

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing
8 Thursday, 28 January 2016
9 (The hearing starts in open session at 9.36 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 For the record, we are in open session.
19 PRESIDING JUDGE FREMR: Thank you.
20 Now appearances in usual order please.
21 MS LUPING: Good morning, Mr President, your Honours. Appearing on behalf of the
22 Prosecution this morning are Nicole Samson, senior trial lawyer; Selam Yirgou, case
23 manager; Rens van der Werf and James Pace, assistant trial lawyers; and myself,
24 Dianne Luping, trial lawyer.
25 PRESIDING JUDGE FREMR: Thank you, Ms Luping.

1 Defence, please.

2 MR BOURGON: (Interpretation) Good morning, Mr President. Good morning to the
3 Bench. Good morning to everybody here in the courtroom. Representing
4 Bosco Ntaganda this morning Ms Sandrine De Sena, stagiaire; Margaux Portier;
5 Chloé Grandon; and myself, Stéphane Bourgon. Thank you.

6 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

7 Now Legal Representatives of Victims, please.

8 MR SUPRUN: (Interpretation) Good morning, Mr President. Good morning,
9 your Honours. We are represented by the -- I am Dmytro Suprun and I am representing
10 the victims today.

11 MR ABDOU: Good morning, Mr President, your Honours. The former child soldiers
12 are today represented by myself, Mohamed Abdou, associate legal officer at the Office of
13 Public Counsel for Victims.

14 PRESIDING JUDGE FREMR: Thank you very much.

15 I also further note the presence of the legal adviser appointed pursuant to Rule 74 to assist
16 the witness. Welcome and please state your name for the record.

17 MR NÈVE: (Interpretation) Good morning, Mr President. Good morning,
18 your Honours. I am Marc Nève and I am the lawyer, counsel, lawyer in support of the
19 witness under Article 74. Thank you.

20 PRESIDING JUDGE FREMR: Thank you very much, Mr Nève.

21 And to be precise I also note the presence of the accused, Mr Bosco Ntaganda.

22 I will address several procedural matters before we start with the testimony of the
23 upcoming witness.

24 First I note that the Defence made an urgent request via email on Tuesday afternoon, 26
25 January 2016. The Defence requested the Chamber to order the Prosecution to convey

1 the Witness P-17 an urgent request to meet him before the beginning of his testimony.

2 The Defence which first sought the meeting on 26 January subsequent to disclosure of the
3 witness preparation logs for P-17 argues that its request was timely and that, quote, "had
4 the Prosecution completed its preparation sessions with Witness P-17 sooner and
5 informed the Defence the need to meet with Witness P-17 could have been identified
6 sooner." Unquote.

7 The Prosecution indicated its opposition to this request via email also on Tuesday, 26
8 January. The Prosecution argued that the Defence request sent less than 24 hours prior to
9 the proposed meeting and the day before the witness was likely to start testimony was
10 untimely.

11 The Prosecution further noted that it had made attempts to contact the witness to convey
12 the Defence request, including through contacting the witness legal adviser and the VWU
13 but had been unable to do so.

14 On 27 January, the Defence replied via email to the Prosecution response addressing
15 certain of the points raised therein.

16 Subsequently, on 27 January, the Chamber notified the Defence via email that it had
17 rejected the Defence request without prejudice to any steps the Prosecution may have
18 already taken to contact the witness and any consent that may have been obtained. In so
19 doing, the Chamber considered that the Prosecution appeared to have been making
20 reasonable efforts to convey the request to the witness in an appropriate manner via the
21 VWU and in consultation with his legal adviser.

22 The Chamber notes that it appears the Defence was unaware of these attempts at the time
23 of making its request.

24 In considering the appropriateness of the measures taken, the Chamber also took into
25 consideration the timing of the request. The Chamber wishes to emphasise that the

1 five-day period within which meeting requests are to be conveyed to a witness by the
2 calling party under the terms of the contact protocol provides a maximum time limit. A
3 party receiving a meeting request should make every effort to address it as expeditiously
4 as possible, particularly where there is a question of urgency.

5 In light of the nature of the request, the Chamber confined its ruling to the question of
6 conveyance of the meeting request to the witness and reserves its position in relation to
7 the appropriateness of requests raised within 24 hours of the expected commencement of
8 a witness's testimony.

9 That ends of the Chamber's ruling with respect to the Defence request.

10 Separately, the Chamber further notes that the Defence has requested the modification of
11 the current evidentiary block, it's filing 1102. Yesterday the Chamber received the
12 Prosecution response. The Chamber is mindful of the fact that all parties and
13 participants involved need to be informed as soon as possible if any modifications are to
14 be made.

15 As concerns request filed by the Defence at this -- request for reply sent last night, the
16 Chamber decides to reject that request since we don't see any need for further submission
17 on that and we will issue our decision shortly.

18 Next, I note that the Chamber decided in decision number 774 that the protective
19 measures that were previously ordered for this witness are to remain in place.

20 These measures are image and voice distortion, as well as the use of pseudonym during
21 testimony.

22 I turn now to the topic of objections.

23 According to its email of 26 January, the Defence objects to certain of the documents the
24 Prosecution may seek to use with this witness.

25 The Chamber considers that certain of these objections can be best addressed if and when

1 they arise throughout the course of the examination-in-chief. However, I will now
2 provide some guidance on certain overarching objections raised.

3 First, consistent with the Chamber's position with previous witnesses, if the Chamber
4 allows the use of photographs with the witness, they shall be shown without annotations
5 unless the annotations were made by this witness.

6 If these photographs are admitted, this shall be the version without annotations unless the
7 annotations were made by this witness.

8 Further, with regard to the Defence objection to the use of the photographs on the basis

9 that the witness's connection to them has not been established, the Chamber considers

10 that the Prosecution may present the photographs listed at items 23 to 29 on the list of

11 items to the witness in order to seek to establish the necessary connection and in order to

12 ascertain whether the witness can usefully comment on them or not.

13 Indeed, the Chamber considers the principle to equally apply to other Defence objections

14 with respect to the sufficiency of the connection between the witness and the item sought

15 to be used by the Prosecution. Therefore, the Prosecution may use with this witness the

16 two radio communication logbooks and their translations which are listed from numbers

17 19 to 22 on the list of items; and in accordance with the decision of the conduct of

18 proceedings, the audio visual items on the list of items at numbers 1, 3, 6, 10, 13 and 14 to

19 which the Defence also objects on the basis of the insufficiency of the connection between

20 the witness and the item.

21 Regarding the transcriptions and translations of this audiovisual material which are

22 referred to on the Prosecution's list of items at numbers 2, 4, 5, 7, 8, 9, 11, 12 and 15 to 18,

23 the Chamber recalls its ruling with respect to Witness P-10 at which time in the particular

24 circumstances it marked for identification the transcription and translation relating to a

25 video admitted into evidence pending the Defence following up with Registry on

1 correspondence on potential Registry assistance with translations.

2 The Chamber indicated at the time, and I refer here to transcript 50, pages 70 to 72, that it
3 has, quote, "already established the procedure with respect to transcripts and translations
4 pursuant to which in the event of concrete disagreement ... and if the Chamber considers
5 it appropriate, the Registry may be requested by the Chamber to assist with particular
6 transcription or translation issues. The transcripts and translations do not otherwise
7 require verification or certification." Unquote.

8 The Chamber indicated further that, quote, it "would like to emphasise that the Defence
9 must liaise further with the Registry and the Prosecution and bring the issue back to the
10 attention of the Chamber when the matter is resolved. Otherwise, should it become
11 necessary, the Chamber will impose a deadline for the raising of any objections to
12 transcripts and translations for which admission has so far been deferred pending Defence
13 review." Unquote.

14 The Chamber notes that the solution of marking items for identification in these
15 circumstances was intended to provide the Defence with an interim opportunity to put
16 the necessary arrangements in place to ensure compliance with the decision on the
17 conduct of proceedings.

18 The Chamber has not been notified of any further progress on this issue. However, in
19 order to allow the Defence further and final opportunity to finalise these discussions, the
20 Chamber directs that exceptionally with this witness, as with the previous witness, where
21 audiovisual material is admitted into evidence, all accompanying transcripts and
22 translations will be simply marked for identification at this stage.

23 However, the Chamber does not consider this to be a sustainable or indeed necessary
24 practice and foreshadows that in the future it's likely to insist upon compliance with the
25 procedure that had been established in the decision on the conduct of proceedings.

1 In that regard, in relation to the Defence objection as to the specificity with which the
2 audiovisual excerpts that the Prosecution seeks to use with this witness have been
3 identified, the Chamber notes that the excerpts listed by the Prosecution are indeed
4 lengthy. The Chamber considers that if the Prosecution does not in fact intend to seek
5 leave to show these entire excerpts to the witness, that it must in future identify with
6 greater specificity the portions it seeks to use with this witness.

7 Next, Mr Nève is present to assist the witness in respect of any self-incrimination issues
8 which may arise. We understand that he has met with the witness and explained matters
9 of self-incrimination to him. Am I correct, Mr Nève?

10 MR NÈVE: C'est bien exact, Monsieur le Président.

11 PRESIDING JUDGE FREMR: Very well.

12 On behalf of the witness, Mr Nève has seized the Chamber of a request for assurance
13 pursuant to Rule 74. It's filing number 1109.

14 The Prosecution provided observations yesterday by way of email noting that it does not
15 object to the granting of assurance to this witness subject to the usual caveat of the witness
16 telling the truth before the Chamber.

17 Before the Chamber gives its ruling I would like to check whether the duty counsel or
18 Defence have anything to add.

19 So duty counsel, do you have anything to add?

20 MR NÈVE: (Interpretation) Yes, I did add this to the request that was presented.

21 PRESIDING JUDGE FREMR: Thank you.

22 Defence?

23 MR BOURGON: No observations, Mr President. Thank you.

24 PRESIDING JUDGE FREMR: Thank you.

25 So the Chamber grants the request and will provide the witness with the requested

1 assurance.

2 Now, unless the parties or participants have anything they wish to raise at this point we
3 can turn to the scheduled testimony. So any request for the floor?

4 Mr Suprun, please.

5 MR SUPRUN: (Interpretation) Thank you. I have just heard that 790 will begin soon
6 and I would like to ask the permission of the Chamber to leave the room when this takes
7 place as agreed yesterday.

8 (Pause in proceedings)

9 PRESIDING JUDGE FREMR: Okay. Yes, your request is granted. So it's no problem,
10 Mr Suprun.

11 MR SUPRUN: Merci, Monsieur le Président.

12 PRESIDING JUDGE FREMR: I see there are no further requests for the floor, so the
13 witness may be brought into the courtroom. And as usual we remain in this courtroom
14 in open session during this operation since the witness will enter below the public gallery
15 so he can't be seen by the public.

16 (The witness enters the courtroom)

17 PRESIDING JUDGE FREMR: Mr Witness, good morning. On behalf of the Chamber I
18 would like to welcome you in the courtroom.

19 WITNESS: DRC-OTP-P-0017

20 (The witness speaks French)

21 THE WITNESS: (Interpretation) Good morning, Mr President.

22 PRESIDING JUDGE FREMR: Mr Witness, you are going to testify before the
23 International Criminal Court, and this Chamber has been established to try the case of the
24 Prosecutor against Mr Bosco Ntaganda.

25 You are called to testify to assist us in our search for the truth. You will be asked

1 questions both by the Judges and lawyers in this courtroom, and in this connection I
2 would like to guide you.

3 Please listen carefully to those questions, it's very important that you make sure that you
4 understand the question before you answer it. If you do not understand, feel free to ask
5 for the question to be repeated or rephrased.

6 We want you to tell the truth and tell us only what you really saw, or heard, or sense
7 yourself. If you did not see or hear it yourself but you found out some other way, then
8 you should explain how.

9 You very likely will be soon asked about events that happened many years ago, so it's
10 natural that you may not remember all details. It doesn't matter. Please testify just on
11 that which you remember. Don't guess, don't make things up, please. There is nothing
12 wrong in saying, "I don't know" or "I don't remember."

13 Do you understand all this, Mr Witness?

14 THE WITNESS: (Interpretation) Yes, I do understand.

15 PRESIDING JUDGE FREMR: Very good.

16 Mr Witness, let me now explain to you how the protective measures work that the
17 Chamber has put in place for your testimony.

18 As you see you are sitting in a place where the public here in this building cannot see you.
19 In addition, face distortion is applied, which means that your face is blurred on the
20 camera images and the public cannot see your face during the testimony. We also
21 decided to order voice distortion, which means that the public will not be able to identify
22 you by your voice as it has been disguised.

23 And we also ordered the use of a pseudonym. This means that we will all refer to you
24 only as "Mr Witness" to make sure that the public does not know your name.

25 When you answer questions that will not give away who you are, we will do so in open

1 session, which means that the public can hear what is being said in the courtroom.

2 When you are asked to describe anything that relates specifically to you, we will do this in
3 a private session. For example, at the very start, when a few general questions about you
4 as a person will be asked, or when you are asked to mention facts that might reveal your
5 identity, where you live or your profession, then there is no broadcast and no one outside
6 the courtroom can hear your answer.

7 Please do not refer to these details later on during your testimony whenever we are in
8 open session. If ever anything gets said during open session which should have been
9 said in private session, we will do our best to protect this information.

10 Your testimony will be broadcast on a delay, and we can remove any such remarks from
11 the broadcast which will be heard by the public and from the public transcript of the
12 proceedings.

13 The Chamber recognizes that your security and well-being is important during the course
14 of this trial. If at any point you feel that you would like a brief break from giving your
15 testimony or you feel unwell, do not hesitate to let us know by raising your hand.

16 Do you understand, Mr Witness?

17 THE WITNESS: (Interpretation) Yes, I've understood you clearly.

18 PRESIDING JUDGE FREMR: Fine.

19 Now, you will find a piece of paper in front of you with the solemn undertaking. Please
20 now make your solemn undertaking to tell the truth by reading out the declaration of the
21 piece of paper in front of you.

22 THE WITNESS: (Interpretation) I solemnly declare to tell the truth, the whole truth
23 and nothing but the truth.

24 PRESIDING JUDGE FREMR: Thank you.

25 So it means, Mr Witness, that now you are under oath. You have already been informed

1 by representatives of the Victims and Witness Unit and afterwards by representatives of
2 the Prosecution about the importance of speaking the truth. Nevertheless, you need to be
3 aware that it is an offence within the jurisdiction of this Court to give false testimony.

4 Do you understand that?

5 THE WITNESS: (Interpretation) Yes, I do.

6 PRESIDING JUDGE FREMR: Very well.

7 Mr Witness, you have been assigned a lawyer to provide you with legal advice about
8 possible self-incrimination. He has requested that you have been given certain
9 assurances by the Chamber that there may be questions asked to you for which you feel
10 that answering them truthfully may incriminate you because these questions relate to
11 your own conduct. In such cases, we will require you to answer the question, but we can
12 assure you that your answer will be kept confidential and will not be disclosed to the
13 public or to the government of any country.

14 The Prosecution has further assured that they will not themselves use this information to
15 prosecute you before the ICC provided that you tell the truth.

16 Do you understand all this?

17 THE WITNESS: (Interpretation) Yes, I do.

18 PRESIDING JUDGE FREMR: Fine.

19 In this connection, I request the parties to be vigilant about going into private session for
20 areas of evidence that are likely to elicit responses that might self-incriminate this witness.

21 Now, Mr Witness, a few practical matters you should have in mind when giving your
22 testimony.

23 Everything we say here in the courtroom is written down and interpreted into English
24 and French. It's therefore important to speak clearly and to speak at a slow pace, like me
25 now. We want to make sure that your words can be well understood by the interpreters

1 and then by the rest of us.

2 Please speak into the microphone and only start speaking when the person asking you the
3 question has finished. To allow for the interpretation everyone has to wait a few seconds
4 before starting to speak. So I recommend to you when the lawyer has asked his/her
5 question, please count in your head to three, and then only give your answer.

6 If you have any questions yourself, raise your hand so we know that you wish to say
7 something. We will then give you the opportunity to speak.

8 Have you understood all that?

9 THE WITNESS: (Interpretation) Yes. Yes, I have.

10 PRESIDING JUDGE FREMR: So I think that's all for the moment from my part,
11 Mr Witness. So nothing prevents us from starting your testimony.

12 Mr Bourgon.

13 MR BOURGON: Thank you, Mr President. I would just like to seek some clarification
14 regarding the assurances provided to the witness. My understanding, based on what the
15 Trial Chamber just said to the witness and based on the motion which was granted earlier,
16 is that these assurances fall into play only if and when the witness identifies the question
17 as being one which will self-incriminate him, either himself or his lawyer, but not all of his
18 testimony. I'd like to clarify this point, Mr President. Thank you.

19 PRESIDING JUDGE FREMR: I think we are on the same page. I think my
20 understanding is absolutely the same, so I can confirm.

21 MR BOURGON: Thank you, Mr President.

22 Ms Luping, I guess -- do you agree with me as well when I gave this assurance?

23 MS LUPING: Yes, Mr President. I believe that the -- the issue at stake is obviously
24 evidence that he's giving that would serve to incriminate the witness, so that would make
25 sense.

1 PRESIDING JUDGE FREMR: Very well. So I guess it will be you who will be
2 examining the witness. Then, Ms Luping, you have the floor.

3 MS LUPING: Thank you, Mr President, your Honours.

4 QUESTIONED BY MS LUPING:

5 Q. Good morning, Mr Witness.

6 PRESIDING JUDGE FREMR: And sorry, sorry. One thing as usual and I have to
7 remind you - and until now the Prosecution and the Defence I think were very well in
8 keeping time limits - you know that this Trial Chamber is really insisting to keep them, so
9 in this case the Prosecution came with a proposal to be granted 10 hours for this witness.
10 Again, we just compared this proposal with the expected amount of testimony and we
11 found it reasonable, but please, we would like you to stick and to remain within those 10
12 hours. So you may now start.

13 MS LUPING: Understood, Mr President. Thank you.

14 Q. Good morning, Mr Witness.

15 A. Good morning.

16 Q. Mr Witness, you have met me before. As you know, my name is Dianne Luping
17 and I'll be questioning you today on behalf of the Prosecution.

18 Now, Mr Witness, before I start, I just simply wanted to just repeat one instruction from
19 the Presiding Judge, which is simply if you could please indeed listen very carefully to my
20 questions. As the Presiding Judge just reminded us, I do have very limited time, so if
21 you could focus on answering only the question that I pose. And also for the sake of the
22 interpreters, if you could try to keep your sentences short to aid that process.

23 Mr President, I do now need to begin with a questions of an identifying nature, so if we
24 could go into private session for the first few questions.

25 PRESIDING JUDGE FREMR: Maybe for the interest of public, can you estimate how

1 much time you will need for this introductory part?

2 MS LUPING: It may indeed take a reasonable amount of time, so --

3 PRESIDING JUDGE FREMR: All right.

4 MS LUPING: -- probably about 15 minutes or so.

5 PRESIDING JUDGE FREMR: All right. Let's move now into private session.

6 (Private session at 10.10 a.m.)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session.

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session.

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session.

14

15

16

17

18

19

20

21

22

23

24

25

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Open session at 10.23 a.m.)

5 THE COURT OFFICER: We're back in open session.

6 PRESIDING JUDGE FREMR: Thank you.

7 Ms Luping, you may proceed.

8 MS LUPING: Thank you, Mr President.

9 Q. Now, Mr Witness, you explained that you were in Bunia when you first joined the
10 UPC. Could you describe what was happening in Bunia at the time you joined the UPC?

11 A. After the attack on the location where I used to live and the attack by the Ugandans
12 to ward off or to chase away Governor Lompondo it is at that time that I joined the UPC.

13 Q. And this attack in Bunia, do you recall what year that was in?

14 A. It was in 2002.

15 Q. And you say the UPDF had launched an attack to chase away Governor Lompondo.
16 What were the forces aligned with Governor Lompondo? What was the army aligned
17 with him at this time?

18 A. APC.

19 Q. And what does APC stand for?

20 A. Armée patriotique congolaise.

21 Q. And who was the UPC fighting against during this battle?

22 A. The APC was the direct enemy of the UPC.

23 Q. And who was leading the UPC forces during this battle? Which commander?

24 A. The chief of general staff was Kisembo. He was the one in charge of the army.

25 Q. And were there any other commanders leading the attack in the field during this

1 attack?

2 A. Yes.

3 Q. And can you name the commander or commanders, the senior commanders?

4 A. We had Chief Kahwa, there was Commander Bosco and then we also had
5 Kasangaki.

6 Q. And what is Commander -- what was Commander Bosco's other name?

7 A. He was ordinarily referred to as Tango Romeo.

8 Q. And other than this name, was he known by other names? What is his last name?

9 A. Bosco Ntaganda.

10 Q. And do you know what his role was within the UPC army at this time?

11 A. No. At that time, no.

12 Q. And what role did he play in this battle in Bunia?

13 A. After that we went to reinforce or to support at the venue where I used to live.

14 When there was an attack on Bunia, he came to Bunia with some troops and he was the
15 one heading up the troops.

16 Q. And do you know where he -- which -- where he came from?

17 A. From Mandro.

18 Q. And how many troops did he have with him?

19 A. About two battalions.

20 Q. And within the UPC at that time, roughly how many were in each battalion?

21 A. At that time I was not able to know how many people were in the battalions, but
22 there were many of them.

23 Q. And the troops with Bosco Ntaganda coming from Mandro, how old would you
24 estimate the youngest were amongst them, if you can recall?

25 A. Yes, there were some young soldiers among them.

1 Q. And can you estimate how old were the youngest amongst these young soldiers that
2 you saw?

3 A. Eleven or 12 years old.

4 Q. And were they wearing uniforms?

5 A. No.

6 Q. Were any of them armed?

7 A. Yes.

8 Q. And what type of weapons did they have?

9 A. Kalachnikovs.

10 Q. And can you estimate roughly how many amongst the troops with Bosco Ntaganda
11 were within this age range, 11 and 12?

12 A. There were many of them. It is difficult to give you an estimate because there were
13 many of them actually.

14 Q. Now, after the battle, this battle in Bunia, who were the forces that took over Bunia?
15 Who succeeded in the battle?

16 A. The UPC had control of the town of Bunia.

17 Q. And what of Governor Lompondo and the APC forces, were they still in Bunia?

18 A. No.

19 Q. During this battle in Bunia do you know if any civilians were killed?

20 A. No.

21 Q. Now, just briefly returning to the group of children aged between 11 and 12 that
22 were with Bosco Ntaganda during this battle, how could you estimate that they were at
23 this age? What is about them that enables you to estimate how old they are?

24 A. Their size and the way they behaved.

25 Q. And what do you mean by the way they behaved? What is it about their behaviour

1 that enables you to estimate their age?

2 A. They were not always concentrating on their work as the others were and they were
3 doing other things.

4 Q. And what do you mean by that?

5 A. They were playing a lot, for example.

6 Q. And what do you mean by "playing"? What were they playing?

7 A. I can't describe the games, but in my opinion they were games played by children.

8 Q. And amongst this group of young children, were there boys or girls or both?

9 A. When I saw them there were only boys when they joined us.

10 MS LUPING: Mr President, I just have to ask a couple of questions in private session, it
11 won't take long, and then I'll be back in public.

12 PRESIDING JUDGE FREMR: All right.

13 Court officer, please let's move into private session.

14 (Private session at 10.37 a.m.)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Open session at 10.40 a.m.)

19 THE COURT OFFICER: We're back in open session, Mr President.

20 PRESIDING JUDGE FREMR: Thank you.

21 Ms Luping, you may proceed.

22 MS LUPING:

23 Q. Mr Witness, when you travelled from Bunia to Mandro, how many were there in the
24 group travelling with you? What was the number roughly?

25 A. We were many.

1 Q. Do you recall roughly how many?

2 A. More than 50.

3 Q. And where in Mandro did you go to?

4 A. We went to the camp in Mandro.

5 Q. And who was the UPC Mandro camp commander at this time?

6 A. We found the commander known as Americain.

7 Q. And other than Commander Americain, did you meet any other senior commanders
8 during this trip to Mandro?

9 A. Yes, Bosco arrived in the morning.

10 Q. And what is Bosco's other name?

11 A. Commander Bosco Ntaganda.

12 Q. And do you know what his role was within the UPC by this time?

13 A. He was the G3.

14 Q. And what was the role of the G3?

15 A. Commander in charge of operations.

16 Q. And when he came to Mandro did you meet with him at all?

17 A. Yes, he spoke to us.

18 Q. And can you recall what he said?

19 A. We didn't know what we were going to do, but * we needed solid men and he
20 wanted to know whether we were ready for our task.

21 Q. And did he explain what that task was?

22 A. No.

23 Q. After this meeting, did you meet with him again? Did he speak to the troops again
24 before you left Mandro?

25 A. He returned the following day, but he didn't speak to us, he didn't say anything.

1 Q. And who gave you instructions that next morning?

2 A. The Commander Americain, but in the presence of Commander Bosco Ntaganda.

3 Q. And what did Commander Americain say?

4 A. We had to go to Tchomia.

5 Q. And travelling to Tchomia, did you bring anything with you in terms of military
6 material?

7 A. We were first armed, then we were given anti-personnel mines and bombs and
8 rocket launchers.

9 Q. And who was the commander responsible for rearming you and providing
10 these -- these weapons and bombs?

11 A. All this was done by Americain.

12 Q. And did you learn where these weapons and bombs came from?

13 A. No.

14 Q. And other than Commander Americain who were the other senior commanders at
15 Mandro?

16 A. All this was done by Americain, but in the presence of a commander,
17 Bosco Ntaganda, who was the highest ranked officer present at the time.

18 Q. Whilst you were at Mandro you said that it was the -- there was a principal camp
19 there. Was there also any training camp at Mandro?

20 A. Where we were there were some recruits and others were in the hills to the north of
21 Mandro.

22 Q. And did you see recruits during this trip to Mandro?

23 A. Yes.

24 Q. And where at Mandro did you see them?

25 A. We spent some time -- we spent the day with them in the same camp before we

1 went to Tchomia.

2 Q. And how old would you estimate was the youngest amongst these recruits that you
3 saw at Mandro?

4 A. The four that we spent the night with in the same house, in my opinion, they were
5 too young.

6 Q. And how old roughly were they?

7 A. I would say about 10 or 11 years old.

8 Q. And how could you tell that they were of this age?

9 A. They didn't eat with the other soldiers because it was difficult for them and they
10 were not involved in the other daily activities. And during the day we spent in Mandro
11 they spent the day playing as children do.

12 Q. Now, you said they weren't involved in the same -- all the same daily activities and
13 they were playing. Was there anything else about them that enabled you to estimate
14 their age?

15 A. They didn't behave properly; they were playing. The commander didn't give them
16 any tasks, which means that he recognized them as weak and small people.

17 Q. And was there anything about them physically that enabled you to estimate their
18 age? What did they look like?

19 A. They were small. They weren't eating very well there.

20 Q. And other than the four children who were in the house, were there any other
21 young children amongst the recruits that you saw at Mandro?

22 A. There were some bodyguards with Commander Bosco; they were not recruits.

23 Q. And these bodyguards with Bosco Ntaganda, how old was the youngest amongst
24 them, would you say?

25 A. Both of them, I think, were under 15.

1 Q. And how can you estimate that they were under 15? What is it about them that
2 enables you to assess that they were 15 -- under 15, sorry?

3 A. I saw them. (Redacted) I saw them again and, in my
4 opinion, they were under 15.

5 Q. And were they wearing uniforms, these two escorts with Bosco Ntaganda?

6 A. At the time the UPC had no uniforms.

7 Q. Were they armed?

8 A. Yes. One carried the communications equipment for Commander Bosco and one
9 also carried his weapon and Bosco Ntaganda's pistol.

10 Q. In addition to the pistol -- sorry. First of all, could you -- do you know what type of
11 pistol this was?

12 A. I didn't pay much attention, but I saw the string dangling.

13 Q. And in addition to the pistol what was the other weapon with Bosco Ntaganda?

14 A. Both carried Kalachnikovs.

15 Q. And when you say he had a communications equipment, what type of
16 communications equipment was that?

17 A. He had the satellite equipment which is commonly known as Iridium.

18 Q. And did you see any other communications equipment with him at this time?

19 A. They also had the Motorola, Kenwood.

20 Q. Now, the two escorts with Bosco Ntaganda, do you remember whether they were
21 male or female or both?

22 A. They were boys.

23 Q. And did you -- do you know any of their names? Do you recall their names?

24 A. No.

25 Q. Now, returning to the recruits at Mandro that you mentioned were roughly

1 between 10 to 11 years old, do you recall if they were males or females or both?

2 A. In this group there were only males.

3 Q. And did you see any other young children, say, under the age of 15 at Mandro at
4 this time?

5 A. I saw those who were in the same camp as us.

6 Q. And those in the same camp as you were there any below the age of 15 other than
7 the ones in the house with you?

8 A. When we were due to leave Mandro for Tchomia, the forces that came from that
9 area to go to Tchomia with us contained some young people also.

10 Q. And how old was the youngest amongst those travelling to Tchomia?

11 A. Commander Americain must have chosen the strongest. The oldest and the
12 youngest stayed where they were.

13 Q. Did you see any females amongst the UPC soldiers at Mandro?

14 A. At that time I don't recall having seen any.

15 Q. Did you go to Mandro camp on any other occasion?

16 A. After.

17 Q. And on these other occasions at Mandro camp, did you ever see other children
18 amongst those at the military camp?

19 A. At that time I didn't go to the training camp.

20 PRESIDING JUDGE FREMR: Mr Bourgon.

21 MR BOURGON: Thank you, Mr President. According to the French transcript before
22 me, when the witness was asked whether he returned to the camp of Mandro we do not
23 have an answer. All we have is après, or after, three dots, and then my colleague
24 pursued with a question saying: What did you do after you returned? I'd like to clarify
25 the answer to this question, Mr President. Thank you.

1 PRESIDING JUDGE FREMR: Good point. I think it will be the last issue before the
2 break.

3 So please, Ms Luping, try to clarify this.

4 MS LUPING: Yes, Mr President. Unfortunately I'm struggling to see what I'm
5 clarifying because I think it is clear.

6 He said: Did you go to Mandro camp on other occasions?

7 Yes, afterwards -- after.

8 Q. So, Mr Witness, when you said you went to Mandro camp on other occasions, and
9 that was after this first trip, did you see other children -- did you see children on these
10 other occasions at the camp?

11 A. I said no, I did not go to the training camp, but I was at the Mandro camp.

12 Q. Yes, and at the camp did you see any children there?

13 A. No.

14 MS LUPING: I think that we can finish for now, Mr President, and I'll resume after the
15 break.

16 PRESIDING JUDGE FREMR: All right. So we will break now for 30 minutes, which
17 means we will reconvene at half past 11.

18 THE COURT OFFICER: All rise.

19 (Recess taken at 11.03 a.m.)

20 (Upon resuming in open session at 11.31 a.m.)

21 THE COURT USHER: All rise.

22 Please be seated.

23 PRESIDING JUDGE FREMR: Mr Bourgon.

24 MR BOURGON: Thank you, Mr President.

25 I would like to draw the Chamber's attention to a mistake in the translation of the

1 transcript. And I refer here to the English transcript, page 28, at lines 13 and 14, where it
2 is said that "we had solid weapons"; whereas in French it is -- the witness made it clear in
3 his original language that we needed -- we needed solid men, "mais qu'on avait besoin des
4 hommes solides."

5 I think it is important to bring the correction because this is the one that was in the
6 original, in his language. Thank you, Mr President.

7 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

8 Prosecution's position on this Defence proposal?

9 MS LUPING: Sorry, Mr President, we're just trying to find it in the French transcript.
10 We have the English reference.

11 If you could just repeat that, Mr Bourgon.

12 MR BOURGON: The transcript reference in French is on page 23, and this is at lines 13
13 to 15. And to be compared with the English transcript, page 28, lines 13 and 14.
14 Thank you, Mr President.

15 MS LUPING: Yes, comparing the transcripts, it does indeed appear to be perhaps an
16 error in the English transcript.

17 PRESIDING JUDGE FREMR: Thank you.

18 So on behalf of the Chamber, we would like to order the correction as proposed by
19 Mr Bourgon.

20 Now, Ms Luping, you may proceed with examination of the witness.

21 MS LUPING: Thank you, Mr President. Just for my following few questions if we
22 could just briefly go into private session.

23 PRESIDING JUDGE FREMR: Court officer, please, let's move into private session.

24 (Private session at 11.35 a.m.)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session.

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session.

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session.

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session.

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13

14 Page redacted – Private session.

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session.

13

14

15

16

17

18

19

20

21

22

23

24

25

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Open session at 11.58 a.m.)

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

11 PRESIDING JUDGE FREMR: Thank you.

12 Ms Luping, you may proceed.

13 MS LUPING: Thank you, Mr President.

14 Q. Mr Witness, you've mentioned that there was a military training camp at Mandro.

15 Could you tell us where you recall there were other training camps, UPC training camps?

16 A. Apart from the Mandro camp, I know that soldiers were trained in Bule, some
17 soldiers were trained in Mongbwalu, others were trained at Rwampara.

18 Q. Thank you. I'll ask more questions about these training camps later, but for now
19 you have referred to a brigade commander called Salumu. Could you tell us what
20 Salumu's last name was?

21 A. Salumu Mulenda, if I'm not mistaken.

22 Q. And within the UPC how many brigades were there?

23 A. To the best of my knowledge there were three.

24 Q. And other than Salumu Mulenda who were the two other brigade commanders
25 within the UPC?

1 A. There was brigade commander Jérôme Kakwavu and Tchaligonza also brigade
2 commander.

3 Q. And -- sorry, within Salumu Mulenda's brigade, do you recall the names of the
4 battalion commanders?

5 A. When I was in the brigade we had Americain who was a battalion commander.
6 David was a battalion commander. Abelanga was a battalion commander as well.

7 Q. And --

8 PRESIDING JUDGE FREMR: Mr Bourgon.

9 MR BOURGON: Thank you, Mr President. The -- it is a well-known fact that the
10 situation evolved over the time covered by the -- by the charges laid against Mr Ntaganda
11 in this case. It would be -- save time for everyone if my colleague could ask her question
12 with regard to a specific time frame rather than just say how many in the UPC because
13 over an 18-month period there were changes, everyone is aware of that, so I think it
14 would be important to know if he is going to say who was a commander at a certain point
15 in time and if there was a unit at a certain point in time that at least she makes reference to
16 a point in time.

17 Thank you, Mr President.

18 PRESIDING JUDGE FREMR: I find it beneficial, Ms Luping.

19 But sorry coming back, at least in the English transcript we don't have the name of the
20 second brigade commander, so it was -- Mr Witness, could you please spell the name of
21 the second commander of brigade because you said -- we have I think incorrect wording
22 Mulenda. We do have -- we have the third one.

23 MS LUPING: Mr President, if I may assist.

24 PRESIDING JUDGE FREMR: Yes, please.

25 MS LUPING: The French transcript refers to Abelanga, so perhaps we could have the

1 spelling from the French transcript for the English or we can ask the witness to spell
2 Abelanga.

3 PRESIDING JUDGE FREMR: If the French spelling is correct, then we can move.

4 MS LUPING: Okay. The French spelling is correct, Mr President.

5 PRESIDING JUDGE FREMR: Fine.

6 MS LUPING:

7 Q. Mr Witness, could you give us the names of the battalion commanders at the time of
8 the Mongbwalu operation that you mentioned?

9 A. The commander there was Americain, he was a battalion commander; Abelanga was
10 a battalion commander; and another battalion commander who was stationed in Mabanga,
11 but I've forgotten his name.

12 Q. And within the UPC what was the term used for "commander"?

13 A. Afande.

14 Q. Can you spell Afande? Actually, I apologise it has been correctly spelt in the
15 transcript so there's no need to spell it.

16 What language is that?

17 A. Well, we use Swahili in the army.

18 Q. And who used the term "Afande"? Who would use this term?

19 A. All soldiers who didn't have the rank of a superior would automatically call the
20 superior Afande.

21 Q. Now, the army of the UPC, what were the majority -- what was the ethnicity of the
22 majority within the UPC?

23 A. North Hema, Ndjugu were the largest majority.

24 Q. And what percentage would you estimate of the Hema were there within the UPC?

25 A. I would say 60 per cent was made up of Hema, Gegere Ndjugu.

1 Q. And other than the Hema north of Ndjugu were there other Hema in the UPC?

2 Were there any Hema south?

3 A. Yes.

4 Q. And how many of the UPC would you estimate were Hema south?

5 A. They couldn't be more than 10 per cent.

6 Q. Now, Mr Witness, you have mentioned --

7 PRESIDING JUDGE FREMR: Sorry to interrupt you and Mr Witness because I would
8 like to complete this inquiry.

9 So what was the ethnic composition of the rest? You said 60 percent of north Hema, 10
10 percent of Hema south. And what about the rest?

11 THE WITNESS: (Interpretation) There were -- there was a significant group from the
12 Lugbara origin from Aru; there was Alur from Mahagi, from Nyali, some Nyali; I saw
13 Ngiti as well.

14 PRESIDING JUDGE FREMR: Thank you.

15 MS LUPING:

16 Q. And, Mr Witness, the Ngiti that you saw, roughly how many did you see?

17 A. The ones I saw within -- they were the ones I saw within my brigade.

18 Q. And roughly how many of them were there?

19 A. They were the only ones that I knew.

20 Q. How many were there from your recollection?

21 A. The only person -- there was just one, just one person that I knew who was Ngiti.

22 Q. Now, Mr Witness, you mentioned that when you saw Bosco Ntaganda at Mandro
23 you saw him with satellite equipment, you referred to Iridium satellite equipment and a
24 Kenwood Motorola. Did other commanders have means of communication and if so,
25 what type?

1 A. The majority of the commanders were equipped with Motorolas, but the highest
2 ranking commander, the ones who were in the staff, had satellite equipment.

3 Q. And in addition to satellite equipment and Motorolas, did the UPC have any other
4 means of communication?

5 A. Yes.

6 Q. What type?

7 A. Radiophony.

8 Q. Can you describe the radiophony, what it physically looked like?

9 A. Well, it had an -- it had a battery, it had two different sides. The battery was
10 several kilos. And the antenna was put up high in order to aid communications. And
11 there is a cable which is a detachable microphone.

12 Q. And were there people within the UPC trained to use the radiophonies? And if so,
13 what were they called?

14 A. Yes. They were called signallers.

15 Q. And to be clear is that -- what language is that, this term signaller?

16 A. I don't know the origin of the word, but I knew that they were called signora.

17 THE INTERPRETER: The interpreter understood it as signaller, but it was said
18 "signora."

19 MS LUPING:

20 Q. Mr Witness, there is some difference between the two transcripts as to the spelling of
21 the word you're just saying. Could you spell the word for us, signora?

22 A. S-I-G-N-O-R-A.

23 Q. And can you explain how was the radiophony used to communicate within the UPC
24 army?

25 PRESIDING JUDGE FREMR: Mr Bourgon.

1 MR BOURGON: Thank you, Mr President. I'm a few lines late, but I would like to
2 bring -- a word is missing in the English transcript which I think is important. And this
3 is at line -- on page 47, at line 23 -- 24. The witness was asked to describe the radiophony,
4 what it physically looked like. And the answer on page 48, lines 1 and 2 is: "Well, it
5 had an" and there's a word missing here, "it had a battery and it had two different sides."
6 Now, if I compare with the French transcript, it says here on page 41, at lines 20, "Elle est
7 d'une taille 'opposante'. L'appareil est branché à une batterie ..."
8 I believe what is missing here is that the size of the radiophony was I think "imposing" is
9 the word that should be there, but it's missing in English and I would like to confirm this
10 in the transcript, Mr President.

11 MS LUPING: Mr President, just to also clarify, I think in the French transcript it
12 currently says "opposante," but in French I believe the witness did use the word
13 "imposante." I can ask him to clarify.

14 Q. Mr Witness, when you were --

15 PRESIDING JUDGE FREMR: Please do.

16 MS LUPING:

17 Q. -- describing the radiophony, are we correct that we heard you use the word
18 "imposante" in French?

19 A. Yes.

20 Q. Okay.

21 And thank you to Mr Bourgon for that clarification.

22 Now, I'll return to my question. Could you explain how was the radiophony used to
23 communicate within the UPC army?

24 A. Where I was stationed I got to go -- got to know a friend who was using it. He
25 received messages which were transcribed and they were taken from the machine by code

1 and they were written down in a logbook and he had another logbook which he used in
2 order to decode the messages. And the decoded messages were then transcribed into
3 another book which was bigger, and from there the messages could be read before being
4 sent on to the radio.

5 Q. And how do you know this? Did you see this happen with your own eyes?

6 A. Yes.

7 Q. And this person who received these messages, what was his name?

8 A. Well, where I saw the person working, Lonema.

9 Q. And where was this?

10 A. At Kilo-État. Kilo-État.

11 Q. Within which unit was he within the UPC?

12 A. He was responsible for communications within Salumu's brigade.

13 Q. And you said he would write it down in a logbook. Did you see the logbook that
14 he wrote these messages down in?

15 A. The three books that I've described I saw them.

16 Q. And you said he -- one of the logbooks were used in order to decode the messages.
17 Did you see that -- could you describe that logbook?

18 A. Well, it was like a notebook. He'd put a cover on it and he walked around with it
19 everywhere because it was the most important thing for him.

20 Q. And did you see the content of this logbook? Did you see how the messages were
21 decoded and written inside this logbook?

22 A. Well, I saw him working where he was busy with it. I saw him working in the
23 house where he worked.

24 Q. And did you get to see the inside of the logbook?

25 A. I didn't read the content, but we discussed some -- some parts of it with him. But I

1 didn't read the book.

2 Q. Were there any particular times of the day that this information would be recorded
3 in the logbook?

4 A. Yes.

5 Q. And when was that?

6 A. Well, I don't know how it worked, but they had their way of communicating at a
7 particular time. Sometimes it was 9 o'clock in the morning and sometimes it was in the
8 afternoon as well. Then he was also using that frequency in order to communicate.

9 Q. And were these radiophonies also used during military operations?

10 A. Well, where I went where there were troops or there were high-level commanders,
11 yes, you found radiophonies there necessarily.

12 Q. And when do you recall the first time you saw radiophonies used within the
13 Salumu brigade?

14 A. In Lalu.

15 Q. Now, you've said that you would talk to this signaller Lonema about certain
16 communications. Can you recall any particular communications that you discussed with
17 him that he recorded in the logbook that he was writing in?

18 A. He mentioned the fact that the commander who's responsible for operations,
19 Bosco Ntaganda, was angered because our troops who had to take on the enemy, they
20 hadn't carried out the operation. We discussed that with him. And there was also the
21 fact with what happened in Nyoka where the father Carmes who was there was arrested
22 by our soldiers, and we also discussed that with him.

23 Q. Starting first with the operation that Bosco Ntaganda was angry about, where was
24 that operation?

25 A. He spoke to me about the fact that our group at Mahagi, which controlled Mahagi

1 went -- and a different part of it had to fight the enemy. They were in Kpandroma and
2 Rethy and they didn't do that. That's what we spoke about.

3 Q. And the event in Nyoka where the father was, who was this father that you're
4 referring to?

5 A. In order to -- in Nyoka, I went through the radio to communicate and I heard about
6 that and it was pères Carmes who was taken leaving the meeting.

7 Q. And what is the nationality of père Carmes?

8 A. I no longer know the nationality, but there were two fathers who were there. There
9 was Mario and there was Guido, the two white people that were there that I knew.

10 THE INTERPRETER: Correction, the father was leaving the centre of Nyoka, not a
11 meeting.

12 MS LUPING:

13 Q. And do you know why the father was arrested?

14 A. He was speaking about the fact that he was collaborating with the enemy who was
15 in Libi.

16 Q. And who was this enemy?

17 A. At this time the APC, the Lendu, Ngiti who were among the UPC's enemies.

18 Q. And are these the same enemies that he was arrested for communicating
19 with -- sorry, collaborating with?

20 A. Yes.

21 PRESIDING JUDGE FREMR: Mr Bourgon.

22 MR BOURGON: Thank you, Mr President. The witness is talking about two specific
23 instances where he spoke with a man called Lonema, but we don't know when this took
24 place. In order to be able to cross-examine I would like to know when these
25 conversations took place, Mr President. Thank you.

1 PRESIDING JUDGE FREMR: Ms Luping. I think it will be obviously better, if we can,
2 to specify at least roughly the date.

3 MS LUPING:

4 Q. Now, you've mentioned that you had these discussions with Lonema when you
5 were in Kilo-État. Do you recall roughly when that was?

6 A. I know it was after the operation in Mongbwalu, but I do not remember the precise
7 date.

8 Q. Now, Mr Witness, you have referred to another name by which Bosco Ntaganda
9 was referred to and that was Tango Romeo. What is this -- what is this term Tango
10 Romeo? What type of term is it?

11 A. This was a signal for the Motorola radio.

12 Q. And in addition to Bosco Ntaganda, do you recall any other signal names for other
13 commanders?

14 A. Some in our brigade, yes.

15 Q. Could you provide the ones that you recall.

16 A. Salumu, Sierra Alpha; Americain, he was called Americain still; the company
17 commander Eric was called Echo Charlie; we had Pascale, commander, who was called
18 Papa Oscar; we had the Rwandan commander Romeo Whisky; company commander
19 Samy, he was called Sierra Mike; commander André from the company, he was called
20 aigle vipère; we had T3, Kasangaki, Double Sierra; David Pigwa was called Delta Vicky;
21 Commander Mangaino was called Mangaino still.

22 Those were the people that I can remember. There was also the commander, chief of
23 general staff, Kisémbé who was called Zulu Mike.

24 Q. Now, I just want to just note for the record the French transcript has -- appears to
25 have managed to capture all of the names of the commanders and the signal names as

1 well. They have not been all captured in the English transcript, but perhaps if this could
2 be corrected to match the French transcript because they are all there.

3 PRESIDING JUDGE FREMR: Okay. Well noted.

4 MS LUPING: I'd just like to ask one question in private session, Mr President.

5 PRESIDING JUDGE FREMR: All right.

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

7 (Private session at 12.31 p.m.)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Open session at 12.33 p.m.)

24 MS LUPING:

25 Q. Mr Witness, I just had a few questions to clarify some of the --

- 1 PRESIDING JUDGE FREMR: Please hold on. Hold on.
- 2 THE COURT OFFICER: We are in open session.
- 3 PRESIDING JUDGE FREMR: And now Mr Bourgon first.
- 4 MR BOURGON: Mr President, the call sign of the witness does not appear to be
- 5 recorded either in French or English where he said what his call sign was.
- 6 PRESIDING JUDGE FREMR: In English I think we do have it because I wrote it down.
- 7 Yes, (Redacted). The only thing probably missing is the --
- 8 MR BOURGON: I'm referring to the call sign, Mr President, not to -- not to the position.
- 9 PRESIDING JUDGE FREMR: Okay.
- 10 MR BOURGON: He was asked about a call sign and he was given a means of
- 11 communication and that is significant, Mr President. Thank you.
- 12 PRESIDING JUDGE FREMR: Ms Luping.
- 13 MS LUPING:
- 14 Q. Mr Witness, I just wanted to clarify some of these signal names --
- 15 PRESIDING JUDGE FREMR: But it probably would mean that we would have to return
- 16 back into private session.
- 17 MS LUPING: No.
- 18 PRESIDING JUDGE FREMR: No?
- 19 MS LUPING: No need, Mr President.
- 20 PRESIDING JUDGE FREMR: Okay.
- 21 MS LUPING: These are all call signs that were given in public session.
- 22 PRESIDING JUDGE FREMR: But I meant Mr Witness's call sign.
- 23 MS LUPING: That one is -- it's already recorded in the transcript. In fact we'll have to
- 24 seek redactions of that information.
- 25 PRESIDING JUDGE FREMR: Okay.

1 MS LUPING: And as you rightly pointed out, it actually is already in the transcripts, so
2 we'll --

3 PRESIDING JUDGE FREMR: But, you know, the Defence objection that it is not in the
4 transcript. So I thought it is -- according to you, what is --

5 MS LUPING: I can give you the page reference. I thought Mr Bourgon had clarified
6 that in fact it was there.

7 PRESIDING JUDGE FREMR: No, no, no. Probably it was even my error because I saw
8 that this, you know, what I already quoted, but I was told that it is not a call sign.

9 MS LUPING: Okay.

10 PRESIDING JUDGE FREMR: So anyway please move into private session just not
11 to -- because this will limit us.

12 (Private session at 12.35 p.m.)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Open session at 12.38 p.m.)

1 THE COURT OFFICER: We are back in open session.

2 PRESIDING JUDGE FREMR: Thank you.

3 Ms Luping, you may proceed.

4 MS LUPING: Thank you, Mr President.

5 Q. I just had a few questions to clarify from some of the call signs that you had
6 provided previously. There was the call sign for the T3, Kasangaki. In the French
7 transcript it is referred to as Diabolo Sierra; is that correct or is it not correct?

8 A. Double Sierra.

9 Q. Thank you. We had heard "double." I just wanted that to be clarified.
10 Echo Charlie, you said the company commander Eric was known as Echo Charlie. Do
11 you know what this company commander Eric's last name was?

12 A. No.

13 Q. Now, Mr Witness, I am going to move to ask you some questions about the
14 Mongbwalu operation. Do you recall when this was, when the operation was?

15 A. Mongbwalu, that was towards the end of the year 2000 -- 2002.

16 Q. Now, you said that you left for the operation from Bunia. Can you tell -- tell us
17 where you first went. When you travelled from Bunia and you're on your way to the
18 Mongbwalu operation, where is it that you first went to?

19 A. Mabanga.

20 Q. And do you know who planned this operation on Mongbwalu?

21 A. No.

22 Q. When you reached Mabanga were there any orders that you received when you
23 arrived at Mabanga?

24 A. Yes.

25 Q. And what were those orders?

1 A. Brigade Commander Salumu asked me and the others to link up with the other
2 members of the troops who were stationed at Lalu.

3 Q. And at Mabanga how many of the troops were there that were going to be
4 participating in the Mongbwalu operation?

5 A. Mabanga was the position we occupied. The troops that were supposed to go to
6 Mongbwalu were in Lalu. They were not in Mabanga.

7 Q. And when you arrived in Lalu what were the troops that were present there who
8 were going to be involved in the Mongbwalu operation?

9 A. There were two battalions in Lalu.

10 Q. And these two battalions, they were led by which battalion commanders?

11 A. There was Commander Americain and Commander Abelanga.

12 Q. And amongst these troops that you saw at Lalu, how old was the youngest that you
13 saw there? These are -- I'm talking about the soldiers within the Salumu brigade that
14 you saw at Lalu.

15 A. We were at the Lalu centre and what was very visible to us was the bodyguards.
16 Among the bodyguards there were some young people.

17 Q. And can you indicate how old those young people were?

18 A. There were two young girls who were always nearby, near our house, they must
19 have been 12 or 13 years old.

20 Q. And who were they bodyguards for?

21 A. For Abelanga.

22 Q. And do you recall their names?

23 A. Mave and Francine.

24 Q. And what is it about them that enables you to indicate that they are 12 or 13?

25 A. Their physiognomy, the fact that they played and then their sizes. They looked

1 more like young boys because they didn't have any breasts on their chest.

2 Q. And do you know what their duties were?

3 A. They were Abelanga's bodyguards.

4 Q. Did they have any other duties that you're aware of?

5 A. No, no. At that time all I knew was that they were Abelanga's bodyguards.

6 Q. Did you learn anything about them subsequently?

7 A. I got to know other commanders. Commander Samy, Sierra Mike, told me about
8 what happened to those young girls in Mandro.

9 Q. And what did he tell you happened to the young girls at Mandro?

10 A. He told me that Abelanga had been abusing these girls since the time they were in
11 Mandro and that it is for that reason that he had kept them with him.

12 Q. And what do you mean by abusing them, what do you mean by that?

13 A. Sexually. Abusing them sexually.

14 Q. And what do you understand when you say that they were being abused sexually,
15 what do you mean by that?

16 A. He had sexual relations with them. That's what I meant.

17 Q. And when you say that he had sexual relations, what do you -- what do you mean
18 precisely?

19 A. Well, this is what Samy told me, and all I needed to know was that he had sexual
20 relations with them. I am not -- or, I did not go into any further details on that topic.

21 Q. And did you learn whether there was -- whether it was voluntary or not?

22 A. Given their age, I felt pity, pity for them because I know -- I knew that it couldn't be
23 voluntary given their age and their size.

24 Q. Other than these two girls, did you see any other young children amongst the UPC
25 forces at Lalu?

1 A. There were a few other girls who guarded Commander Salumu's house, but they
2 were older. They were fully grown, more developed bodies. They also had a girl at
3 Sierra Mike's house -- well, in the troops one would again find a few other young soldiers,
4 but these were mostly males, boys.

5 Q. And these boys, can you indicate what age range they were?

6 A. The youngest I saw and who came along with us was, in any event, less than 14
7 years old.

8 Q. And these children, you've indicated children who were less than 15, including less
9 than 14, how many of them were there that you saw at Lalu?

10 A. Many. Many.

11 Q. What were they wearing? Were they wearing uniforms?

12 A. Yes.

13 Q. And these children who were wearing uniforms, did they fit them?

14 A. No.

15 Q. And so what would they do?

16 A. It was the duty of the bodyguards to be -- to appear well-kempt and well-dressed up,
17 so their uniforms are adjusted by tailors. But for the others they simply had to fold them
18 up and do with it, make do with it.

19 Q. And were they armed?

20 A. We all had Kalachnikovs.

21 Q. And when you were at Lalu did you receive any orders for the operation on
22 Mongbwalu?

23 A. When the brigade commander arrived in Lalu everything fell into place.

24 Q. What orders did you receive for the Mongbwalu operation when you were at Lalu?

25 A. (Redacted)

1 Q. Now, not referring to the work that you specifically did, I will ask you more
2 questions about that in private session, but just more generally, did the troops, Salumu's
3 brigade, receive any particular orders or did they -- did they receive any instructions
4 when you were at Lalu?

5 A. When the brigade commander arrived he brought with him some other soldiers.
6 He reorganised the troops. There was an assembly of all the soldiers in order to proceed
7 towards Mongbwalu.

8 Q. And this assembly of all the soldiers, did anybody address the soldiers during this
9 assembly?

10 A. The brigade commander spoke. The T5 was also present and he also spoke to the
11 troops.

12 Q. And starting first with the brigade commander, can you recall what he said to the
13 troops?

14 A. He talked about the horrible situation that was prevailing in Lalu, and then said that
15 we would move to Mongbwalu and capture Mongbwalu and that the troops will receive
16 money, they would sleep on mattresses, that they would have food, that they would have
17 women and that they would forget all the suffering that they had endured -- that they had
18 endured in Lalu.

19 Q. And what language did he use when he spoke to the troops?

20 A. Swahili.

21 Q. And was there any particular expression he used in Swahili?

22 A. He said "Kupiga na kuchaji."

23 Q. And can you -- well, first of all, if you could explain what that expression kupiga na
24 kuchaji means?

25 A. Kupiga is to defeat the enemy. Kuchaji is to loot or pillage.

1 Q. And can you spell the expression kuchaji because it doesn't appear to have been
2 captured correctly in either the French or the English transcripts.

3 A. K-U-C-H-A-J-I.

4 Q. Now, what did you understand when he said that you would have women? What
5 did you understand from that?

6 A. Like I said before things were unbearable in Lalu. Some soldiers had actually fled
7 and so he was saying that the soldiers would have a different lifestyle in Mongbwalu, that
8 things were going to change, the soldiers will be able to have women. And so it was a
9 way of motivating the troops.

10 Q. But when he said that they would be able to have women, what did you understand
11 by that? What did he mean by they could just have women?

12 A. Well, all I can give you is my -- my interpretation. And each individual must have
13 interpreted that according to their understanding.

14 Q. And what was your understanding?

15 A. Well, it is like I said before that our social circumstances would change, people
16 would live differently, some might even live together as couples. When he said you
17 would have women, it means you will have women. That is what he wanted to say.

18 Q. And when he said that you would have money, what did you understand from
19 that?

20 A. To begin with, Mongbwalu is the region in the Ituri where there is a lot of gold.
21 Everybody knows that there is business and all types of traffic, or trafficking going on in
22 Mongbwalu. So when he used the expression "kuchaji" it meant that anyone who looted
23 would end up having money.

24 PRESIDING JUDGE FREMR: Allow me one additional question: In this regard, Mr
25 Witness, a part of this money from looting, have you been paid regularly as a member of

1 UPC? Have you received any salary?

2 THE WITNESS: (Interpretation) Never.

3 PRESIDING JUDGE FREMR: Thank you.

4 Ms Luping, you have the floor.

5 MS LUPING:

6 Q. Now, when you say, you used the expression kuchaji, which you translate as
7 meaning to loot or pillage, what did you understand could be amongst the goods or the
8 things that could be pillaged?

9 A. Well, everything. Everything could be pillaged. He said you would sleep on
10 mattresses. He even mentioned that. And in fact, when we left Lalu no one had a
11 mattress. Nobody had a mattress with them.

12 MS LUPING: Mr President, I can end there and resume after the break.

13 Q. Thank you, Mr Witness.

14 PRESIDING JUDGE FREMR: Thank you, Ms Luping, especially for the fact that you
15 succeeded to lead the -- most of the examination in public session, which I think we
16 generally would like to support. Even there are some cases that we have to be safer to go
17 into private, but if there is such a possibility we strongly encourage you to remain in open
18 session.

19 Mr Witness, thank you very much. I would like to say that until now you are doing very
20 well. You just followed the instructions given to you, you observed pauses, you patiently
21 responded carefully to the questions put to you, so thank you very much for that. We
22 believe that you will continue in the same way after the lunch break.

23 And we will break now and we will continue at half past 2.

24 THE COURT USHER: All rise.

25 (Recess taken at 1.04 p.m.)

1 (Upon resuming in open session at 2.31 p.m.)

2 THE COURT USHER: All rise.

3 Please be seated.

4 PRESIDING JUDGE FREMR: Good afternoon, everybody.

5 I think we can continue with examination of the witness.

6 So, Ms Luping, you have the floor.

7 MS LUPING: Thank you, Mr President.

8 Q. Now, Mr Witness, you had explained that when you were at Lalu and before the
9 Mongbwalu operation that the brigade commander, Salumu, addressed the troops. You
10 also said that there was another person who addressed the troops. Could you give the
11 name of the other commander who spoke to the troops before the Mongbwalu operation?

12 A. It was Commander Tessa, but I don't remember his name.

13 Q. Now, on the English transcript it says Commander Tessa. Could you spell that
14 please, the Tessa?

15 THE INTERPRETER: T-cinq. T5. T5.

16 THE WITNESS: (Interpretation) T5.

17 MS LUPING:

18 Q. Thank you.

19 And the interpreter has clarified it is T5.

20 Can you recall what the commander said to the troops?

21 A. Well, he spoke for a long time and he -- he basically wanted to raise the morale of
22 the troops.

23 Q. Did he say anything about the Mongbwalu operation?

24 A. Well, he shed a lot of light on the fact that in this occasion Mongbwalu wasn't just
25 going to be attacked by us but also from Aru and we'd be met at Mongbwalu.

1 Q. And did he explain what the purpose of the operation was?

2 A. It was to take back Mongbwalu, which had been taken over by the APC and the
3 Lendu.

4 PRESIDING JUDGE FREMR: Sorry, Ms Luping.

5 Court officer, could you kindly check my transcript because I'm afraid it has frozen during
6 the lunch break so I have no -- not even one line after the lunch break.

7 (Pause in proceedings)

8 PRESIDING JUDGE FREMR: Ms Luping, please proceed.

9 MS LUPING:

10 Q. Now, when he mentioned that this -- there was a group coming from Aru, did he
11 say anything about this group?

12 A. No, but we already knew that there were troops from Commander Jérôme who had
13 left Aru in order to go towards Mongbwalu as well.

14 Q. And do you know the other name for Commander Jérôme? Do you know what his
15 last name is?

16 A. Jérôme Kakwavu.

17 Q. And in addition to the troops from Commander Salumu's brigade and
18 Jérôme Kakwavu's brigade, were there any other forces involved in this operation at
19 Mongbwalu?

20 A. Apart from the two military units that were part of the UPC there was also the
21 fighters who were going to join us in Mongbwalu.

22 Q. And which fighters were those?

23 A. Most of them were of the Gegere ethnic group.

24 Q. And who was leading this group of Gegere?

25 A. I didn't see a person who was coordinating that movement or who was leading this

1 group.

2 Q. Now, when did you leave from Lalu towards Mongbwalu?

3 A. After the arrival of the brigade commander there was Echo Charlie and Eric, the
4 company commander, came with ammunition in order to aid Jérôme and when he arrived
5 there was this rally where Salumu would -- held a speech, and after, we left directly
6 towards Mongbwalu.

7 MS LUPING: Mr President, if we could just briefly go into private session.

8 PRESIDING JUDGE FREMR: All right.

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

10 (Private session at 2.40 p.m.)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session.

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session.

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session.

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session.

14

15

16

17

18

19

20

21

22

23

24

25

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Open session at 2.57 p.m.)

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

21 PRESIDING JUDGE FREMR: Thank you.

22 Ms Luping, you may proceed.

23 MS LUPING: Thank you, Mr President.

24 Q. Mr Witness, when Bosco Ntaganda arrived at the camp where brigade commander

25 Salumu was, what was the name of the camp that he arrived at? What was the name of

1 this camp?

2 A. The camp did not have a specific name, but we all knew it. It was the main camp
3 which the APC were occupying. The main camp in Mongbwalu.

4 Q. And where was this located within Mongbwalu?

5 A. If you come on the road which comes from the airport for Mongbwalu and before
6 going to the centre of Mongbwalu, it -- there are some buildings and there you can see the
7 centre of Mongbwalu. You can see it easily.

8 Q. When Bosco Ntaganda arrived at the camp, did he have anybody else with him?

9 A. Yes, I saw that he had people who were accompanying him.

10 Q. And who were those people? Can you name them?

11 A. When I saw them, the commander who was with him, I don't know his name. I got
12 to know his name afterwards. Commander Salongo, Tiger One, who was with him.

13 Q. And what was Salumu's -- sorry, Salongo's role, Tiger One's role within the UPC?

14 A. After the battle in Mongbwalu he was named sector commander.

15 Q. I just want to note for the record that the English transcript refers to
16 Commander Salongo and Tiger One, which I believe is what the witness stated. The
17 French transcript refers to Commander Salomon, which I believe is incorrect. Just to note
18 for the record.

19 PRESIDING JUDGE FREMR: Thank you. Well noted.

20 MS LUPING:

21 Q. Mr Witness, did you see whether Bosco Ntaganda had a means of communication
22 with him at this time when you saw him in Mongbwalu?

23 A. No, I didn't see him holding anything in his hand.

24 Q. Do you know if he was communicating with anybody during the operation?

25 A. I followed his conversation with Kasangaki, but that wasn't that day, that was on the

1 third day.

2 Q. Now, when was it that the UPC succeeded in taking over Mongbwalu?

3 A. The second day with the -- when night fell with the first group that came from Aru
4 they went to the camp in the morning because they had brought their wounded with
5 them, the camp where there was -- and we went to the centre of Mongbwalu and it was on
6 the third day that we took Sayo.

7 Q. And what was the day that the troops from Aru arrived?

8 A. They arrived the first day at night, but they didn't come to the camp where we were,
9 they stayed in the centre and they arrived in the camp on the morning of the second day.
10 And they brought with them their wounded and also those who had already lost their life.
11 That was the first time that we saw them in the Sayo camp.

12 Q. Now, you said that it was on the third day that you took Sayo --

13 Sorry, actually, Mr President, could we move to private session for my next question?

14 PRESIDING JUDGE FREMR: Certainly.

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

16 (Private session at 3.04 p.m.)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Open session at 3.07 p.m.)
- 16 THE COURT OFFICER: We're in open session, Mr President.
- 17 PRESIDING JUDGE FREMR: Thank you.
- 18 Ms Luping, please proceed.
- 19 MS LUPING:
- 20 Q. Mr Witness, you explained that you were amongst a group moving towards Sayo.
- 21 Before you reached Sayo, was there anything in Mongbwalu centre that you saw along the
- 22 way?
- 23 A. When we were moving from the camp towards the point that was my destination
- 24 there were bodies lying alongside the road in the centre of Mongbwalu.
- 25 Q. And could you see what these bodies were wearing, what type of clothing, whether

1 they were wearing civilian dress or military uniforms?

2 A. They were wearing civilian clothing.

3 Q. And could you see what their gender was, whether they were males or females or
4 both?

5 A. The bodies that I saw in the centre of Mongbwalu were all male.

6 Q. Can you also describe what you saw once you arrived at Sayo, what you saw when
7 you arrived there?

8 A. As we rose up there, up the hill there was some resistance. And often
9 Commander Kasangaki called upon me to fire, and that's when I saw the first body in
10 Sayo. There was a woman lying dead outside. We advanced. We arrived at the
11 roundabout, and then we saw others. We looked to the right and left where there was
12 still resistance. We fired at a house. The person who was with me was wounded.
13 Kasangaki asked me to fire at this house. I fired at this house and then we advanced
14 towards the centre of Sayo.

15 PRESIDING JUDGE FREMR: Sorry to interrupt you, Ms Luping, but I would like to put
16 at this moment one additional question: What should we understand that if you are
17 saying that there was resistance? Could you be more specific what does it mean
18 "resistance"?

19 THE WITNESS: (Interpretation) That meant that the other side was firing rifles at us
20 that stopped our advance and that's why I spoke of resistance.

21 PRESIDING JUDGE FREMR: Thank you.

22 Ms Luping, you have the floor.

23 MS LUPING:

24 Q. Now, Mr Witness, you described seeing a dead woman lying outside. Can you
25 recall where her body was located?

1 A. It was in front of the dispensary that I mentioned. There was a noise coming from
2 the dispensary as we passed.

3 Q. What do you mean by "a noise coming from the dispensary"?

4 A. It seems that this woman had just given birth and, therefore, had not been able to
5 flee. And when we arrived there she was already dead, but the baby was still indoors
6 and we could hear the baby's voice crying.

7 MS LUPING: Mr President, just out of an abundance of caution I think I need to ask the
8 next two questions in private session.

9 PRESIDING JUDGE FREMR: For sure.

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

11 (Private session at 3.14 p.m.)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12 Page redacted – Private session.

13

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session.

14

15

16

17

18

19

20

21

22

23

24

25

1 (Redacted)

2 (Redacted)

3 (Open session at 3.25 p.m.)

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

5 PRESIDING JUDGE FREMR: Thank you.

6 You may proceed, Ms Luping.

7 MS LUPING:

8 Q. Mr Witness, you've described seeing a group of people walking in single file
9 approximately four to 500 metres away from where you were. Could you see these
10 people?

11 A. Yes, one could see what sort of clothing they were wearing and you could see
12 whether there were -- they were women or men because you could see whether they were
13 wearing trousers or some form of pagne cloth or -- that was very clear.

14 Q. And what was the visibility like on that day?

15 A. It was the middle of the day, it was a fine day, it was hot, it was clear. There was
16 very good visibility.

17 Q. And did you check to see if anybody was hit when these people were fired on?

18 A. They left the path they were using and ran away, from left and to right of the path,
19 spreading themselves out.

20 Q. And you said that people were running away. Did you see if anybody was
21 injured?

22 A. I didn't see anybody come back to collect anybody from the ground. I didn't see
23 anything like that. The path was empty at that point. There was no one there any
24 more.

25 Q. And how many people were there that were -- had been fleeing in this direction?

1 How many were there?

2 A. It's difficult to estimate, but there were quite a lot of them. They were very
3 numerous.

4 Q. Now, you've explained that you heard Bosco Ntaganda give an order to fire at these
5 people. Do you recall what words he used?

6 A. After the firing he commented that this should discourage them, that they would
7 not have the strength to reorganise or to launch a counterattack.

8 Q. Now, after this firing at these -- this group of people, what else did you see in Sayo?

9 A. They, Commander Bosco, Kasangaki, and -- were there next to us, and in
10 front -- well, there was also Seyi, and so the soldiers were in front of us and they formed
11 the command and they'd seen people who had gone to the church. And at that time the
12 commander took this road and went towards the church where the people had sheltered.

13 Q. And did you see these people who had sheltered in the church?

14 A. By way of curiosity I went from where I was and I went to go to the door, but there
15 were these three commanders who were there, there was the bodyguard, and there were
16 also the soldiers who were in front, but I saw from the door -- well, I didn't see all of the
17 church, but I saw that there were people in the church.

18 Q. And amongst those people that you could see in the church, were they males,
19 females, or both?

20 A. Well, I saw women and -- to say I saw women and children that would be difficult,
21 but what I did see were the heads of people there. And the man that I saw that came out
22 of the church, and the bodyguard of Bosco Ntaganda shot him. And as everybody was
23 angry there and agitated, I preferred to go back to where my weapon was.

24 Q. Now, first going to the heads of the -- the heads of the people that you could see in
25 the church, could you see what the age was of some of these people that you saw? Were

1 they young people, old people?

2 A. The people that I saw, they were elderly. But there were others. You could see
3 some who were short, but I didn't see their faces well, so I couldn't give an estimation as
4 to what their age was.

5 Q. And for any of these people in the church, were you able to see any of the clothing
6 that they were wearing?

7 A. Civilian clothing.

8 Q. Now, you've said that a man came out of the church and the bodyguard of
9 Bosco Ntaganda shot him. This man who was shot was he armed or unarmed?

10 A. He wasn't armed.

11 Q. And what clothing was he wearing?

12 A. He was in civilian clothing.

13 Q. And can you estimate roughly how old he was?

14 A. He was elderly.

15 THE INTERPRETER: Or he was a bit older, corrects the interpreter.

16 THE WITNESS: (Interpretation) He would have been around 30.

17 MS LUPING:

18 Q. And was Bosco Ntaganda present when the bodyguard shot the man?

19 A. He was in front. He was present.

20 Q. And did you hear anybody speak to these people in the church, anybody from the
21 UPC?

22 A. Somebody.

23 Q. You've described various UPC that you saw at the church. Did you see any of
24 them speak to the people who were at the church?

25 A. The person who I saw who spoke, that was Commander Bosco who was in front.

1 Q. And when you heard him speak to the people, was this before or after the man was
2 shot?

3 A. It was before.

4 Q. And could you hear what he said to the people in the church?

5 A. Well, I didn't hear everything because a lot of people were there. I didn't follow the
6 whole conversation that he had. I didn't follow everything.

7 Q. Were there any words that he used that you can remember?

8 A. I just remember that he insulted and that's something that I noted.

9 Q. And when you say "he insulted," do you remember the words he used when he
10 insulted?

11 A. He spoke about -- he spoke about the --

12 THE INTERPRETER: The interpreter didn't catch the word.

13 MS LUPING:

14 Q. Mr Witness, you've used a word that the interpreter couldn't catch, but before you
15 repeat it, I just want to clarify what language was he using when he insulted; do you
16 recall?

17 A. We all speak in Swahili.

18 Q. And the words that he used when he insulted, was this all in Swahili or were there
19 any other languages he used?

20 A. The word for me is from Rwanda, but it's commonly used in order to insult another
21 person in the UPC army.

22 Q. And those words that you say are originally Rwandophone or from Rwanda, what
23 were those words?

24 A. Gaswere nyoko.

25 Q. Now when you say that these words are originally from Rwanda, do you mean they

1 are Kinyarwandan?

2 A. For me, yes.

3 MS LUPING: Mr President, I would just make a request. We do have Kinyarwandan
4 interpreters who are interpreting now for the accused. Now, obviously if the witness
5 was -- was speaking in Swahili right now you would be hearing what words -- and if the
6 insult had been in Swahili you would be having an interpretation of this expression.
7 May I request that the Kinyarwandan interpreters translate for us this expression
8 "gaswere nyoko."

9 PRESIDING JUDGE FREMR: Mr Bourgon, any objection to that?

10 MR BOURGON: No objection, Mr President.

11 PRESIDING JUDGE FREMR: Very well. So I would like to ask now Kinyarwandan
12 interpreters whether they could provide us with a translation into English and French.

13 THE COURT OFFICER: I will ask the parties and participants and the Chamber to
14 switch to channel 4 on their grey Brahler system so that you can hear the Kinyarwanda
15 channel.

16 PRESIDING JUDGE FREMR: I am personally on number 4, so I guess the parties also.
17 Excuse me, could you, could you hear us, could you provide us with translation requested
18 by Ms Luping? We are calling Kinyarwanda interpreter booth.

19 THE INTERPRETER: Gaswere Nyoko is translated in French as follows: Go and screw
20 your mother.

21 You have to --

22 THE COURT OFFICER: My colleague will interpret into French --

23 THE INTERPRETER: -- ask if the English booth is taking us in the booth --

24 THE COURT OFFICER: -- and then from French into English --

25 THE INTERPRETER: -- "Go fuck your mother."

1 THE COURT OFFICER: -- so you can remain on the English channel.

2 PRESIDING JUDGE FREMR: Thank you.

3 THE INTERPRETER: The translation was: "Go fuck your mother."

4 PRESIDING JUDGE FREMR: Thank you very much.

5 I want those captured by both parties. So, Ms Luping, you may proceed.

6 MS LUPING: Thank you, Mr President.

7 Q. Now, after Bosco Ntaganda used this insult with the people, can you describe what
8 happened next?

9 A. After that I saw this person being shot. This person, he might have been around 30.
10 He came out of that place and he was pushed by the bodyguard. And as soon as he
11 moved aside of it he received some shots.

12 Q. And did you hear anybody give the bodyguard an order to shoot the man?

13 A. I didn't follow, but it was -- I just noted that when that person came and when the
14 bullets flew that's what I saw. I didn't see it otherwise. There was an order and -- but I
15 didn't -- wouldn't follow that.

16 Q. Now, you said you left the church when you saw that people were getting angry.
17 What do you mean by that?

18 A. Well, with the arrival of the -- Commander Bosco's group, who were the combatants,
19 they followed them, the Hema combatants. And the number of people was high. There
20 was a lot of agitation. And I saw that and I went back to my position where the rest of
21 my team was.

22 Q. Now, you said there was a group of Hema combatants who are following
23 Commander Bosco's group; is that correct?

24 A. When we went to Sayo there were just soldiers there, but when they arrived behind
25 we saw a first group of these combatants. They were Hema Gegere who called us

1 combatants.

2 Q. And these Hema Gegere combatants do you know who was supervising them?

3 A. There, I would say, during the operation in Mongbwalu, I didn't see a person who
4 was coordinating them, who was giving them instructions, no.

5 Q. Now, did you ever learn what happened to these people who remained inside the
6 church?

7 A. Having discussed with them, well, I received the order to go back after that, to go
8 back to Mongbwalu, but after discussions with those who remained with the individual I
9 knew, they told me that this person -- these people in the church were executed.

10 Q. And who told you that the people in the church were executed?

11 A. The person with whom we were with and we discussed it with. We were from the
12 same neighbourhood called locally Paul -- or, Paulo.

13 Q. And what was his role within the UPC? Whose unit was he with?

14 A. He was one of the people who accompanied Commander Bosco.

15 Q. And did he explain who was present when these people were killed in the church
16 that -- who was there?

17 A. He didn't tell me who was present, who wasn't there. I also didn't ask who was
18 present or who was not present.

19 Q. And did he explain how these people were killed?

20 A. He mentioned that there was a lot of disorder. The combatants, this Gegere
21 population and these Hemas, who we called combatants, they were responsible for the
22 task. And that's what he told me, that's how he described it to me.

23 Q. And did he explain what they used to kill these people in the church, what weapons
24 they used?

25 A. From -- coming from Sayo I heard shots and, to my knowledge, I knew that they

1 were still armed. And they had machetes, they had sticks, they had knives for their
2 individual protection. So when he spoke about that group I knew that it was done with
3 bladed weapons.

4 Q. And this person who told you how they were killed, was he there? Did he see this
5 with his own eyes?

6 A. When he told me about it he said yes, he was there.

7 Q. Now, you've explained that he was a bodyguard of Bosco Ntaganda. Do you know
8 where Bosco Ntaganda was at this time when the people were being killed? Did he tell
9 you that?

10 A. I wouldn't be able to say where Bosco Ntaganda was at that time.

11 Q. Do you know what happened to the bodies of the people killed in the church?
12 Were they buried?

13 A. What I know, when I went back to Mongbwalu, I went to the commander, Salumu,
14 in his camp. There civilians were called upon to go to Sayo to join the body -- to bury the
15 bodies.

16 Q. And what civilians were these who were called to go to Sayo to bury these bodies?

17 A. These civilians who, at that time, were in Mongbwalu, they were the combatants
18 that I spoke about, the Hema.

19 Q. You said that you went back to Mongbwalu from Sayo. When you were still
20 within Sayo and on your way back to Mongbwalu was there anything else that you saw
21 on your way out of Sayo back to Mongbwalu?

22 A. (Redacted)

23 (Redacted)

24 (Redacted) And we went on the road with cette unité-là. And

25 there were civilians as well who were on that road with us and they had already pillaged

1 in Sayo. They had taken things, they had taken bags, they'd taken pagne as well. And
2 we were on the road towards Mongbwalu centre. And on the road we came across other
3 civilians as well who were also going towards Sayo.

4 Q. Now, before you left Sayo, did you take the same route as you had taken to go into
5 Sayo? Did you go back past the dispensary?

6 A. Yes.

7 Q. Now, you said that when you were on your way to Sayo you could hear a noise, you
8 could hear a baby in the dispensary. When you were on your way back, did you notice
9 anything at the dispensary?

10 A. When I went back the baby was outside the -- the body of this baby was outside on
11 the ground.

12 Q. And was it alive or dead?

13 A. For me there was no sign of life left.

14 Q. And did you learn how this baby died?

15 A. I don't know how it happened, but what was written -- well, on the wall you could
16 see that there were traces of blood on the wall of the dispensary.

17 Q. You said there were traces of blood on the wall of the dispensary. Did you see
18 this?

19 A. Yes.

20 Q. Now, you've mentioned that you saw civilians who were pillaging in Sayo. Other
21 than civilians, do you know if any UPC pillaged in Sayo?

22 A. Well, those who I travelled with had nothing. It was just the civilians. But the
23 people who stayed after us, I don't know what happened to them.

24 Q. And do you know if any UPC were involved in pillaging in Mongbwalu?

25 A. Yes.

1 Q. And who was -- who amongst the UPC were pillaging?

2 A. People. Well, on the second day that the brigade commander, Salumu, was there
3 he had people -- or, he had two or three cars there. And one that came from Bureau Two
4 had come to the pharmacy for our dispensary. And the soldiers left. And on the
5 second day they came back with them. And the third day we came back from Sayo and
6 there there was nothing left in Mongbwalu. Everything that could have been taken had
7 been taken.

8 Q. Now, you say that Brigade Commander Salumu had two or three cars there. Do
9 you know where these cars came from?

10 A. When we went to camp if -- you didn't have the cars. It was after having left to the
11 centre of Mongbwalu that he came back. And the goods that were in his house, DVD
12 player and music player, all that, we didn't travel with that on the road neither from
13 Mabanga nor Lalu. These were fruits of pillaging.

14 Q. And other than command brigade Salumu are you aware of any other commanders
15 who were involved in pillaging?

16 A. I saw the sector commander driving with a car and Salumu, when there was an
17 order given to go to Bosco's place where -- the camp where Bosco was, I also saw his car
18 with him inside with materials which had been taken to the camp. With Salumu's as
19 well, I also saw materials from bureau which had been taken to the camp, office
20 equipment which had been taken to the camp.

21 Q. Now, just one point to clarify, Mr Witness, you said: "There was an order given to go
22 to Bosco's place where ... I also saw his car with him inside with materials which had been
23 taken to the camp." When you say "his car," who are you referring to there?

24 A. The pickup which Bosco Ntaganda used.

25 Q. And this pickup that you say Bosco Ntaganda used, do you know where that came

1 from?

2 A. The one he used, that was the one he came in, I saw that. But where we gathered in
3 his camp, in front of the house, there were also four or five pickups which were parked in
4 front of his car -- in front of his house.

5 Q. And do you know where these four or five pickups came from, the ones that were
6 parked in front of his house?

7 A. What I know is that they had not arrived with these.

8 Q. Now, you also mentioned that you saw that he had materials. What materials are
9 you referring to?

10 A. Because we were meeting on the side, I noticed equipment such as medical
11 equipment. I saw those.

12 Q. And my last question before we break: You said you noticed medical equipment.
13 To be clear where did you see this medical equipment?

14 A. It was in front of Commander Bosco's house.

15 Q. And do you know where this medical equipment came from?

16 A. The only place that this could have come from was the general hospital in
17 Mongbwalu.

18 Q. Thank you, Mr Witness. That ends my questions for today.

19 MS LUPING: Thank you, Mr President, your Honours.

20 PRESIDING JUDGE FREMR: Thank you, Ms Luping, for being almost - almost - time
21 keeping precisely.

22 Mr Witness, thank you very much. It concludes your testimony for today. We will
23 continue tomorrow morning 9.30. And it is my obligation to remind you that in the
24 meantime you must not discuss your today's testimony with anybody else, neither with
25 your family nor your friends. Do you understand this?

- 1 THE WITNESS: (Interpretation) Yes.
- 2 PRESIDING JUDGE FREMR: Otherwise, I guess there are no requests for the floor from
- 3 the parties so we can adjourn and we will reconvene again tomorrow at 9.30.
- 4 THE COURT USHER: All rise.
- 5 (The hearing ends in open session at 4.04 p.m.)
- 6 CORRECTIONS REPORT
- 7 The following corrections have been brought into the transcript:
- 8 *Page 23 line 19
- 9 “we had solid weapons” is corrected by “we needed solid men”