

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing - Courtroom 2
7 Wednesday, 13 July 2016
8 (The hearing starts in open session at 9.31 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case
16 of The Prosecutor v. Bosco Ntaganda, case reference ICC-01/04-02/06.
17 And for the record, we are in open session.
18 PRESIDING JUDGE FREMR: Thank you, court officer.
19 Now appearances please in usual order starting with Prosecution.
20 MS SOLANO: Good morning, your Honours. The Prosecution is represented by
21 Rens van der Werf, assistant trial lawyer; Eric Iverson, trial lawyer; Laura Morris,
22 assistant trial lawyer; Selam Yirgou, case manager; and I am Julieta Solano, trial
23 lawyer.
24 PRESIDING JUDGE FREMR: Thank you, Ms Solano.
25 Now Defence, please.

1 MR BOURGON: (Interpretation) Good morning, this morning. Good morning,
2 your Honours, as well as everybody else present in the courtroom. Representing
3 Bosco Ntaganda, who is present this morning, Maria-Kim Vasconi, Sandrine De Sena,
4 Margaux Portier, and myself, Stéphane Bourgon. Thank you very much, your
5 Honour.

6 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

7 Now Legal Representatives of Victims, please.

8 MS PELLET: (Interpretation) Thank you, your Honour. The former child soldiers
9 are represented by myself, Sarah Pellet, counsel with the Office of Public Counsel for
10 Victims.

11 MR SUPRUN: Good morning, your Honour, your Honours. The victims of the
12 attacks are represented by the Office of Public Counsel for Victims, Anne Grabowski
13 and myself, Dmytro Suprun.

14 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun.

15 And I further note the presence of the legal adviser appointed pursuant to Rule 74
16 of the Rules so assist the witness.

17 Welcome, and please state your name for the record.

18 MR VON BÓNÉ: (Interpretation) Good morning, your Honour. Julius von Bóné
19 and I am the legal counsel for the victim, thank you -- the witness.

20 THE INTERPRETER: Corrects the interpreter.

21 PRESIDING JUDGE FREMR: Thank you very much, Mr von Bóné.

22 As you all know, we are going to conduct testimony of the last witness of this
23 evidentiary block, but before the witness can be called I will be addressing a few
24 procedural matters.

25 First, the Chamber recalls it's oral decision contained in transcript number 116,

1 granting in-court protective measures for Witness P-769 in the form of face and voice
2 distortion and the use of pseudonym.

3 The Chamber had to defer its decision of special measures until receipt of the VWU's
4 vulnerability assessment for this witness.

5 And now we shall move into private session to deliver the Chamber's ruling on this
6 matter.

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

8 (Private session at 9.35 a.m.)

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9 (Open session at 9.38 a.m.)

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

11 PRESIDING JUDGE FREMR: Thank you, court officer.

12 According to its email of 10 July 2016, the Defence objects to certain documents
13 the Prosecution may seek to use with or to tender through this witness. These
14 objections will be addressed if and when they arise throughout the course of the
15 examination-in-chief.

16 And finally the Chamber will address the issue of timing for this witness. By way of
17 email of 12 May 2016, the Chamber encouraged the Prosecution to complete its
18 examination-in-chief of this witness within five hours. The Chamber notes that after
19 this email was sent the Prosecution continued to list a six-hour estimate in its updates
20 to the list of forthcoming witnesses. However, in light of the topics the witness is
21 expected to testify about and the materials for this witness, the Chamber finds five
22 hours to be an appropriate amount of time for examination-in-chief.

23 The Prosecution is therefore instructed to finish its questioning within such time.

24 And as usual, the Chamber therefore considers the Defence ought to complete its
25 cross-examination in the same amount of time.

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1 So now we can turn to the scheduled testimony.

2 Court officer, please have the witness brought in the courtroom.

3 (The witness enters the courtroom)

4 PRESIDING JUDGE FREMR: Good morning, Mr Witness. Can you hear me?

5 WITNESS: DRC-OTP-P-0769

6 (The witness speaks French)

7 THE WITNESS: (Interpretation) Yes, good morning, I can hear you.

8 PRESIDING JUDGE FREMR: Very well. Mr Witness, on behalf of this Chamber I
9 would like to welcome you to the courtroom. You are called to testify in the case
10 against Mr Bosco Ntaganda. You will be soon asked questions both by the Judges
11 and lawyers and in this connection I would like to guide you as follows:

12 Please listen carefully to those questions. If you do not understand, feel free to ask
13 for the question to be repeated.

14 We want you to tell the truth and tell us what you saw, heard, and sensed yourself.

15 If you did not see or hear it yourself, but you found out some other way, then you
16 should explain how.

17 Please testify just on that which you remember. Don't guess. Don't make things up.

18 There is nothing wrong in saying, "I don't know" or "I don't remember."

19 Do you understand all this, Mr Witness?

20 THE WITNESS: (Interpretation) Thank you. I have understood well.

21 PRESIDING JUDGE FREMR: Good. Mr Witness, protective measures are put in
22 place to ensure that your identity is not revealed to the public. It means that the
23 public cannot see your face and that your voice is being disguised so that the public
24 cannot recognize it. We all will refer you as "Mr Witness" and ensure that your
25 name and any other information that risks revealing who you are is not broadcast to

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1 the public. Therefore, whenever you need to describe anything that might reveal
2 your identity, we will do so in private session so that no one outside the courtroom
3 can hear your answer.

4 Do you understand, Mr Witness?

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

6 PRESIDING JUDGE FREMR: Fine. Mr Witness, you also have been assigned
7 a lawyer, who is sitting on your right, to provide you with legal advice about possible
8 self-incrimination. Mr von Bóné also has requested that you be given certain
9 assurances by the Chamber.

10 There may be questions asked to you for which you can fear that answering them
11 truthfully may incriminate you because these questions relate to your own conduct.
12 In such cases we will require you to answer the question, but we can assure you that
13 your answer will be kept confidential and will not be disclosed to the public or to the
14 government of any country.

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

17 Do you understand all this, Mr Witness?

18 THE WITNESS: (Interpretation) Yes, I have understood.

19 PRESIDING JUDGE FREMR: And in this regard I request the parties to be vigilant
20 about going into private session for areas of evidence that are likely to elicit responses
21 that might self-incriminate the witness.

22 Now, Mr Witness, you will be provided with a piece of paper containing the solemn
23 undertaking. So please now make your solemn undertaking to tell the truth by
24 reading out the declaration you have in your hands, please.

25 THE WITNESS: (Interpretation) Do I need to stand up for this?

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1 PRESIDING JUDGE FREMR: It would be better.

2 THE WITNESS: (Interpretation) I solemnly declare that I will tell the truth, the
3 whole truth and nothing but the truth.

4 PRESIDING JUDGE FREMR: Thank you very much, Mr Witness. You can sit
5 down.

6 And now you are under oath, so you also need to be aware that it's an offence within
7 the jurisdiction of this Court to give false testimony.

8 Do you understand that?

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

10 PRESIDING JUDGE FREMR: All right. And finally a few practical matters you
11 should have in mind when giving your testimony:

12 It's important to speak into the microphone, to speak clearly and to speak at a slow
13 pace approximately like me now.

14 When a question is asked, please do not respond immediately, it's very important, but
15 count in your head to three and only then give your answer. This pause is essential
16 to properly interpret and record what you are saying.

17 And if you have any questions during your testimony or if you feel that you need
18 a break, do not hesitate to let us know by raising your hand. We will then give you
19 the opportunity to speak.

20 Have you understood all that, Mr Witness?

21 THE WITNESS: (Interpretation) Yes, I've understood.

22 PRESIDING JUDGE FREMR: Very well. Then we can start with your testimony.

23 So now Prosecution, I guess it will be Ms Solano, yes, you have the floor.

24 MS SOLANO: Thank you, your Honour.

25 QUESTIONED BY MS SOLANO:

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1 Q. Good Morning, sir. Can you hear me?

2 A. Yes, I can hear you. Good morning.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 MS SOLANO: Your Honour, I am sorry. Can we please go into private session.

7 I'm grateful.

8 PRESIDING JUDGE FREMR: No Problem.

9 Let's move into private session.

10 So, Mr Witness, as you can see, as soon as there would be some risk that your identity
11 could be revealed, we will move into private session like now, which means that only
12 persons present here could hear it. Otherwise, nobody outside this courtroom could
13 hear what you are saying.

14 (Private session at 9.49 a.m.)

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19 (Redacted)

20 (Open session at 11.00 a.m.)

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

22 PRESIDING JUDGE FREMR: Thank you, court officer.

23 So now we take our regular break for 30 minutes, which means that we will resume

24 half past 11.

25 THE COURT OFFICER: All rise.

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1 (Recess taken at 11.01 a.m.)

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

3 THE COURT USHER: All rise.

4 Please be seated.

5 PRESIDING JUDGE FREMR: So let's continue with examination-in-chief of our
6 witness.

7 Ms Solano, your upcoming questions, will they require the regime of private session
8 or could we remain in open?

9 MS SOLANO: Private session, your Honour, until I finish the current examination
10 line, please.

11 PRESIDING JUDGE FREMR: All right.

12 Court officer, let's move into private session now.

13 (Private session at 11.32 a.m.)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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18 (Open session at 11.36 am.)

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

20 PRESIDING JUDGE FREMR: Thank you. Ms Solano, please.

21 MS SOLANO: Thank you, your Honour.

22 Q. Sir, you said you were taken to camp Ndromo. What was this camp?

23 A. Camp Ndromo was a former camp, a military camp previously used by

24 Mobutu's forces, and it's located close to the road to the subregion near the abattoir.

25 Q. Is that in Bunia?

1 A. Yes, it's right in the city of Bunia.

2 Q. What is the sous-région?

3 A. Well, we can describe the subregion as being the location where there are the
4 governmental offices that manage the town, so the governor's office, the various state
5 offices, tax offices, et cetera. That's what we referred to as being the subregion, the
6 sous-région. It's the name that we gave to that whole area, in fact.

7 Q. Who had control of camp Ndromo when you were taken there?

8 A. There were a number of military commanders. I don't know who the highest
9 officer was in the camp.

10 Q. What group had control of camp Ndromo?

11 A. It was the UPC.

12 Q. Were you taken there by yourself or with others?

13 A. All of us who had been in town at (Redacted) were taken to camp Ndromo in
14 a pickup truck, our whole group.

15 Q. How many were you?

16 A. I don't know.

17 Q. What did you find at camp Ndromo when you arrived?

18 A. First of all, we saw a very big building, which had been very well built, with
19 a large space which served as a courtyard where we would play -- or where we
20 would undertake our military exercises and parade.

21 Q. Were there any people there?

22 A. Yes, there were a lot of other soldiers there at that location, people who were
23 already being trained there.

24 Q. What was the gender of the soldiers present at camp Ndromo?

25 A. There were both men and women.

1 Q. What were their ages?

2 A. I don't know.

3 Q. How long did you stay there?

4 A. I couldn't say the number of days exactly, but we certainly spent more than one
5 week there.

6 Q. You mentioned parades and military exercises. Can you explain what you
7 mean. Did you participate in parades and military exercises while you were at
8 camp Ndromo?

9 A. Yes. When I say "parade," first of all, we would be divided into platoons of 36,
10 so 36 in each platoon. That was the structure.
11 Then we would carry out drills, marching, how to march, how to parade, how to bear
12 arms. We would also do physical gymnastics, push-ups. We would jog. There
13 were also parades at night. There would be commanders who would give us advice
14 and would also explain the ideology of the UPC by means of songs. That would
15 take hours, often late at night. And then at about 10, 11 o'clock at night we would go
16 and sleep in large rooms, like large classrooms, if you like, so each platoon would be
17 sent to sleep and that is where we would sleep.

18 Q. Did you come into contact with any weapons at camp Ndromo?

19 A. Yes, indeed. We saw weapons, old weapons, calibre 12, which the soldiers had.
20 But they also had other weapons but had been -- which had been damaged. Yes, I
21 saw weapons, indeed.

22 Q. Were you taught how to use them? Did you come into physical contact with
23 the weapons yourself?

24 A. Yes. We were taught to disassemble and reassemble Kalashnikovs.

25 Q. You said that you received advice or conseils from the commanders. What

1 kind of advice was this?

2 A. For instance, we would be told: "You're here in this militia, you should avoid
3 raping girls; you should avoid AIDS; you need to learn to obey the orders that you're
4 given; you should not try to run away, to desert; you are not allowed to go just
5 anywhere; there may be mines around the camp; you must comply with the
6 instructions that you are given here."

7 And as regards the ideology, they would talk about the UPC, what the UPC was,
8 what the UPC's vision was. We were told that the UPC was not a tribal militia.
9 Rather, that their aim was to take over Congo in its entirety and that we weren't just
10 fighting enemies, be they Bahema or Balendu, but that we were fighting the
11 government.

12 I think that's it, in a nutshell.

13 Q. Can you describe the singing, what kind of songs did you sing?

14 A. Well, revolutionary songs, songs in praise of the leaders of the movement, songs
15 to insult our opponents, our enemies, the government, those who would attack the
16 UPC, also songs to build up morale amongst the soldiers.

17 Q. Which enemy did the insults -- were the insults directed at?

18 A. The Balendu. UPDF, with -- as well as the president of their republic,
19 Museveni.

20 Q. Do you recall specifically the wording relating to the Lendu?

21 A. Would you -- are you looking to have me sing, or -- or what?

22 Q. If you can, please go ahead.

23 A. Well, the songs were in Kilendu, so there is no translation. Of course I can
24 translate them.

25 MS SOLANO: Your Honour, in my submission the witness should be allowed to

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1 sing in Kilendu. I appreciate that there probably isn't any interpretation available at
2 this moment, but at least it will be captured by the audio recording and if the witness
3 can explain thereafter what the words mean.

4 PRESIDING JUDGE FREMR: Yes, let's make it like in the previous case, and we
5 appreciate it if Mr Witness is ready to sing for us, fine, and then he could just provide
6 us with French translation, if possible.

7 MS SOLANO:

8 Q. Please go ahead, sir, with the song.

9 A. Well, just before I sing, while I was thinking of the songs I -- it's occurred to me
10 that there were also songs in the honour of President Wamba Dia Wamba, he was also
11 referred to in songs. For example, vis-à-vis the Lendu, we would sing.

12 (Witness sings)

13 (Interpretation) And that means "Micheline, give me a knife with a basin so that
14 I can slit the throat of a Lendu."

15 And there was a song about Wamba Dia Wamba in Kilendu. I don't know the whole
16 song, but I -- there's a little bit of --

17 (Witness sings)

18 (Interpretation) Something along those lines. And what that means is -- well, these
19 are very derogatory insults, very vulgar.

20 (Speaks English) I'm not able to translate because --

21 PRESIDING JUDGE FREMR: No, go ahead. I think even it's important for us, so
22 don't be shy.

23 THE WITNESS: (Interpretation) Well, that means, in Wamba Dia Wamba's
24 mother's vagina there are birds that fly out of it.

25 MS SOLANO:

1 Q. Sir, how about the songs about the UPDF and the Kabila government.

2 A. Ah, yes.

3 (Witness sings)

4 Now that means:

5 I heard the sound of heavy weapons, my eyes looked to the sky, my eyes looked to
6 the ground. I saw the Ugandans. I greeted them. They couldn't answer me.

7 They can't speak Lingala. They are ignorant. They're ignorant, they're peasants.

8 Museveni, Museveni, take the corpses of your soldiers. We could say Museveni or
9 we could say Kabila. And we could say the FARDC, or the FAC. So you could
10 interchange the names of the various leaders of the enemy, the APC, et cetera.

11 Q. Thank you, sir. Were you able to hold on to these Kalashnikovs that you were
12 taught to assemble and disassemble? Did you have a weapon for yourself for your
13 individual use?

14 A. No.

15 Q. Do you remember the names of your instructors at camp Ndromo? And if you
16 do, I'm going to ask to go into private session. But I need to know first if you
17 remember them.

18 A. The names of those at that location I don't remember anymore. But I do
19 remember the name of the general who would come and visit us from time to time.

20 Q. And who was that general?

21 A. You said that I shouldn't mention any names, so how should I proceed?

22 PRESIDING JUDGE FREMR: I guess general is -- it doesn't make any problems, I
23 would say, because general, you know, it's a general common to many soldiers, so I
24 think just the name of the general couldn't identify you, I believe.

25 THE WITNESS: (Interpretation) It was General Kitembo, who was also referred to

1 as Zulu Mike.

2 MS SOLANO:

3 Q. Did he speak to you when he visited you at camp Ndromo?

4 A. Yes, indeed. Each time that he came he would speak. I believe that he came
5 twice.

6 Q. What did he say?

7 A. What he was saying was to encourage us, to build us up. And he would also
8 warn, warn us against deserting because there had already been some who had run
9 away.

10 Q. What did he say by way of warning?

11 A. "We will warn you not to run away because all those who desert, they reveal
12 our secrets in town and we track down and find anyone who deserts. And this is
13 a serious warning."

14 Q. Did General Kisémbó say what would happen to --

15 A. He simply said that they would track down and apprehend them, that's all.

16 Q. How do you know that there were some who had run away?

17 A. Well, even in our group those who had come from (Redacted), some of them,
18 my friends, had already disappeared. I'd already got to know them. Such as my
19 friend (Redacted), he managed to get away.

20 Q. Did you think of escaping camp Ndromo?

21 A. Yes, I did.

22 Q. Did you try it?

23 A. I couldn't see how many troops were patrolling around the camp, so I didn't
24 attempt it but I did feel that I want to get away, I wanted to escape.

25 MS SOLANO: Your Honour, we seem to have a delay on both the English and the

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1 French transcripts.

2 PRESIDING JUDGE FREMR: Court officer.

3 So now I was told that it should be the usual delay, so hopefully everything will go
4 then properly.

5 Would it be possible at least now, just this message to court reporters, to add the
6 missing part of transcript?

7 So now I got slightly different information. The technicians are dealing with that.

8 So I am asking you for some indulgence and hopefully it will be solved shortly.

9 (Pause in proceedings)

10 MS SOLANO: Your Honour, I'm happy to continue with some questions if
11 the Chamber wishes me to.

12 PRESIDING JUDGE FREMR: What is our chance for change?

13 I was told that it's more serious problem, it's a server issue, so I would rather prefer to
14 break because -- I think if it will be just for one, two minutes, no problem, but it seems
15 that it will be permanent, at least for some time permanent problem, so we will have
16 to break until the problem is solved.

17 So please remain on your seats. We will be in the deliberation room, but still as soon
18 it will be solved we will continue.

19 THE COURT USHER: All rise.

20 (Recess taken at 12.04 p.m.)

21 (Upon resuming in open session at 12.11 p.m.)

22 THE COURT USHER: All rise.

23 Please be seated.

24 PRESIDING JUDGE FREMR: So we overcame technical problem and now,

25 Ms Solano, you may continue with examination of the witness.

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1 MS SOLANO: Thank you, your Honour.

2 PRESIDING JUDGE FREMR: And we are in open session, so you know.

3 MS SOLANO:

4 Q. Sir, were there any children at camp Ndromo?

5 A. Yes, there were, there were many children.

6 Q. How young was the youngest amongst these children, if you remember?

7 PRESIDING JUDGE FREMR: Sorry, sorry, hold on, Mr Witness.

8 Mr Bourgon.

9 MR BOURGON: Thank you, Mr President. The question was asked and answered.

10 I refer the Trial Chamber to page 34, lines 7 and 8 in terms of who were there at the
11 camp, both the men and the women and what were their ages, and the answer of the
12 witness, "I don't know." I think we can move on, Mr President. Thank you.

13 PRESIDING JUDGE FREMR: Mr Solano, your comment?

14 MS SOLANO: Your Honour, I had asked the witness for the ages of those present at
15 the camp, that is -- that is correct. I have now just asked him were there children
16 there and he has said yes. So I think I can at least -- if the Chamber wants to bar me
17 from asking him the ages of those children, I can go about it in some other way.

18 PRESIDING JUDGE FREMR: All right. The objection is overruled. The topic was
19 not fully exhausted, so please proceed.

20 MS SOLANO: Thank you, your Honour.

21 Q. Sir, how young was the youngest amongst the children present at
22 camp Ndromo?

23 A. It's difficult for me to say the age of the youngest, but there were children.

24 PRESIDING JUDGE FREMR: And, Mr Witness, we can't force you even to make an
25 estimation, but still at least what we should understand under your interpretation of

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1 term "children"?

2 THE WITNESS: (Interpretation) Well, children would be from birth, from zero,
3 age zero to 17 years of age.

4 PRESIDING JUDGE FREMR: All right. But I don't expect that there were recruits
5 one year old. So could you at least absolutely roughly, and we will take it that it's
6 just your estimation so you can't precisely define the age, but according your rough
7 estimation, could you just estimate age of those youngest among those recruits?

8 THE WITNESS: (Interpretation) Nine years of age.

9 PRESIDING JUDGE FREMR: Thank you.

10 THE WITNESS: (Interpretation) Thank you.

11 MS SOLANO: Your Honour, I'm just waiting on the French transcript because
12 I believe that the witness's answer at page 42, line 6 of the English transcript was
13 incomplete. The transcript is incomplete, so I want to see how it appears in the
14 French transcript.

15 PRESIDING JUDGE FREMR: All right.

16 MS SOLANO: And indeed, your Honour, in the French transcript, on page 46 at
17 line 3 --

18 PRESIDING JUDGE FREMR: Sorry, Ms Solano, is your mic switched on? So please
19 repeat that.

20 MS SOLANO: Yes. Your Honour, at page 46, line 3 of the French transcript, it is
21 recorded that the witness said that there were children among the instructors. And
22 this has not been captured in the English transcript on page 42, line 6. So I request
23 a correction of the English transcript.

24 PRESIDING JUDGE FREMR: All right. Well-noted.

25 MS SOLANO:

1 Q. Sir, was there a single child of nine years old or about nine years old or was
2 there more than one person of this age?

3 A. There were several amongst the recruits and there were a few amongst our
4 instructors.

5 Q. How do you know that this was their age?

6 A. Well, a child is a child. The way they talk. In particular, the instructors, they
7 gave orders in a childlike way. They were having fun with us, if you like. They
8 were playing with us. Sometimes we would watch them, we would see them
9 playing soccer together as if they were home. In fact, they weren't using a ball, but
10 they were playing with a can or whatever as if it was a football when they had free
11 time. And most of the children that we saw in Ndromo camp were -- in fact, they
12 spoke Kilendu in the camp. They were displaced by the war, these children. They
13 came from Ndjugu and they had been in Bunia and they spoke Kilendu for the most
14 part, those smaller children.

15 PRESIDING JUDGE FREMR: Ms Solano, sorry to interrupt you, I would like to put
16 one additional question for clarification, but I have to put it in private session.
17 Court officer, please, let's move just for this one question into private session.

18 (Private session at 12.19 p.m.)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 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 12.21 p.m.)
- 16 THE COURT OFFICER: We are back in open session, Mr President.
- 17 PRESIDING JUDGE FREMR: Thank you, court officer.
- 18 And Ms Solano, you may proceed.
- 19 MS SOLANO: Thank you, your Honour.
- 20 Q. Sir, these very young children that you say were there at camp Ndromo as
- 21 instructors. What kind of instruction were they giving?
- 22 A. Military drills, military marching, in particular.
- 23 Q. How were they dressed?
- 24 A. They were all wearing civilian clothes, or some of them had military pants or
- 25 military shirts, half and half, but for the most part they were wearing civilian

1 clothing.

2 Q. Were they armed?

3 A. Some of them had weapons and others didn't. The ones who didn't have
4 weapons were called commandos.

5 Q. And the ones that were not instructors, the ones that were just training, did they
6 have the same or different activities from the older recruits such as yourself?

7 A. We all carried out the same exercises. There was no distinction.

8 Q. How did these very young children cope with these exercises?

9 A. Well, they -- they resisted. They did what they could. They were very tired.
10 They were more tired than we were, but there were moments where we could rest.
11 We started at 5 in the morning until 11, and then there was a rest period, you could sit
12 down in the courtyard, in the shade. So there were moments when we could rest.

13 Q. How long did you rest for on your average day at camp Ndromo?

14 A. It depended on the instructor that was in charge. I -- I can't tell you exactly.
15 I don't know exactly how many rest periods there were.

16 Q. What would you do between 5 and 11 in the morning?

17 A. At 5 o'clock we would wake up and go jogging, running. It's called mchaka.
18 We would run around the courtyard several times. And at about 7 o'clock there was
19 the parade and there would be an instructor giving orders. And the others would
20 come and divide us up into small groups to carry out drills; marching, moving your
21 arms and your legs, chanting, singing. We spent a lot of time singing. We were
22 taught songs, the revolutionary songs, the songs of the movement. Sometimes we
23 would spend one or even two hours chanting and singing. It was a way of enabling
24 us to forget our fatigue and it was also a form of indoctrination, teaching us the
25 military spirit.

1 Can I sum up? So from 5, very early in the morning, we did the mchaka and the
2 jogging. I haven't given you a precise hour because it would depend on the
3 commander who was with us.

4 And then there was a parade and we were given the instructions for the day.

5 And then there were drills, along with songs. And that's where we learned those
6 things.

7 And after about a week, we were taught how to dismantle and remount the weapons,
8 especially the AK-47, the Kalashnikovs.

9 Q. Were these very young children around within sight on the two occasions when
10 Commander Kisémbó came to visit you?

11 A. Are you talking about the parade?

12 Q. I'll rephrase because I don't know how it was interpreted to you.

13 A. (Speaks English) All right.

14 Q. The very young children, you've said about nine years old, I want to know
15 whether you know if Commander Kisémbó saw them when he came to visit camp
16 Ndromo?

17 A. Yes, of course. They were there. They were amongst the parade, they were
18 lined up like all of the militiamen in their own platoons. We were mixed up. There
19 weren't -- you didn't have small children separate, they were taught the same way as
20 everyone else. So they were part of the platoons, each one side by side.

21 Q. You said there were also women at camp Ndromo. Where did they sleep?

22 A. In the evening we were separated and I don't know where they slept.

23 Q. Where did you go after camp Ndromo?

24 A. After camp Ndromo, one night they got us together in a parade and we crossed
25 the town at night and we went all the way to Mandro, to the elementary school in

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1 Mandro. We travelled by night.

2 Q. What did you find at the elementary school in Mandro?

3 A. There were a lot of militiamen with weapons. Many militiamen and also many
4 UPC commanders, in particular Commander Bosco. We saw him in the morning.

5 Q. Where exactly did you see Commander Bosco?

6 A. In one of the school buildings. Outside. In fact, there were students who
7 were going off to study who were there and he was introduced to them.

8 Q. Who introduced Commander Bosco to the students?

9 A. I don't know the name exactly. I did recognize a number of commanders
10 whose name I do recall. But the person who made the introductions, his name
11 I don't recall.

12 Q. Which other commanders did you recognize at Mandro?

13 A. Aside from the commanders who travelled on foot with us, I recognised
14 a commander there who was a former school mate of mine.

15 Q. Can you please wait and provide that name in a moment.

16 MS SOLANO: Your Honours, may -- may we move into private session to obtain
17 this name, please?

18 PRESIDING JUDGE FREMR: All right.

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

20 (Private session at 12.34 p.m.)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Open session at 12.36 p.m.)

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

13 PRESIDING JUDGE FREMR: Thank you, court officer.

14 Ms Solano, please.

15 MS SOLANO: Thank you, your Honour.

16 Q. Sir, did you recognize any other commanders at Mandro?

17 A. Yes. There was Lima Victor Lievin, who was the younger brother of

18 Thomas Lubanga. I saw him for the first time at the presidency, at

19 Thomas Lubanga's house, that's how I knew his name. It was then that we were told,

20 "That's Thomas Lubanga's younger brother."

21 Q. Was there anyone else?

22 A. The others were there, but I didn't know them.

23 Q. Did any UPC commanders come visit the camp while you were there?

24 A. Which camp?

25 Q. Mandro.

1 A. I have no idea.

2 Q. What was Lima Victor's role at Mandro, if you know?

3 A. He was a commander, quite simply. I don't know what his exact role was.

4 Q. You said earlier that there was someone who was in charge of administration
5 who wrote down your names and created lists.

6 A. Yes.

7 Q. What lists were these, if you know?

8 A. It was a list of the students. A list of students. So we, that is to say those who
9 were to go on to undertake studies.

10 Q. Do you know whether these lists contained any information apart from your
11 names?

12 A. No, I don't. I didn't have any access to the lists. They would put questions
13 such as "What is your name? What is your first name? Your second name?"
14 et cetera.

15 Q. When I first asked you about the commanders you saw at Mandro you said that
16 some of them had come with you by foot from camp Ndromo. Can you tell us who
17 they were? And I remind you that if any of the names are identifying you should
18 please let the Presiding Judge know before you provide the names.

19 A. Aside from Abelanga, there were the little children who were our instructors
20 there, and there were other commanders whose name I didn't know. But I knew
21 Commander Abelanga very well because he had been with us (Redacted) in
22 camp Ndromo and right through to Mandro.

23 Q. Can you describe the location you were in? Can you describe this camp
24 physically, what did it look like?

25 A. It was an old school. It was half destroyed. It was as if there were two -- two

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1 or three buildings. At the back there were trees and bushes. And it was located on
2 a piece of land where the ground was red, the clay was red. And it was really full of
3 soldiers, a lot of soldiers who had already been trained. And in fact, I even
4 recognised some old friends who I knew from the old neighbourhoods who had
5 already been trained and, in fact, had already spent time in Uganda.
6 They were already there and were commanders and they were the ones who were
7 now our instructors.

8 Q. What were their names?

9 A. I recognised Roger Mukili (phon); I recognised Malobi Brandon; I recognised
10 Christian Banga, who is also called De Gaulle; I recognised -- oh, who else? There
11 was also Tiba, Tiba who had come with us to Mandro, that's Tiba Jogoo, he had
12 already been trained and gone to Uganda. He said he had been trained in
13 Kyankwanzi. They spoke about Kyankwanzi.

14 Q. What ethnic group were -- did these individuals belong to, or ethnic groups?

15 A. Well, there in Mandro there were a number of different tribes but most people
16 were Bahema. Such as Abelanga, Abelanga is not a Hema, I was told he was an Alur
17 whose mother was Hema.

18 PRESIDING JUDGE FREMR: And Mr Witness, if you are saying that there were
19 many tribes represented, was there any Lendu among them?

20 THE WITNESS: (Interpretation) No, no, I didn't see any Balendu.

21 PRESIDING JUDGE FREMR: Thank you.

22 MS SOLANO:

23 Q. Sir, what -- how long were you at this camp in Mandro for?

24 A. We spent about one and a half or two weeks in Mandro. We did not spend
25 longer than that there.

1 Q. How did you spend your time at Mandro? What did you do?

2 A. Well, in Mandro we took part in parades and, in fact, the same types of drills as
3 we had previously done in camp Ndromo. There was nothing new.

4 Q. Was this school in Mandro a military training camp?

5 A. Well, it wasn't a training camp, it was more of a transit camp. There were one
6 or two camps a little further than the school. I know the name of one, it was Saikpa,
7 because each time people would leave they were being channelled on to Saikpa.
8 Mandro was a kind of a collection point.

9 Q. Did you go to Saikpa yourself?

10 A. I don't recall.

11 Q. Were there any children at Mandro where you were?

12 A. In fact there were a lot more children there than anywhere else I had been.

13 Q. What were their ages, if you know?

14 A. I can't say specifically, but they were children.

15 Q. Were there -- at Mandro were there children as young as the ones you had seen
16 at camp Ndromo or were they perhaps all older than the ones you had seen at
17 camp Ndromo?

18 A. No, it was the same ages. I recall that on one occasion an effort was made to
19 gather the children together there and to return them to their homes. But those
20 children came back of their own accord. They refused to go. Whereas
21 were -- would imagine every possible means of escape, those children would stay
22 there. I just couldn't understand that. They wanted to remain in the militia.

23 Q. On this one occasion, who made the effort to gather the children and return
24 them to their homes?

25 A. I don't know. I don't recall who was -- who carried out that operation that day.

1 I don't know if it was Commander Bosco himself. I know it was one of the very high
2 officials, either General Kisembo, perhaps Commander Bosco.

3 Q. And how do you know that either Commander Bosco or Commander Kisembo
4 were involved in this effort to return the children to their homes?

5 A. Because it appeared to be an instruction that had come from the level of the
6 president, Thomas Lubanga. In Mandro, there was time to stay there, but it was said
7 that Thomas Lubanga had said that the little children should go back to their families.
8 Perhaps it was pressure from the humanitarian NGOs or something like that.

9 Q. Who told you that Thomas Lubanga had said that the little children should go
10 back to their families?

11 A. Well, we would talk amongst ourselves. I don't know where the information
12 came from, but it was passed on amongst the group and we had heard that it was said
13 that the children had to go back home. But I can't say who told me or if
14 a commander -- and it's not the case that a commander gathered us in a group to
15 inform us, no.

16 Q. These children who wanted to remain in the militia, were they able to remain in
17 the militia?

18 A. I don't know. I can't answer for them. But they wanted to. They really had
19 taken a liking to life in the militia. Those who were instructors, they felt like adults
20 with their weapons in hand, they could order around adults. So sending them back
21 to civilian life would be a way of demoting them. So I think that above all, those
22 who were instructors refused to go back to the ordinary life of a child living at home.

23 Q. As far as you were able to observe in Mandro at the time, did the adult
24 commanders engage with instructors who were young children?

25 A. (Speaks English) Please, would you mind repeat your question?

1 Q. Did the adult commanders perhaps set the young children aside because they
2 were supposed to return home, or from your observations did these child instructors
3 take active part in the activities at Mandro?

4 A. Yes. Once, once I saw that they were all grouped together, the instructors and
5 the other children, those without weapons, and they were told, "Right, now we're
6 going to accompany you home to your families. Line up. We're going" and they
7 were taken out of the camp. But in the evening they returned and they patrolled,
8 just like everybody else, they instructed, they set drills for those who came, they
9 would work with the new recruits coming in because there were a huge number of
10 recruits coming in at that time, it really was a recruitment phase, and they would go
11 with the recruits through to the other training centres which were located lower, near
12 Saikpa.

13 Q. What do you mean that this was a recruitment phase?

14 A. Sorry, could you repeat?

15 Q. According to the transcript in English you referred to this period of time while
16 you were at Mandro as a recruitment phase.

17 A. Actually I said a wave, a wave of recruitment. What I mean is there were a lot
18 of recruits coming into Mandro, really a wave or an influx of recruits.

19 Q. Was Mandro an area associated with a particular ethnic group at that time?

20 A. Mandro was the fiefdom of Chief Kahwa, who was a Muhema chief.

21 Q. Did Chief Kahwa have any links to the UPC?

22 A. Yes. He was a member of the UPC at that time.

23 Q. How do you know that?

24 A. I saw him in Mandro. He is of mixed blood, very dark. He was pointed out
25 to us, people would say, "Oh, that's Chief Kahwa." We would see him talking to

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1 Commander Bosco, et cetera.

2 Q. Did Commander Bosco address you while you were at Mandro, did he address
3 you as a group?

4 A. In Mandro, no. I personally would see him often coming out, getting into his
5 jeep, leaving, returning. We would see him from time to time.

6 MS SOLANO: Your Honour, for my next line of questioning I would need to go into
7 private session, but I am conscious of the time, it's just a few minutes before 1, so
8 could I maybe have those few minutes on the other side of the lunch break?

9 PRESIDING JUDGE FREMR: Yes, I find it reasonable.

10 Mr Bourgon.

11 MR BOURGON: Well, Mr President, the timing is good for the Defence because we
12 would like to address the Chamber in the absence of the witness, please.

13 PRESIDING JUDGE FREMR: All right.

14 So, Mr Witness, we will now break your testimony, so now we will have lunch break
15 so you can take some rest and we will continue with your testimony at half past 2.

16 So now, court officer, please escort Mr Witness out of the courtroom.

17 (The witness stands down)

18 PRESIDING JUDGE FREMR: And for your submission, Mr Bourgon, do you ask for
19 private session or could we make it in open?

20 MR BOURGON: I believe we can try in open session, Mr President.

21 PRESIDING JUDGE FREMR: All right, but please be vigilant.

22 We are in open session.

23 MR BOURGON: Thank you. Mr President.

24 At this point in time, Mr President, I would just like to draw the attention of the Trial
25 Chamber to the fact that the testimony that we are hearing this morning from this

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1 witness constitute, at least in our respectful opinion, a marked departure from many
2 aspects of his statement that he provided to the representatives of the Prosecution
3 back in 2014 and now we are hearing many new details, many contradicting details.
4 And of course we can raise these contradictions during our cross-examination, and I
5 will of course do so, but the question at this point in time is there was a preparation
6 session conducted by the Prosecution. We received a report, a note from this
7 preparation session. According to this report the witness read his material and
8 made a number of clarifications, which are not what I'm talking about right now, but
9 my colleague will know that what is being adduced that is different. And we have
10 no trace of this -- these new answers coming out this morning, whether when they
11 contradict things he said previously or whether it's blatantly new information.
12 So at this point in time I just want to make it as an observation. We will on this side
13 analyse the answers of the witness, and if we can come up with a specific request, we
14 will at a later time.
15 Mr President, I ask of course that these submissions made before the Chamber at this
16 stage in the presence of counsel representing the witness are to remain in this
17 courtroom and are not to be discussed with the witness.

18 Thank you, Mr President.

19 PRESIDING JUDGE FREMR: Ms Solano.

20 MS SOLANO: Your Honour, there are a number of points indeed on which the
21 witness's evidence is not exact to what he said in his interviews. Of course, your
22 Honours, you can rest completely assured that had any of this surfaced during the
23 witness preparation session it would have been duly recorded in witness preparation
24 note. It is our obligation and I trust that your Honours will have no doubt that
25 whatever is not in the notes where, you know, discrepancies or contradictions are

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1 concerned would not have been failed to be recorded and disclosed by
2 the Prosecution promptly.

3 PRESIDING JUDGE FREMR: Yes, we suppose that unless we would have any
4 strong reason not to believe in that.

5 Mr von Bóné, any comment from your part?

6 MR VON BÓNÉ: Yes. I can assure the parties that I will not disclose any of this or
7 any other things that come in future moments to the witness.

8 PRESIDING JUDGE FREMR: Very well.

9 Ms Solano.

10 MS SOLANO: Your Honour, I would like to make a brief submission regarding
11 a song that the witness sang, and the reference in the transcript is approximately -- it's
12 on page 37. Anyway, obviously the text in the language in which he sang is not
13 recorded because it couldn't be.

14 And, your Honours, to our ears in the Prosecution the melody was strikingly similar
15 to a song that can be heard in a video that is DRC-OTP-0120-0293. And so because
16 normally the audio recording of the witness's testimony doesn't become available to
17 the parties or to the Chamber as part of the record, I -- I have a request for the
18 Registry to explore with us whether in this particular case it can be done so that
19 the Chamber can, in due course, listen to the melody intonated by the witness this
20 morning alongside this video, and of course we can at the appropriate moment
21 provide the exact references, because we will be submitting that the song is the same
22 one, and it's a video that the Prosecution has referred to many times as the Rwampara
23 video.

24 PRESIDING JUDGE FREMR: All right. We are open to any proposal that could
25 bring more information for us.

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1 So Mr Bourgon.

2 MR BOURGON: Well, Mr President, I believe that the proper procedure in the
3 circumstances is simply for the court staff to listen to the tape, to produce a transcript
4 of what was sung and to add it to the transcript, to which we would have no
5 objections.

6 If the Prosecution wants to make a parallel with other evidence, then it's up to them to
7 do that, but I don't think it should be made with this witness. They can do that in
8 any way they make their submissions. But for this witness I believe the proper
9 procedure is for someone to listen to what he personally sung in the courtroom, make
10 a transcription of that in his language and a translation and simply put it on the
11 record. And we would have absolutely no objection to this, Mr President. Thank
12 you.

13 PRESIDING JUDGE FREMR: Ms Solano.

14 MS SOLANO: Your Honour, my request is not about the words. Of course
15 a transcript, once it is updated with what the witness in Swahili will easily tell us,
16 whether there is an overlap with the transcript of the Rwampara video. My request
17 concerns the melody. So it is important for the Chamber to have the ability to listen
18 to the music, as it were, that came from the witness alongside the music that can be
19 heard in the video.

20 PRESIDING JUDGE FREMR: All right, we will also consider these different
21 alternatives during our lunch break.

22 So we break now and since it is five minutes after 1, we will continue 2.35.

23 THE COURT USHER: All rise.

24 (Recess taken at 1.05 p.m.)

25 (Upon resuming in open session at 2.35 p.m.)

Trial Hearing
WITNESS: DRC-OTP-P-0769

(Open Session)

ICC-01/04-02/06

1 THE COURT USHER: All rise.

2 Please be seated.

3 PRESIDING JUDGE FREMR: Good morning, everybody. Good morning -- or,
4 good afternoon everybody. Good afternoon, Mr Witness.

5 So we can now smoothly continue with the further part of examination-in-chief of our
6 witness.

7 Ms Solano, do you want to remain in open or should we move into private session?

8 MS SOLANO: Just a couple of questions in open session, please, your Honour.

9 PRESIDING JUDGE FREMR: All right.

10 So please proceed.

11 MS SOLANO: Thank you, your Honour.

12 Q. Sir, can you hear me well?

13 A. Yes, I can hear you.

14 Q. Thank you. Sir, you said earlier today that at Mandro you saw a lot of children.

15 Do you know whether the commanders present at Mandro were able to see these
16 children, and I mean Bosco Ntaganda in particular?

17 A. Yes. Yes.

18 Q. Please explain.

19 A. Well, there were parades in the school yard. And all of the militiamen, the
20 members of the militia lined up in front of the commanders in the morning and he
21 could see everyone.

22 Q. Was Bosco Ntaganda present at these parades while you were at Mandro?

23 A. Well, I didn't see Bosco Ntaganda regularly. He would come occasionally, but
24 he saw those children in the school courtyard. And even amongst the militiamen
25 there were -- there were children.

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(Private Session)

ICC-01/04-02/06

1 Q. Who was in charge of Mandro camp while you were there?

2 A. It was himself. It was Bosco. He was the chief there.

3 Q. Why do you say that he was in charge?

4 A. Because he was the most respected and the highest ranking person on site.

5 Q. You said that there are some buildings at Mandro. Can you explain what these
6 buildings were used for?

7 A. They were classrooms that the militia members used to sleep in. And one
8 building was a sort of residence, or maybe the office of the officers.

9 MS SOLANO: Your Honour, may we go into private session, please?

10 PRESIDING JUDGE FREMR: Certainly.

11 Court officer, let's move into private session now.

12 (Private session at 2.40 p.m.)

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Trial Hearing
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(Open Session)

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1 (Redacted)

2 (Open session at 3.04 p.m.)

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

4 PRESIDING JUDGE FREMR: Thank you, court officer.

5 Ms Solano, please proceed.

6 MS SOLANO: Thank you, your Honour.

7 Q. Sir, where did you go after Mandro?

8 A. Well, we went on a trip from Mandro to Tchomia. Tchomia, that's a centre
9 next to Lake Albert.

10 Q. What do you mean by "centre"?

11 A. Well, it's a village next to the lake.

12 Q. How did you get to Tchomia from Mandro?

13 A. Well, we left on foot and went via the mountain. We followed the Monts Bleus
14 chain towards the lake, through the mountain and we travelled by night. We left at
15 night -- no, we left very early in the morning and we arrived in the evening there.

16 Q. Who were you with?

17 A. With the students. With other militia as well. There were lots of us. A long
18 line of people.

19 Q. How many were you?

20 A. I don't have the number in mind, but there were lots of us. Some had weapons,
21 some didn't have weapons. Those who had weapons were walking next to each
22 other, and those who didn't we were in a line. So some walking side by side,
23 whereas we were walking in single file, the ones who didn't have a weapon.

24 Q. How did you feel during this -- during your travel there?

25 A. Well, I was in a lot of pain because of what I'd suffered. It was a terrible

1 journey for me, but we did arrive. We were very tired but we did arrive there.

2 Q. Did you come across anyone on your way there?

3 A. Yes. Yes. On the way, I remember, we came across other UPC militia in the
4 high mountains. They were coming back up from the lake, Tchomia, and we crossed
5 each other, and they were all in new military uniform. And they had weapons boxes,
6 ammunition boxes, they were in military uniform which was completely new. It
7 was a major event. It was as if it was the first time that military equipment was
8 entering, uniforms, weapons, et cetera.

9 Q. What did you see when you arrived in Tchomia?

10 A. Well, we arrived -- when we arrived there there were other soldiers. There
11 was a Commander Mugisa who was there, he was the person who was in charge.
12 There were other militia as well. We were well received, we ate, we ate fish. It was
13 for the first time for several days. And the commander was Mugisa Muleke. We
14 had boxes of ammunition, boxes of military uniform. They were called officers. I
15 said officers had arrived.

16 Q. Sir, according to the French transcript you said "caisse d'armes." According to
17 the English transcript you said "boxes of ammunition." Can you clarify?

18 A. Well, there's a difference between weapons and ammunition.

19 Q. What did you see at Tchomia that day?

20 A. We saw crates of weapons and we saw boxes of ammunition, bullets, bombs
21 and crates of military clothing.

22 Q. Do you know what these weapons and ammunition and uniforms were doing
23 there?

24 A. Well, they'd come from somewhere. They'd just come from somewhere.
25 They were being stopped in order to take them to the other sites.

1 Q. What makes you say that?

2 A. Well, you had munitions, you had weapons of the UPC, and they had to go so
3 that the militia could have them. There were lots of militia who didn't have
4 weapons. And there wasn't a uniform up to that point. So what we saw is that
5 they were heading towards Mandro and they were carrying it on their heads. I think
6 the others might have been sent to Bunia, everywhere where the UPC militia were.

7 Q. How long did you stay in Tchomia?

8 A. In Tchomia, just one night. The day we arrived, in the evening we slept there,
9 we ate and in the morning, towards 8 o'clock in the morning we chose and we left.
10 Next to the lake there was a beach there. We found people who were there and they
11 allowed us to enter into the compound. We -- just one night, we just spent one night
12 there.

13 Q. Apart from Mugisa Muleke did you see any other commanders in Tchomia?

14 A. Yes, next to the plane there was the commander, Safari.

15 Q. Who was he?

16 A. Well, Safari, he's a UPC commander as well. He -- well, that's somebody who's
17 lived in Bunia for a long time, but it's also the same as Bosco Ntaganda, same -- he's
18 from the same area as Bosco Ntaganda, he's also a Rwandophone.

19 MS SOLANO: I request a correction to the English transcript, page 74, line 16, where
20 it says compound. The French transcript at page 79, line 13 refers to a plane.

21 Q. You said that they made you board the plane.

22 MS SOLANO: Your Honour, the witness appears to have a --

23 PRESIDING JUDGE FREMR: Yes, Mr Witness, you have the floor.

24 THE WITNESS: (Interpretation) I -- please, if I could be allowed to leave for a
25 moment.

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(Open Session)

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1 PRESIDING JUDGE FREMR: For sure. For sure.

2 Court officer, please assist Mr Witness.

3 (The witness stands down)

4 MS SOLANO: Your Honour, in the meantime could I ask that the court officer
5 inform me of how much time I have left.

6 THE COURT OFFICER: You have used 2 hours and 58 minutes so far.

7 PRESIDING JUDGE FREMR: So still 2 hours and 2 minutes for you.

8 MS SOLANO: Thank you.

9 (The witness enters the courtroom)

10 PRESIDING JUDGE FREMR: So for the record, Mr Witness is back and, Ms Solano,
11 you can continue.

12 MS SOLANO: Thank you, your Honour.

13 Q. Sir, what did this aeroplane look like on the inside?

14 A. There wasn't seats. You couldn't see the pilot, so there was a large tyre inside.
15 I don't know if it was a tyre from a lorry or something, but we were all seated upon
16 that large tyre. There was 17 of us.

17 Q. Were there any commanders with you on board the plane?

18 A. Yes. Commander Safari, he was with us. He travelled with us.

19 Q. Did the plane go somewhere?

20 A. Well, we found the plane there in Tchomia. I don't know if it had come in the
21 night because I hadn't seen it land.

22 Q. Did the plane take off while you were on it?

23 A. Yes. Yes, it took off and we left and we landed at the airport, Kigali airport I
24 think it was, but next to the military part.

25 Q. And where did you go from the Kigali airport?

1 A. Well, we got out of the aircraft. We were put in a stockage area where there
2 were lots of empty boxes for about an hour, I think. And afterwards there was a
3 lorry which had a green tarpaulin which went there, it was completely covered.
4 And when we entered it covered the behind part. And we were taken -- well, we
5 didn't know, they took us to Gabiro, military training centre in Gabiro.

6 Q. Who did this training centre belong to? Who was it run by?

7 A. When we arrived there was a captain called Charles Sibó. He was slim. He
8 spoke French with a bit of English in it. He told us he was the person who is the
9 chief of the centre and who had succeeded. He explained to us what the objective of
10 our arrival there was. We had come for training in artillery, artillery training. That
11 was information that we got from there. And I thought, well, it's no longer about
12 cadres or officers, this is still army business. We're going to learn to use heavy
13 weapons, to assemble them and to disassemble them, to set them up. And that was
14 because there are weapons that you have with you, but you have nobody who can use
15 them and that's the reason why we have to help you, train you so that you can use
16 these weapons there.

17 And he left us. And we were given military uniform. That was the first time that I
18 had military uniform. There was a poncho, there were covers, blankets, that was it.
19 Then we were accompanied towards the other side of the valley, the other slope.
20 There were two mountains. There was the part where we'd come, there were some
21 rooms there, and on the other side that's where we were staying, that was the camp
22 we were staying in. Whereas the training rooms were the other side. You could see
23 the friends there, from a distance, basically two mountains with a small valley
24 between them.

25 MS SOLANO: Your Honour, may I ask some questions in private session, please?

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(Private Session)

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- 1 PRESIDING JUDGE FREMR: For sure.
- 2 Court officer, let's move into private session now.
- 3 (Private session at 3.24 p.m.)
- 4 (Redacted)
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- 1 (Redacted)
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- 17 (Open session at 3.30 p.m.)
- 18 THE COURT OFFICER: We're back in open session, Mr President.
- 19 PRESIDING JUDGE FREMR: Thank you, court officer.
- 20 Ms Solano, please.
- 21 MS SOLANO: Thank you, your Honour.
- 22 Q. Sir, how many of you were there in total once you joined the group in Gabiro?
- 23 A. There were 103. 103 people. All male.
- 24 Q. Was Charles Sibo also UPC?
- 25 A. No, no, no, Charles Sibo was the commander on site in Rwanda. He was the

1 head of the centre there in Rwanda.

2 Q. How long did you spend at Gabiro?

3 A. Three and a half months or four months.

4 Q. And did you, in fact, receive training, artillery training while you were there?

5 A. Yes.

6 Q. What weapons were you taught how to use?

7 A. (Speaks English) Will you allow me to write, please?

8 PRESIDING JUDGE FREMR: Yes, no problem.

9 MS SOLANO: Your Honour, and if while the witness is writing if the court officer
10 could prepare the Elmo so that we can see what he writes please.

11 PRESIDING JUDGE FREMR: Yes, yes, for sure.

12 THE COURT OFFICER: The document will be displayed on the evidence 2 channel.

13 MS SOLANO: Can we see the top of the document first please, or the whole
14 document?

15 Are we seeing everything that the witness has written, numbers 1 through 8, or is
16 there more below number 8? It's from numbers 1 to 8.

17 PRESIDING JUDGE FREMR: Court officer, can you confirm that it is nothing more
18 than from 1 to 8, or is there any --

19 THE COURT USHER: It is 1 to 8.

20 MS SOLANO: Your Honour, it has been confirmed.

21 Q. Sir, what is the 93 millimetre? What weapon is that?

22 A. It was a universally forbidden weapon, it was a chemical bomb, a very
23 destructive weapon. We were told how to use it, but we were told that it was
24 forbidden to use it, but we learned about it. It's called a 93 millimetre.

25 Q. What does "field mining ingénierie" mean? That's what you wrote down at

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1 number 7.

2 A. Well, we were trained to use mines, that is anti-personnel mines and anti-tank
3 mines.

4 Q. And at number 8, is there a reason you put an asterisk where it says "AKA-47"?

5 A. Yes, I put an asterisk there because it's not a heavy weapon. It's not really a
6 part of the artillery. Artillery refers to heavy weapons.

7 Q. Did you receive instruction regarding these weapons in theory, in practice, both?
8 Can you explain?

9 A. Yes, all of these weapons. First of all, we learned about them in a classroom,
10 we studied them, sometimes we were taught to draw them, and then in the afternoon
11 we went outside to learn to dismount and mount them, and then we would have
12 firing practice. For each weapon, once we had studied the weapon in the classroom,
13 then we would have shooting practice in the afternoon.

14 Q. Who gave you this instruction?

15 A. Well, there were several instructors, several different ones, but they were from
16 the Rwandan army, the instructors.

17 MS SOLANO: Your Honour, I seek to tender this document into evidence.

18 PRESIDING JUDGE FREMR: Defence, any objection?

19 MR BOURGON: No, Mr President.

20 PRESIDING JUDGE FREMR: All right. So this list made by Mr Witness is
21 admitted into evidence as a further Prosecution exhibit.

22 THE COURT OFFICER: For the information of the parties the document will bear
23 the number DRC-REG-0001-0030.

24 PRESIDING JUDGE FREMR: I thank you, court officer.

25 MS SOLANO:

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1 Q. Sir, what was the ethnicity of -- yes, court officer, we're done with that
2 document. You can take it away from the Elmo.

3 Sir, what was the ethnicity of this group of 103 trainees that you were part of?

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 PRESIDING JUDGE FREMR: Mr Witness --

9 THE WITNESS: (Interpretation) -- whose tribe I didn't know.

10 PRESIDING JUDGE FREMR: Mr Witness, please hold on, yes, because if you are
11 mentioning those names, it could reveal your identity, at least for some persons.

12 So I am ordering to redact this part of the witness's answer.

13 And next time if you would -- if you will intend to mention names of your, you know,
14 colleagues or friends, we will have rather make it in private session, all right?

15 Let's proceed.

16 MS SOLANO: Thank you, your Honour. I don't need any further names.

17 Q. Sir, did anyone from Ituri visit you while you were at Gabiro?

18 A. Yes.

19 Q. Please tell us who visited you.

20 A. May I?

21 Q. Please go ahead.

22 A. There were teachers from -- Dhetchuvi from Ituri, the name of Jean-Baptiste
23 who was a UPC member. There was General Kisémbé.

24 THE INTERPRETER: Inaudible.

25 THE WITNESS: (Interpretation) That day they came with the chief of staff from

1 Uganda, Mr James Kabarebe, and there was Commander Safari that day, I remember,
2 and other commanders.

3 MS SOLANO:

4 Q. At what point during your stay in Gabiro did these people come visit you?

5 A. I beg your pardon? I didn't understand your question.

6 Q. When did they visit you? Was it at the beginning of the training, sometime in
7 the middle of the training, towards the end of the training?

8 A. It was right in the middle of the training.

9 Q. Sir, and where did you go after Gabiro?

10 A. We went back to Bunia.

11 Q. How did you get there?

12 A. We took an aeroplane from Rwanda directly to the Bunia airport, and from the
13 airport we went to a house, a building in the sous région.

14 Q. Do you know the date on which you returned from Gabiro to Bunia?

15 A. I'm afraid I don't remember the dates. I'm very sorry.

16 Q. Who was in control of Bunia when you came back?

17 A. Well, in any case, when we went back, the UPC was in control of almost all of
18 Ituri, all the way to Aru, except perhaps Komanda, Mambasa, that way. But toward
19 the north the UPC controlled everything.

20 Q. Do you know what troops the UPC had in the area of Aru?

21 A. What troops?

22 Q. Yes, you said the UPC was in control most of Ituri, all the way to Aru, so I want
23 to know if you know who controlled the area of Aru, who within the UPC
24 commanded that area?

25 A. There was the commander Jérôme Kakwavu. Before he separated from them,

1 and he -- he was controlling that area.

2 Q. Where did you spend Christmas and New Year in 2002, so in December 2002?

3 A. In December of 2002 I was in (Redacted). That's on the road to Nyankunde.

4 Q. Who was in control of the Bunia airport when you came back from Gabiro?

5 A. I remember that there were still the Ugandan soldiers there. There was
6 MONUC. Those were the two groups of -- the two troops, if you will, who
7 were -- who were there at the time.

8 Q. Were you carrying any weapons on the flight back from Gabiro?

9 A. Yes. We were given a weapon, each of us, and we had a briefing. They told
10 us, "You're going to arrive in Bunia and if the Ugandans dare to attack you, fight
11 back."

12 Q. What weapons were you given?

13 A. Each one had an AK-47, a Kalashnikov.

14 Q. How were you dressed when you came back from Gabiro?

15 A. Well, okay, the day we were supposed to leave we were told to leave our
16 uniforms that we had, to leave them there. And when we crossed through the
17 classrooms during the parade, we were given new uniforms and those new uniforms,
18 as I mentioned at one point, those uniforms were the same colour as the uniforms
19 worn by our militiamen brothers that we had crossed paths with in the Monts Bleus
20 when we were going to Tchomia. It was the same colour, the same type of uniform
21 that they had been wearing.

22 Q. Can you describe --

23 A. Well, yes, we had gumboots, that is plastic boots, and they were different from
24 the other militiamen wore in Bunia.

25 Q. How were they different?

1 A. The colour. The colour was different.

2 Q. Please explain.

3 A. Yes. The ones in Bunia on site they had boots from Uganda and they were
4 dark green. Our boots that came from Gabiro, our boots were a greyish colour, a bit
5 like the colour of the table here.

6 Q. And the uniform itself, can you explain what colour it was, whether it had any
7 patterns?

8 A. Yes, it was chocolate coloured with military khaki design on it.

9 Q. Was there anyone waiting for you at the airport in Bunia?

10 A. Yes. At the airport when we got off the plane General Kisembo was there on
11 site with a few other people.

12 Q. Do you recall whom else was with Kisembo?

13 A. No, I'm afraid I don't remember.

14 Q. How did you get from the airport to the house in the sous-région?

15 A. There was a truck that was waiting for us. As soon as we disembarked from
16 the plane, we immediately got into the truck that had been parked right nearby, a few
17 metres from the airstrip.

18 Q. Sir, and you said earlier that UPC was in control of almost all of Ituri, but you
19 also mentioned that the UPDF and MONUC were present at the airport, so I'm going
20 to ask you again who was in control of Bunia?

21 A. At that the point in time, well, there were several different militias. There was
22 the FNI from the other side, the UPC and -- well, to say that the UPC controlled, in
23 fact, the situation was stable, the schools were functioning, even the university was
24 functioning. Thomas had his government, he had ministers. Of course the
25 Ugandans were there. I don't know exactly how things occurred. I was in a militia.

1 I don't really know. There was a combination at the time.

2 Q. This house that you were taken to, what -- what did you find at this house?

3 What was this house?

4 A. Well, there were people, members of the militia of the UPC. It was like a
5 headquarters. It was a -- one of the buildings from the sous-région, it was a concrete
6 building, a former official building of the city.

7 Q. Which members of the UPC were there at this house?

8 A. There were militias, several commanders, General Kisembo himself came. He
9 accompanied us right to that building until the evening or the afternoon when
10 President Thomas Lubanga joined him. We were called into -- for a parade and they
11 spoke to us one after the other.

12 Q. In what part of the house did this parade take place?

13 A. It was outside, in the courtyard of the compound.

14 Q. And what did Kisembo and Lubanga say to you?

15 A. The president, Thomas Lubanga, congratulated us. He was very pleased that
16 we had come back and he said he was proud of us. He sang and he had us sing with
17 him, we sang with him, and then General Kisembo spoke and he spoke in more
18 military terms, he said, "You've come back, you've had military training and now
19 you're going to have to put it into practice."

20 Q. How long did you stay at this house?

21 A. Well, that very night we were deployed. The first person who left was
22 Christian De Gaulle.

23 MS SOLANO: Your Honour, can we move into private session, please.

24 PRESIDING JUDGE FREMR: Certainly.

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

1 MS SOLANO: Your Honour, and for the benefit of the public, I do think we will
2 need to be in private session for a considerable amount of time.

3 (Private session at 3.59 p.m.)

4 (Redacted)

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(Open Session)

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Trial Hearing
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6 (Open session at 4.29 p.m.)

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

8 PRESIDING JUDGE FREMR: Thank you, court officer.

9 So Mr Witness, as I said, we will continue tomorrow morning. And it's my duty to
10 remind you that you must not in the meantime to discuss testimony with anybody
11 else, except of your legal adviser. Do you understand that?

12 THE WITNESS: (Interpretation) Yes, I understand.

13 PRESIDING JUDGE FREMR: All right. So please now, court officer, you may
14 bring Mr Witness out of the courtroom.

15 And my last information concerns timing.

16 (The witness stands down)

17 PRESIDING JUDGE FREMR: So far Prosecution exhausted 4 hours 9 minutes. So,
18 Ms Solano, you have at this moment at your disposal for the rest of direct
19 examination 59 minutes. Do you suppose that you will need all that time?

20 MS SOLANO: I do, your Honour.

21 PRESIDING JUDGE FREMR: All right.

22 So if there are no further requests for the floor, we finish and we will reconvene
23 tomorrow 9.30.

24 THE COURT OFFICER: All rise.

25 (The hearing ends in open session at 4.31 p.m.)