. [14:59:56] Yes, my name is (Redacted)

20 Q. [15:00:12] Sir, did you ever attend any type of gathering with the individuals I just
21 mentioned in (Redacted)

22 A. [15:00:42] This is what I often say: Since that event, we have met with the
23 person -- the person you have mentioned, but we do not discuss the thing that you have
24 referred to. These are matters of the past. We do meet, but we do not discuss these
25 issues.

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1 Now, if one of us were to meet with the other, yes, we get together, we talk about different
2 things, not this matter, we talk about other matters relating to our community. So those
3 persons whose names you have mentioned are people who are (Redacted) in our
4 community, but when it comes to this case, this matter in particular, we no longer have
5 discussions with it.

6 Q. [15:01:33] Sir, do you know the name (Redacted)

7 A. [15:01:54] (Redacted) No. I do not know that person. No, I do not
8 know that person. (Redacted) No.

9 Q. [15:02:22] Thank you.

10 Do you recall, sir, saying in your statement that you were aware that pictures had been
11 taken in Kobu after the people would have been killed there in February? Do you recall
12 this, sir?

13 A. [15:03:06] Well, you know, people came from different areas to identify their
14 families members. I don't know whether anybody made any photographs or took any
15 photographs since people came from different locations to identify the persons who had
16 been identified. I saw the photographs later and it was a very painful experience for me.

17 Q. [15:03:51] Sir, I hereby refer to your statement, this is the (Redacted) statement, and
18 I refer to page 0073-0392, at paragraph 51. And I will read that in French. It says here:
19 (Interpretation) "I learnt subsequently that photographs of the bodies had been taken
20 before I arrived at the Hotel Paradiso."

21 Well, that's the only sentence I'll read out to you.

22 (Speaks English) So you can confirm that you did learn --

23 A. [15:05:05] Yes, that is what I said. And it is for that reason that I said also that
24 many groups of persons had come to identify their family members. The person who
25 took those photographs did not belong to our group and we were not aware of it, we did

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1 not know at what time the photographs were taken, given that many people had come
2 from different places to identify the corpses. When our group arrived, we did not have a
3 photographer in our midst, so I do not know whether the photograph was taken before or
4 after we arrived. And you see, different groups had come and gone by to see what had
5 happened. By the time we got there, there were other groups already at the site, chiefs
6 from various collectivities, the people from Kobu were already there before we arrived.

7 PRESIDING JUDGE FREMR: [15:06:25] And, Mr Witness, please always wait until
8 Mr Bourgon completes his question, please.

9 Mr Bourgon, you may proceed.

10 MR BOURGON: [15:06:40] Thank you, Mr President.

11 Q. [15:06:42] Sir, my question is very simple: When did you learn that pictures had
12 been taken of what happened in Kobu?

13 A. [15:07:09] When we were in (Redacted) was a little far away from Kobu, so when
14 the civilian inhabitants learned that the soldiers had left, they started fleeing in different
15 directions. Those from Kobu were the first to arrive at the location we are talking about.
16 So there might have been a number of photographers among the inhabitants of Kobu who
17 were there.

18 Q. [15:07:59] Well, sir, my question is different. I just want to know when you learnt
19 that pictures had been taken.

20 A. [15:08:21] On the day we arrived, the same day when we arrived there, we were
21 told that some photographs had been taken, but I do not know the specific time at which
22 that happened. So we do not know at what time the photographs were taken.

23 Q. [15:08:58] I apologise. I thought you were finished.

24 I understand from your answer, Mr Witness, that you learned on that very day that
25 photographs had been taken; is that correct?

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1 A. [15:09:27] It is on that day that we learnt of it. Some people had arrived before us,
2 but there was no photographer in our group. Many people had arrived there before us.

3 Q. [15:09:48] And when did you see those pictures for the first time?

4 A. [15:10:02] I had learnt that photographs had been taken and when we arrived at
5 that location we saw what had happened, but we didn't take any photographs ourselves.
6 Now, the first time that I saw the photograph was here, but that doesn't add anything to
7 anything because I saw these things with my own eyes, I saw what happened with my
8 own eyes. I was aware that photographs had been taken, but I saw the first photograph
9 of those events here.

10 Q. [15:11:07] And when you say "here," I just want to make sure that I understand
11 correctly, you're talking this week since you arrived here in The Hague; is that correct?

12 A. [15:11:31] I would say that I heard mention of the photograph, but it is only when I
13 got here, (Redacted), that I was able to see the photograph, but
14 I had heard people talk about the photograph before, although I had never seen it. Now,
15 you see, when I think about that site or that location, it saddens me.

16 Q. [15:12:20] Sir, without having seen the photographs but learning that photographs
17 had been taken, what information were you given about these photographs? What were
18 they about?

19 A. [15:12:49] What I can say is that I am still able to visualise that location. Now,
20 when we talk about photographs, all I can say is that I had learnt that some photographs
21 had been made and printed, but it was very painful to think that one would see those
22 pictures someday. And when I got to see them here, it brought back to my memory the
23 things that I had experienced at that time and it was quite disconcerting because even at
24 the time when I saw what I had seen, I actually took ill.

25 Q. [15:13:56] Sir, we'll come back to the issue of Kobu and how you would have

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1 reached Kobu, according to your testimony. But let me just ask you one last question on
2 this topic about something you said this morning that, in Kobu, you identified your -- the
3 body of (Redacted). And you said this, it was on page 27 -- 29, sorry, and -- 27, and that
4 was on line 6 to 7. Do you recall saying this this morning, sir?

5 A. [15:14:59] Yes, I talked about (Redacted).

6 Q. [15:15:05] That was my next question: Who is the name of (Redacted); can you
7 spell for us the name (Redacted), please?

8 A. [15:15:28] (Redacted).

9 Q. [15:15:48] Are we talking about a man or a female?

10 A. [15:15:55] It's a woman. She was a female.

11 Q. [15:16:06] Would you agree, sir, that you never mentioned before in your
12 statements that you had -- you had recognized the body of (Redacted)?

13 A. [15:16:31] Yes, but I said so.

14 Q. [15:16:38] Sir, let me quote from paragraph 50 of your statement. This is your
15 statement from (Redacted), and the exact page number is 0073-0392, and that's on page 50,
16 where you say the following in French: (Interpretation) "I was able to recognize the
17 bodies of Burombi, Dyikpanu and (Redacted), a civilian woman whom I knew."

18 A. [15:17:41] Now, when the people found out what had happened, when they
19 learned that many people had been killed in Kobu, people rushed to the area to identify
20 the bodies of their relatives. Some came from Mongbwalu and from neighbouring
21 villages. There were many corpses at that place.

22 Q. [15:18:22] Sir, my question was somewhat different. In your statement there is no
23 mention of the fact that the person called (Redacted), but that it is rather a "une femme
24 civile que je connaissais." I just want to know which one is it. Is it "une femme civile
25 que je connaissais," or is it (Redacted)?

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1 A. [15:18:58] I think that my statement was not recorded properly or correctly.

2 (Redacted), there was another woman called

3 (Redacted) who had also been identified by a gentleman from Mongbwalu. That lady's

4 name was (Redacted), I believe that you can find it somewhere in

5 my statement that she is (Redacted). I think that this

6 information was probably not included in the statement.

7 Q. [15:20:24] Sir, I go back to the topic of the pictures which you say that you never

8 saw before arriving here. In your statement you say the following, and this has to do

9 with your statement, the same statement of April, and that is paragraph 19, you say the

10 following: (Interpretation) "During (Redacted)

11 (Redacted) whose name I no longer remember, referring to attacks on

12 the creation of the FNI being a Lendu military movement."

13 (Speaks English) My understanding is that we are talking about the pictures that were

14 taken in Kobu; is that correct?

15 A. [15:22:14] You are referring there to another set of photographs which were taken

16 by the UPC members during (Redacted). As for the Lendus, we did not have very many

17 ideas in our minds. When we were invited to a meeting like the one to which we were

18 convened, what I could say is that those pictures were actually taken at (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted). So that segment of my statement refers to the photographs that were

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1 (Redacted).

2 Q. [15:24:02] Thank you, sir. I move to a different topic, which is the issue, the topic,
3 of Bosco Ntaganda himself. Having read both of your statements, I found the name
4 Bosco Ntaganda only once and that is at paragraph 54 of your (Redacted) statement.
5 Would you agree with that?

6 A. [15:24:42] Yes, I agree and I'm aware of all that.

7 Q. [15:24:49] Now, in this paragraph, we're talking (Redacted), which of course is
8 some eight years after you provided your first statement, and here is what you say:
9 (Interpretation) "I do not know Bosco Ntaganda physically and I have never heard him
10 speak on the radio."

11 (Speaks English) Do you confirm this information, sir?

12 A. [15:25:32] Yes, I can confirm it, but with your leave I can ask -- I can add a few
13 more details in that connection.

14 Q. [15:25:55] Well, my question, sir, was first that you confirm what you said in your
15 statement and my next question maybe will allow you to say what you want to say, but
16 what is of interest to this case is I would like to confirm that during the events that you
17 refer to in January and February 2003, you never saw Bosco Ntaganda; is that correct?
18 Please answer "yes" or "no."

19 A. [15:26:39] Yes, that is correct.

20 Q. [15:26:43] And is it correct, sir, that during the same period you never heard
21 Bosco Ntaganda speak on the radio? Please answer by "yes" or by "no."

22 A. [15:27:02] No. Bosco Ntaganda never spoke on the radio.

23 Q. [15:27:23] Sir, this morning you were talking about an announcement made on the
24 radio by Kisembo and you said the following, this is on page 26, line -- page 24, I
25 apologise, and it starts on line 20. It says here:

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- 1 "We were following the radio at all times. Radio Candip was taken by the UPC."
- 2 February that we went to see what had -- "It was only on 29 February that we went to see
- 3 what had happened."
- 4 And you say:
- 5 "The chief of general staff of the UPC, according to the information we had been given,
- 6 was called Kisembo. There was the chief of general staff responsible for operations
- 7 called Bosco. And here I'm speaking about the 29th. As for me, personally, I followed
- 8 that from the radio and there was an order given to their troops to leave different
- 9 positions where they were in order to return to Bunia."
- 10 Sir, my question is, first of all, that this is information that you did not provide in your
- 11 (Redacted) statement; is that correct?
- 12 A. [15:29:38] Yes, that is true.
- 13 Q. [15:29:42] And, sir, would it be a fair statement to say that you learned that
- 14 Bosco Ntaganda was the chief, as you say here, of general staff responsible for operations,
- 15 that this is information you learned after the events? Would that be correct, sir?
- 16 A. [15:30:12] Yes, that is correct. It is for that reason that I asked you to give me
- 17 leave to explain to the Court how I came by that information.
- 18 Q. [15:30:39] I will defer to the President, Presiding Judge, to see if that information is
- 19 relevant. What's important for me that it was learned after the fact and we can move on.
- 20 MR BOURGON: But Mr President, I'm in your hands whether the witness should
- 21 provide this information.
- 22 PRESIDING JUDGE FREMR: [15:30:59] I think we can move on.
- 23 MR BOURGON: [15:31:03] Thank you, Mr President.
- 24 Q. [15:31:04] Sir, I move to a different topic, which is the war itself, the conflict itself.
- 25 You've already said that the war according to you started in 1999; is that correct?

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- 1 A. [15:31:30] Yes, that is correct.
- 2 Q. [15:31:31] Would you agree with me, sir, that this war or conflict was a bloody
3 conflict which started off on an ethnic battle? Would you agree with me?
- 4 A. [15:32:02] Yes, I agree with you.
- 5 Q. [15:32:04] And would you agree with me that at the time when the war began
6 there were no organised army present; would you agree with that?
- 7 A. [15:32:31] Yes, indeed, that was the situation.
- 8 Q. [15:32:36] And shortly thereafter a political movement appeared which took power
9 in Bunia called RCD-K/ML. You're familiar with this, are you not?
- 10 A. [15:33:00] Yes, I was already grown. I'm very familiar with all that happened.
- 11 Q. [15:33:12] And this political movement had a military branch called APC, you were
12 also familiar with that, right?
- 13 A. [15:33:31] Yes.
- 14 Q. [15:33:36] And I take it that you are familiar with the fact that because, due to the
15 lack of organisation in Ituri, villages set out to defend themselves? You are familiar with
16 that, sir?
- 17 A. [15:34:07] Yes, including amongst the Lendu where we lived, that's how it was.
18 I'd like to tell you how things went.
- 19 Q. [15:34:22] I prefer, sir, that you respond to my questions because I will try to take
20 you to what is relevant, but if you want to add details by all means, I don't want you to
21 prevent you from saying something, but I have limited time. And I think my questions
22 will allow you to say what you want to say.
- 23 You recall, sir, that in the Lendu circles there were groupes d'autodéfense. Do you recall
24 this, sir?
- 25 A. [15:34:59] Yes. Yes, I'm familiar with that.

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1 Q. [15:35:04] And you're probably familiar with the fact that in the Hema circles, now
2 I'm talking about the early beginning of the war, there were also groups called comité de
3 paix, are you familiar with that?

4 PRESIDING JUDGE FREMR: [15:35:30] Hold on, hold on. Mr Witness, please hold on.
5 We have Prosecution counsel on his feet.

6 Mr Iverson.

7 MR IVERSON: [15:35:36] Yes, Mr President, I see that Defence counsel is going very
8 deep into background from 1999 onward. I would just like to object because I think this
9 is beyond the scope of direct.

10 PRESIDING JUDGE FREMR: [15:35:55] Mr Bourgon.

11 MR BOURGON: [15:35:56] Mr President, the reason I'm going into 1999 has to do with
12 the credibility of the witness in terms of what he knows before and how he applies this
13 knowledge to the questions that were put to him in examination-in-chief. So I don't
14 intend to go very far into this area, but it is relevant to his testimony of the events of 2003.

15 PRESIDING JUDGE FREMR: [15:36:22] All right. We believe you. Please go ahead.

16 MR BOURGON: [15:36:31]

17 Q. [15:36:31] Sir, would you agree with me that at the beginning of the war when you
18 had these comité de paix -- well, first you have -- please answer my last question about the
19 existence of comité de paix in Hema circles. Would you agree with that? Do you recall
20 this?

21 A. [15:37:07] During the tribal war, yes, there were peace committees, comité de paix.

22 Q. [15:37:22] And, sir, would you agree with me that what was happening then is that
23 villages were attacking one another and defending themselves without any limit as to
24 what they would commit on one another? Would you agree with that, sir?

25 A. [15:38:05] What you've said is correct.

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1 Q. [15:38:11] And, sir, (Redacted) and

2 I would like you to confirm whether you agree with me that these meetings were in fact to
3 ensure that there would be no more fighting on an ethnic basis; would you agree with
4 that?

5 A. [15:38:58] Yes. The purpose of all those meetings was indeed just that.

6 Q. [15:39:08] And one question concerning the APC, which I referred to a little earlier,
7 and the fact that the APC was fighting alongside the Lendu combatants in 2002-2003;
8 would you agree with that?

9 A. [15:39:47] In 2002 -- in 2002 the APC stayed in Bunia to work with Governor
10 Lompondo in Bunia, and it was at that point in time that UPC was preparing to drive out
11 Lompondo and the APC. And the governor was indeed driven out. After that, they
12 began to disperse over a larger area and that's how it is that various parts of the APC went
13 on to train up the Lendu. That was when they had left Bunia fleeing the city.

14 Q. [15:41:01] And would I be correct in saying that a number of APC members ended
15 up in the Kobu, Bambu, Lipri area assisting the Lendu combatants? Would that be a fair
16 statement?

17 A. [15:41:36] They didn't go to assist. It's rather that when they were driven out,
18 when the UPC drove them out, out of the city, the APC soldiers found themselves
19 dispersed over a large area and so it was that some amongst them aligned and joined the
20 ranks of the Lendu soldiers. Those of other tribes fled and some even went and joined
21 the UPC.

22 Q. [15:42:20] I'd like to move on, sir, to the pacification meetings per se.

23 PRESIDING JUDGE FREMR: [15:42:32] Excuse me, Mr Bourgon, allow me to make one
24 additional comment on Mr Iverson's objection.

25 I would like to highlight this because I believe it will help us to avoid bringing the same

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1 objections again, because I would like to refer both parties to paragraph 28 of our protocol
2 on conduct of proceedings, when we said the non-calling party may go beyond matters
3 previously discussed in the examination-in-chief and may address in accordance with
4 Rule 140(2)(b) of the Rules other matters relevant to the case, including those affecting the
5 credibility of the witness. So here the relevance is the main criteria, not the scope of
6 direct examination. While in as concerns re-examination, then this objection would be
7 valid because re-examination shall be conducted -- or shall be limited to matters raised
8 during cross-examination, as we said in para 30 of our protocol, and the same, the
9 Chamber may further authorise the re-cross-examination on the issues discussed during
10 the re-examination. So please have in mind these distinctions, Mr Iverson.

11 MR IVERSON: [15:44:08] I thank you, Mr President, and I did have that in mind. It
12 just wasn't clear to me that Defence counsel was setting up a credibility issue. Once he
13 stated as such then I understand the Chamber's ruling and I understand what Defence
14 counsel's doing. I just didn't understand it up to that point, it wasn't clear to me.

15 PRESIDING JUDGE FREMR: [15:44:25] Fine, but it shouldn't be just about the
16 credibility. It simply says relevant, then the non-calling party is not limited by the scope
17 of direct examination. Okay, I think we clarified that.

18 Sorry, Mr Bourgon, for the interruption. Please proceed.

19 MR BOURGON: [15:44:42] Thank you, Mr President.

20 Q. [15:44:43] Sir, I was about to move on to pacification meeting. But I understand
21 from your statement that when Lompondo was driven out of Bunia, (Redacted)
22 (Redacted); is that correct?

23 A. [15:45:16] Yes. The issue is the following: When the war between the UPC and
24 Governor Lompondo started, (Redacted)
25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted). This was right at the point in time where UPC was
- 4 preparing to wage war on APC and Lompondo. Because when Lompondo was governor,
- 5 people could move freely within Bunia. Lendu could move freely, they could be in the
- 6 city, but the UPC didn't like that and wanted to drive Lompondo out. And now the chief
- 7 of our collectivity was (Redacted) Bunia, the city was divided
- 8 in two, and two days later war broke out.
- 9 We went with other groups. (Redacted)
- 10 (Redacted) other prominent persons who were in Bunia went in the direction of
- 11 Zonge -- Zumbe. Because of that some UPC soldiers dispersed amongst the people, and
- 12 it is thanks to MONUC that we left via Mwanga.
- 13 Q. [15:48:19] Thank you, sir. This goes beyond what I was looking for but, as I said, I
- 14 want to make sure that you have a chance to express yourself. But my question had to
- 15 do with the driving out of Lompondo and I would like you to confirm, if you can, that
- 16 Lompondo was actually driven out by the UPDF, the Ugandans. Would you agree with
- 17 this statement, sir?
- 18 A. [15:48:58] Well, that's a military issue. The reason why Lompondo was ousted
- 19 was because he was with APC troops and they were in Bunia with UPC troops. It is not
- 20 just the UPDF who drove out Lompondo. We believed that the UPDF and UPC worked
- 21 together to get Lompondo out of Bunia. When the war erupted we, being civilians,
- 22 didn't know what was going on and so we fled in different directions.
- 23 Q. [15:50:14] Sir, given where you were at the time, I take it you are familiar that in
- 24 the immediate days before Lompondo was driven out of Bunia, you know that the APC,
- 25 together with Lendu combatants from Lipri, launch a large-scale attack on Mudzipela

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1 where they killed many people; are you familiar with this, sir?

2 A. [15:50:57] No. I like to say things as they were. Lompondo was governor, and
3 when he was governor, people could move about freely, whether you -- they were Lendu,
4 Hema, UPC soldiers, what have you. Everybody could move freely, but that's something
5 that the Hema did not want and that's why they prepared to oust Lompondo.

6 Q. [15:51:32] Sir, I have to stop you, I apologise, and come back to my question. My
7 question is very simple: Do you have knowledge and do you recall a large-scale attack
8 launched on Mudzipela on 8 August 2000 by the APC and the Lendu combatants together?
9 You can deny knowledge of this attack or you can say that you recall this attack.

10 A. [15:52:21] War, and there was a lot of war at that time. At that point of time there
11 were Lendu combatants in the region of Mwanga and Lompondo troops and APC in the
12 environs of Bunia, and so it was that those people found themselves together with UPC
13 troops and, of course, there was war everywhere, also in Mwanga, also in Bunia, in
14 Zumbe, really everyone where there was conflict, indeed. The war was widespread.
15 There were several conflicts -- or, rather, battles. It's true that there were battles
16 everywhere, many, many battles.

17 Q. [15:53:40] Thank you, sir. I move on to the pacification meeting that was referred
18 to during your examination-in-chief. We looked at a video about (Redacted)
19 on last Friday. Do you recall this, sir?

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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Trial Hearing
WITNESS: DRC-OTP-P-0105

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Trial Hearing
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10 Q. [16:03:59] In your testimony on Friday you covered at length a topic about
11 information in your possession coming from Salongo who wanted to find the Lendus
12 wherever they would be found. Do you recall testifying about this topic?

13 A. [16:04:48] Even during (Redacted) we again were reminded of Salongo's
14 statements.

15 Q. [16:05:03] Now, do you recall that the reaction of the UPC (Redacted)
16 (Redacted), is that they were not aware of such comments made by Salongo,
17 that they would report the matter to him and that if in fact he had said this he would be
18 punished? Do you recall (Redacted)

19 A. [16:05:44] When we mentioned that again, he said no and went on to say that any
20 such statement by Salongo was only binding on Salongo alone because the UPC did not
21 have to collaborate with the Lendu people -- or, rather, because the UPC had no problem
22 with the Lendu people.

23 THE INTERPRETER: [16:06:24] Correction from the interpreter of the Swahili booth.

24 THE WITNESS: [16:06:29] (Interpretation) (Redacted)

25 (Redacted)

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5 A. [16:16:03] Well, that is what we asked for.

6 PRESIDING JUDGE FREMR: [16:16:16] Mr Bourgon, please with ready to break this
7 part of cross-examination 20 past 4 because I would like the whole ten minutes to the
8 issue you indicated. So we will finish this part of examination at 4.20.

9 MR BOURGON: [16:16:37] Thank you, Mr President. I'm almost done with this topic.

10 Q. [16:16:50] I'd like to address briefly the issue of Nyangarai. First can you confirm
11 the distance between Ngongo and Nyangarai?

12 A. [16:17:16] The distance between Ngongo and Nyangarai, Ngongo and Nyangarai,
13 well, between Ngongo and Nyangarai the distance could be around 6 kilometres. When
14 one leaves Nyangarai, one goes through the Nyali, then on to Ngongo, which is in Bira
15 behind. So after Bira, after going through Bira, one comes down to Nyangarai. So that
16 distance would be 5 to 6 kilometres. The problem being the hills and the valleys because
17 it is a mountainous area.

18 Q. [16:18:55] Sir, based on information that I have I would suggest to you that the
19 distance is somewhere around 15 kilometres. Would you allow for this possibility?

20 A. [16:19:23] From Lipri to Nyangarai the distance is about 15 kilometres. Ngongo is
21 midway between Lipri and Nyangarai, so Ngongo is midway between Lipri and
22 Nyangarai. From Nyangarai one goes through Ngongo using the main road by car and
23 then on to Nyangarai. So you get to Ngongo before getting to Nyangarai from Lipri.

24 Q. [16:20:21] Sir, I have more questions on this issue.

25 MR BOURGON: But, Mr President, we'll stop here and continue in the morning about

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1 some map issues or geographical issues. Thank you, Mr President.

2 PRESIDING JUDGE FREMR: [16:20:34] All right.

3 MR BOURGON: [16:20:35] Thank you, Mr Witness.

4 PRESIDING JUDGE FREMR: [16:20:38] All right.

5 So, Mr Witness, thank you very much for testifying patiently today. And it's my duty to
6 remind you that -- because as Mr Bourgon said, he will continue tomorrow, so in the
7 meantime till tomorrow you must not discuss your testimony with anybody else. Do
8 you understand this?

9 THE WITNESS: [16:21:13] (Interpretation) Yes, I have understood. Well, I am alone.

10 I am all by myself. I have -- I have no one to talk to. I don't talk to anyone.

11 PRESIDING JUDGE FREMR: [16:21:30] I'm glad to hear it, but even by phone, you
12 know, so be careful about that, otherwise it would be evaluated as a misconduct. So be
13 careful about that. I thank you very much and we will see you tomorrow 9.30.

14 Now please, court officer, you can escort Mr Witness out of the courtroom.

15 And, court officer, please now move into open session.

16 (The witness stands down)

17 PRESIDING JUDGE FREMR: [16:22:02] Or, Mr Bourgon, it's possible to make your
18 submission open? Yes, all right.

19 (Open session at 4.22 p.m.)

20 PRESIDING JUDGE FREMR: So now --

21 THE COURT OFFICER: [16:22:17] We're in open session, your Honour. Sorry.

22 PRESIDING JUDGE FREMR: [16:22:24] No, no, it's my fault.

23 Thank you very much, court officer.

24 Now, Mr Bourgon, you have the floor.

25 MR BOURGON: [16:22:31] I will be very brief, Mr President. As of Friday we had

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1 been working intensively to try and sort out the issues that would allow this trial to return
2 to normal and I must say that I thought that we had it made until I arrive at the detention
3 centre on Friday night. I was then informed of a change of position and from then on the
4 situation has become, if I can use these words, even more difficult.

5 We -- I was in contact with the Registrar himself. He well knows that I was supposed to
6 write to the -- to send information to the Chamber over the weekend. I copied this
7 information to him. And the Chamber informed us this morning that it did not intend to
8 conduct an ex parte hearing on this issue. However, I think that the issue must be
9 addressed in some way and I would like to know how the Chamber suggests we could at
10 least address that issue that is separating us now.

11 The situation with Mr Ntaganda is getting more and more difficult and we just are not
12 able to get his assistance in terms of helping us and getting instructions from him in terms
13 of the witnesses that are about to testify.

14 So that's all I wanted to say at this stage, hoping that we can find a way to sort out this
15 situation. I believe it is possible. We are trying to do our best and that's all I can say,
16 Mr President. Thank you.

17 PRESIDING JUDGE FREMR: [16:24:21] Again, just short comment from our part.

18 I can just assure you that the Chamber is very well aware of the seriousness of the
19 situation. It means that we in fact every day continuously discuss the situation about
20 your client. Even today I convened meeting which will be held just this afternoon. We
21 will, by the way, discuss all those issues.

22 But there is one main issue that -- there are some issues that we may be and we have to be
23 involved, but there are also some issues that are simply not for the Chamber to solve. It's,
24 I don't know how to call it, a negotiation between your client and you, I know that you
25 represent him as well as you can, and the Registry. Some issues are simply within the

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1 responsibility and in the hands of Registry.

2 If we can -- or if we will have to decide something, we will do it at the most urgent issue.

3 At the same time, I'm saying that we will not take into account that your client -- if there is
4 this idea, I don't know, if he wants to make some pressure on us, it will play no role in our
5 prospective decision.

6 But we also are highly interested in evaluation of his health conditions, so all those issues
7 will be dealt by us this afternoon.

8 And as you said, even us we are also interested in having a normal classical hearing with
9 the presence of the accused.

10 So now we will adjourn and we will reconvene tomorrow 9.30 in this courtroom.

11 THE COURT USHER: [16:26:27] All rise.

12 (The hearing ends in open session at 4.26 p.m.)

13 RECLASSIFICATION REPORT

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

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