

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0010

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 Wednesday, 11 November 2015

9 (The hearing starts in open session at 9.37 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: Good morning, your Honour.

16 The Court is sitting in the situation of the Democratic Republic of Congo, in the case
17 of The Prosecutor versus Bosco Ntaganda.

18 PRESIDING JUDGE FREMR: Thank you.

19 Now appearances, as usual, starting with Prosecution.

20 MS SAMSON: Good morning, Mr President, your Honours. For the Prosecution
21 today are Ms Kristy Sim and Mr James Pace, both assistant trial lawyers;

22 Ms Claudine Umurungi, legal assistant; Ms Selam Yirgou, case manager; and myself,
23 Nicole Samson, senior trial lawyer.

24 PRESIDING JUDGE FREMR: Thank you, Ms Samson.

25 Mr Bourgon.

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1 MR BOURGON: (Interpretation) Good morning, your Honour. Good morning,
2 your Honours, all the people present in the hearing room as well.

3 Representing -- Bosco Ntaganda is represented -- he is watching via video conference
4 in a room close to here with counsel Isabelle Martineau, counsel William St-Michel,
5 and myself, Stéphane Bourgon. Thank you very much, your Honour.

6 PRESIDING JUDGE FREMR: Thank you very much, Mr Bourgon.

7 Now Legal Representatives of Victims, please.

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

11 MR SUPRUN: (Interpretation) Good morning, your Honour, your Honours. The
12 victims of the attacks are represented by myself, Dmytro Suprun, counsel with the
13 Office of Public Counsel for Victims.

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

16 Before we recommence the testimony of the current witness, I will be addressing a
17 couple of preliminary matters.

18 Firstly, the Chamber recalls its decision on special measures in relation to this witness,
19 Witness P-10. The Chamber indicated that it would make adjustments should the
20 Chamber find it appropriate at any point during her testimony.

21 And yesterday, following the receipt of submissions and confirmation from the
22 Registry as to the technical feasibility of the proposal, the Chamber confirmed by
23 email that on an exceptional basis Mr Ntaganda will not be present in the courtroom
24 and will follow proceedings by way of video link from the room nearby the
25 courtroom.

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1 The Chamber wishes to thank the accused and the Defence for this constructive
2 approach assisting the witness to the extent possible.

3 Ms Witness, good morning.

4 WITNESS: DRC-OTP-P-0010 (On former oath)

5 (The witness speaks Swahili)

6 THE WITNESS: (Interpretation) Good morning.

7 PRESIDING JUDGE FREMR: Welcome back. I hope that you are feeling well
8 today. Is it the case?

9 THE WITNESS: (Interpretation) Yes.

10 PRESIDING JUDGE FREMR: Very well. Then I would like to remind you that, like
11 yesterday, you are under oath, and you have to speak the truth and nothing but the
12 truth. Please just concentrate on the questions that you are asked and answer them
13 truthfully, to the best of your ability. I would also like to keep in mind the practical
14 considerations I have mentioned yesterday. Just like yesterday, please speak clearly
15 and at a moderate or, rather, slow pace for the interpreters. Please wait a few
16 seconds before you start speaking, and do not speak at the same time as anyone else.
17 And again, just like yesterday, if you need a break, please raise your hand, and let us
18 know.

19 And as I mentioned, Mr Ntaganda is not in the courtroom, so we hope that you will
20 feel more comfortable then testifying.

21 So now I think nothing prevents us from taking your testimony.

22 Oh, Mr Bourgon, you have the floor, please.

23 MR BOURGON: Thank you, Mr President. Just in light of the arrangements that
24 we have now taken for this morning's hearing, my colleague, Maître Martineau, is
25 sitting with Mr Ntaganda. It could be that she may -- if she needs to pass
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1 information to me, I would just like to inform the Trial Chamber that she might be
2 coming in the door. She will pay her respect to the Chamber and bring me some
3 notes if necessary only, Mr President. Thank you.

4 PRESIDING JUDGE FREMR: It is absolutely fine with the Chamber and we even
5 encourage you if there will be any need or any comment from Mr Ntaganda, your
6 assistant shall feel free to do it in the way you have mentioned. Thank you.

7 And now, Ms Samson, you may proceed with the examination of witness, please.

8 MS SAMSON: Thank you, Mr President.

9 And for the initial questions I believe we can remain in open session.

10 PRESIDING JUDGE FREMR: Very well.

11 QUESTIONED BY MS SAMSON: (Continuing)

12 Q. Good morning, Witness.

13 A. Good morning.

14 Q. I have a few questions today to ask you again about the time that you were
15 training, and I'll start first with when you were at the training in Mandro. You
16 stated that at the end of that training, you went back to the Rwampara camp. And
17 I had asked you yesterday whether you remembered which UPC leaders went back
18 with you to the Rwampara camp from the Mandro camp. Yesterday you said that
19 you didn't remember, and I would like to know if today do you remember which
20 leaders brought you from the Mandro camp to the Rwampara camp?

21 A. We went to the Rwampara camp with our commander. If my memory serves
22 me well, Mr Bosco was one of them.

23 Q. And I had also asked you yesterday whether you remembered who gave you
24 and the other recruits a weapon and uniforms when you were -- finished your
25 training. Yesterday you didn't remember who gave you a weapon and uniform.

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1 I would like to know if today you do remember who gave you a weapon and a
2 uniform after training, you and the other recruits who had finished training?

3 A. It was Mr Bosco. He came with the military uniforms, and our commander
4 gave us them.

5 Q. What was the name of your commander who gave them to you?

6 A. Frankly, I don't remember the name, but it was our commander, the Rwampara
7 commander, who provided the uniforms to the instructors, and the instructors then
8 provided the uniforms in question to their platoon.

9 MS SAMSON: Mr President, for my next series of questions I believe we may have
10 to move into private session with your leave.

11 PRESIDING JUDGE FREMR: All right. Court officer, please move into private
12 session now.

13 (Redacted)

14 (Redacted)

15 (Redacted)

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20 (Redacted)

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22 (Redacted)

23 (Redacted)

24 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. Do you know the ages of those bodyguards? Were they your age or younger
4 than you or older than you?

5 A. Among them there were kadogos. There were also PMF who were younger
6 than me and others were older than me. Other young people had the same age as
7 myself; others were older than myself. I would say all ages mixed up.

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 Q. Of all of the bodyguards that you remember in Mr Bosco's bodyguard unit, do
21 you know the age of the youngest of those bodyguards? Do you remember that?

22 A. There was one that was the youngest. And when he pulled his sleeves back, he
23 had to do it twice, rolled them up twice. He was really very young, around 9 years
24 old.

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 A. I'm referring to the residence of Mr Bosco.

7 Q. Where was that residence located?

8 A. It was next to the major market, the large market. Next to it there was a large
9 supermarket, Supermatch. So it wasn't far from that large Bunia market.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Open session at 9.59 a.m.)

20 THE COURT OFFICER: We're in open session, your Honour.

21 PRESIDING JUDGE FREMR: Thank you.

22 Ms Samson, you may proceed.

23 MS SAMSON:

24 Q. Where did you go if you were in -- if you were going to the front, where would
25 you go?

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1 A. Could you ask the question again, please? I haven't understood it well.

2 Q. Certainly. I think it was poorly phrased. Where did you go to the front?

3 You mentioned going out to the front.

4 (Redacted)

5 (Redacted)

6 Q. Could you repeat the name of the place, please, slowly?

7 A. I said that we went to Mongbwalu.

8 Q. And what happened in Mongbwalu?

9 A. I didn't get that question. Could you please ask again?

10 Q. Certainly. Can you describe what happened when you were in Mongbwalu?

11 A. We went to fight at Mongbwalu. We fought against the Lendu. We arrived,
12 we came back and we'd won the battle. Once we'd beaten the enemy, we went back
13 to Bunia. We carried out looting before we went back to Bunia.

14 Q. Do you remember the year in which you fought in Mongbwalu?

15 A. I don't remember the year. It was when the UPC was taking control of Bunia,
16 but Mongbwalu hadn't yet been taken. It was the first war when Mongbwalu was
17 taken. But I can't remember exactly which year it was.

18 Q. Do you recall how long that battle lasted in Mongbwalu?

19 A. We arrived at that place. We walked for three days. We took Mongbwalu
20 after two days.

21 Q. Do you remember the names of any other UPC commanders who were in
22 Mongbwalu during that battle?

23 A. We were with Mr Bosco, Salumu Mulendu, Mr Kasangaki, Kitembo, Zulu Mike,
24 Tiger One. There were a lot of leaders.

25 Q. Which road did you travel on to get to Mongbwalu, if you remember? Which

1 villages did you pass through to get to Mongbwalu?

2 A. We took the Kobu road. I can no longer remember all of the villages we went
3 through because some of the names were difficult, but I note that we went through
4 Mabanga to get to Mongbwalu. There were a lot of small villages that we went
5 through.

6 Q. What instructions were you given before the battle?

7 A. When we were on the road before we got there, there were ambushes before we
8 got to Mongbwalu. We were walking one after the other and the order was given:
9 When you come across the enemy, you must hit him. That was the only order that
10 was given to us.

11 Q. Were you told who the enemy was?

12 A. Lendu. We were fighting against them in Mongbwalu.

13 Q. Who gave you this order?

14 A. It was Mr Bosco.

15 Q. And did he ever explain to you whether you should treat different Lendu
16 people differently; for instance, combatants versus civilians?

17 A. He issued the order not to spare the enemy. If we came across the enemy, we
18 had to take first action, make the first move and strike them.

19 Q. Some of the individuals that you mentioned to us earlier as being part of
20 Mr Ntaganda's bodyguard, did they participate in this operation as well?

21 A. Yes. We were with them. There were very few elements who stayed back,
22 just one section or platoon. And Mr Claude, who was the head of the -- the leader of
23 the escort, he remained in Bunia, but everyone else went off to battle. There were a
24 lot of us in the army.

25 Q. And the ones who were your age or younger than you, did they go as well, or

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1 did they stay behind?

2 A. No. All of us were there.

3 Q. Can you remember the types of weapons that you had with you while you
4 fought in Mongbwalu?

5 A. We had light weaponry, SMGs. We had heavy weaponry that we referred to
6 as 12. We had others, heavy weaponry that was the B-10, RPG, and G-2. These
7 were the weapons that we had, support weapons.

8 PRESIDING JUDGE FREMR: Ms Samson, sorry to interrupt you again. Could the
9 witness for us specify what those abbreviations mean, whether it is rifle, B-10, RPG,
10 G-2?

11 MS SAMSON: Yes.

12 Q. Ms Witness, I'm sure you heard the Presiding Judge. The Chamber would like
13 to have more information about what those terms mean. So if you speak
14 about -- you've said that an SMG is a light weapon, and you've mentioned heavy
15 weapons, such as a 12. Can you describe what a 12 is for us?

16 A. B-10 is a missile launcher. That's a G-2. It is a support weapon as well. You
17 actually have to lie down to fire it. You can't stand to fire it. RPG is the same. It's
18 transported. It is a missile -- a launch missile. It is a shoulder-borne one.

19 And the SMG is a weapon that's used regularly; for instance, I had my own
20 individual SMG. And the RPG is a weapon that remained on the vehicle. It was
21 mounted on the vehicle, and it needed eight people to transport it. It helped us also
22 as a support weapon. You had to be pretty strong to be able to use it. Mr Bosco
23 used it, and he -- he fired that weapon.

24 PRESIDING JUDGE FREMR: Thank you.

25 MS SAMSON:

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1 Q. And you mentioned a weapon called 12 and a weapon called G-2. Could you
2 describe those weapons for us, please.

3 A. The 12 is a weapon that you can't carry. There are four elements, bases that it's
4 on. You have to lie down to fire it. You can't use it standing up. It had four feet.
5 And the bullets were big. G-2 was something that you -- you carried on you on a
6 strap, and you had to lie down to fire it. You couldn't use it standing up because it
7 was heavy. The heaviest was the 12.

8 Q. Have you ever heard of a weapon called saba saba?

9 A. Yes, it's the same weapon, the 12.

10 Q. While you were in Mongbwalu during the operation, did you ever see
11 Mr Ntaganda -- Mr Bosco Ntaganda communicating with other commanders?

12 A. Yes. He communicated with the commanders every day at any time. Most of
13 the time I saw him talking to Tiger One, Salumu, Kasangaki. Most of the time
14 he -- he did talk to the commanders.

15 Q. And what did he use to speak to the commanders? How did he speak to
16 them?

17 A. In Mongbwalu, he went to his home; and if he wasn't together with them, he
18 would use a Motorola.

19 Q. Where was his home in Mongbwalu?

20 A. I don't really know exactly where it was, but I know that it was a house built of
21 brick. It was a house that had been built by the Europeans in past times. That's
22 where we were. And there were other elements that lived in make-shift huts.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. (Redacted)

8 (Redacted)

9 A. When we went to Mongbwalu, we fought. After that, we looted everywhere:

10 Houses, shops. We looted.

11 Q. And when you say "we looted," who do you mean?

12 A. All of us, the elements of the UPC. All of the UPC elements looted.

13 Q. What type of goods did you take?

14 A. (Redacted) bed, clothes, shoes, drinks, cigarettes.

15 (Redacted)

16 Q. Did your commanders know that you were looting?

17 A. Yes. It was an order that was issued by them. They told us to carry out the
18 looting.

19 Q. Who told you to carry out the looting, which commanders?

20 A. Mr Bosco said go and find stuff to eat. Go and loot," so we did. And all of the
21 elements did the same.

22 Q. Did you ever see any looted goods with Mr Bosco at his home in Mongbwalu or
23 elsewhere?

24 A. I didn't get your question. Could you repeat it, please?

25 Q. Yes, certainly. Did you ever see any looted goods or property with Mr Bosco

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1 at his home?

2 A. We brought goods to him, but personally I didn't see him carrying out any
3 looting.

4 Q. And who brought goods to him?

5 A. It was the commanders. I don't know which goods were concerned, but when
6 commanders went to visit him, they went to talk to him and they left him something.
7 But I wouldn't -- I can't say whether it was clothes or anything like that because
8 I didn't see it myself, but I know that they went and left something with him.

9 Q. Did you see that yourself?

10 A. I'm sorry, could you repeat your question, please?

11 Q. Yes, of course. Did you see commanders bring goods to Mr Ntaganda
12 yourself?

13 A. Yes, I saw commanders arriving there with goods, taking them into the house.
14 And when they arrived, they had goods, they had packages. And when they left his
15 house again, they had nothing anymore.

16 Q. Are you familiar with the term "kupiga na kuchaji"?

17 A. Yes.

18 Q. What does it mean?

19 A. "Kupiga na kuchaji" means the following: When you go into battle, you have
20 to fight and loot, you have to attack and loot. And as you're attacking you loot as
21 well. That's what it means, kupiga na kuchaji.

22 Q. Where did you hear this term being used?

23 A. All of the elements of the UPC use that expression, "kupiga na kuchaji,"
24 everyone.

25 Q. Did your commanders use that term?

1 A. Yes. When they were boosting our morale, they said "When you go into battle,
2 don't spare the enemy, you must hit them, strike them and loot."

3 Q. Which commanders used this term and boosted your morale this way?

4 A. I can't remember really, but I know it was all of the commanders who would
5 say it. Here and now I can't give you specific names, but I know that it was all of the
6 commanders who used that expression "kupiga na kuchaji."

7 Q. For instance, did you ever hear Mr Bosco use that term or not?

8 A. Before we went to Mongbwalu, we had a meeting where we were told we were
9 going to go to Mongbwalu to fight against the Lendu. And as soon as we got to
10 Mongbwalu, we were told not to spare the Lendu, to -- to strike them and to loot.
11 And that meeting was at night. And it was that very same night that we left Bunia to
12 go to Mongbwalu.

13 Q. And who gave you these instructions at that meeting? Who was speaking to
14 you at that meeting?

15 A. First of all, it was the leader of the bodyguards, Claude, and then afterwards
16 Mr Bosco.

17 Q. While you were in Mongbwalu, did you ever see how the UPC treated women
18 civilians?

19 A. When I was in Mongbwalu, I saw a lot of young women, civilians. What
20 I don't know, whether they ones who voluntarily joined the army, or who were
21 enlisted. I didn't know whether I was going to see them again or not. And then
22 afterwards, I saw others, different ones. I don't know whether it was them, whether
23 they had joined or not.

24 Q. Yes. Perhaps my question wasn't very clear. I'm not speaking about women
25 who joined the UPC. I'm speaking about women who were Lendu or other

1 ethnicities who did not join the UPC. Did you ever see how the UPC soldiers treated
2 civilian women in Mongbwalu?

3 A. During the first battle we didn't see any civilian Lendu women, but it was at the
4 second battle that I saw Lendu women, civilians. So it was at that second battle
5 where we were carrying out looting as well.

6 Q. And the second battle in Mongbwalu, was that before or after the UPDF chased
7 out the UPC from Bunia?

8 A. Please, could you repeat your question?

9 Q. Certainly. I'm just trying to determine how far after the first battle in
10 Mongbwalu was the second battle in Mongbwalu. And as a marker, I'm wondering
11 if the second battle was before or after the UPC fought the Ugandans in Bunia?

12 A. The second battle in Mongbwalu was after the battle between the UPDF and the
13 UPC in Bunia. It was after that battle.

14 Q. At the second battle of Mongbwalu, was the UPC successful or not in taking
15 over Mongbwalu?

16 A. No, we didn't win. No, I'm sorry, we didn't manage to take Mongbwalu.

17 Q. And you mentioned that at the second battle you saw Lendu women civilians.
18 What happened to them when you saw them?

19 A. We found them next to the airport at Mongbwalu. Our troops or bodyguard of
20 Mr Bosco came with two girls and they showed them to Mr Bosco. Mr Bosco told
21 them "Do your work." I saw that they got the two girls to enter into the manyata
22 where they slept with them. These two girls were killed afterwards.

23 Q. Did you understand what Mr Bosco meant when he said "Do your work"?

24 A. Yes, I'd understood. When a commander tells you "Do your work," that means
25 kill them or do everything that you want to do. When he said "Do your work," I saw

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1 that they slept with these two women. Not just two of them, there were several of
2 them who slept with them. And afterwards they shot them and they died.

3 Q. Who slept with those girls, to be clear?

4 A. It was soldiers from the bodyguard. (Redacted).

5 Q. And when you say that they slept with them, what do you mean? Did they lie
6 down beside them and fall asleep?

7 A. No. They raped them.

8 Q. How do you know they raped them? Did you see it?

9 A. I saw with my own eyes. I saw that they were raping them.

10 Q. And how do you know that they were shot afterwards?

11 A. I saw that with my own eyes because I was there. It was when the war had
12 broken out it, and the Lendu wanted to drive us out because we weren't able to take
13 Mongbwalu.

14 Q. And while you were in the UPC, did you ever see any other instances of rape
15 like the one that you describe of civilian women?

16 A. (Redacted)

17 (Redacted). While we were carrying out
18 the patrol, we came across two young girls by (Redacted), and we walked with them to
19 (Redacted) we got to the place where it was dark and all 12 soldiers with whom I was
20 with slept with these women. And I couldn't do anything because if I said anything,
21 that she wasn't going -- well, that would have been a problem to me.

22 PRESIDING JUDGE FREMR: Ms Samson, sorry to interrupt you. I was informed
23 that until now we had to make some redactions, even maybe it would appear even
24 doubtful there is such redactions, honestly, but they simply had been made. And
25 because we had made too many of those redactions, we now have to move to the

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1 regime of private session for the rest of our session. So I'm sorry for that, but we
2 have to follow this rule.

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

4 (Private session at 10.36 a.m.)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. To your knowledge, were these soldiers ever punished or disciplined for raping
10 those girls?

11 A. There was no punishment of any kind.

12 Q. Coming back to the first battle in Mongbwalu, the one that was successful, did
13 you ever see civilian women at the location that you were staying?

14 A. I've never seen women on my side from Bosco's, but because Mongbwalu isn't
15 big, where we were and where the other soldiers were wasn't far. It was on the
16 other side that I saw a lot of civilian women arrive.

17 Q. Can you explain what you mean by "the other side"?

18 A. I wanted to say the military camp because the soldiers have a military camp.
19 We were with Bosco and there were brick houses there. On the other side there were
20 straw huts called manyata, and that was where I saw a lot of women arrive.

21 Q. How did they arrive?

22 A. I don't know. I saw them there with the soldiers, but I don't know how they
23 arrived.

24 Q. What were they doing with the soldiers, to your knowledge?

25 A. They were sleeping with them.

1 Q. Do you have any information or knowledge as to whether those women were
2 there because they wanted to be there and chose to be there?

3 A. In fact, I can't be precise on that. I saw them come. Most of the time when
4 they come, they didn't come alone; they perhaps came with a soldier. And
5 sometimes when I saw a woman arrive, the next day it could be a different woman.
6 It wasn't always the same woman. I can't state with precision whether it was
7 voluntary or not.

8 Q. Have you ever heard of a place called the apartments?

9 A. I don't know where it is.

10 Q. In French it is les appartements. Have you heard of that?

11 A. Well, that -- we were in Mongbwalu. There were apartments. They were
12 houses that had been built by westerners.

13 Q. And who stayed there, just to be clear?

14 A. It was Bosco.

15 Q. Ms Witness, I have a question about a place. Have you ever heard of a place
16 called Aru?

17 A. Yes, I've already heard people speak of Aru. I've even been to Aru.

18 Q. Who did you go to Aru with?

19 A. I've been to Aru, but I have to say with regard to what happened in Aru, I don't
20 really remember what happened because I was only in Aru for one week.

21 Q. That's okay. Right now I just want to know did you go to Aru by yourself, or
22 did you go to Aru with anybody else?

23 A. I didn't go alone. I went with other soldiers.

24 Q. Did any commanders go with you?

25 A. It was Mzee Bosco.

1 Q. And did your group meet anybody in Aru that you remember?

2 A. In Aru I saw Jérôme.

3 Q. Do you know Jérôme's last name?

4 A. I don't know another name. I don't know Jérôme very well. I lived in Aru
5 just for a week, just stayed there for a week; but on one day I saw that he was talking
6 to Mzee Bosco for the whole night. I don't know much about Jérôme.

7 Q. And was this trip to Aru before or after the first battle of Mongbwalu?

8 A. It was before the battle in Mongbwalu at the time when the UPC were attacking
9 the villages.

10 Q. Did you ever see yourself any of Jérôme's soldiers from Aru in the UPC?

11 A. In fact, I don't know much about Aru because when we were in Aru, we spent a
12 week there. I didn't even know if it was a week. Afterwards, there was a UPC
13 plane which took us to Bunia. I didn't really live in Aru.

14 Q. And after your visit to Aru, did you ever see or hear that soldiers from Aru
15 were part of the UPC?

16 A. Please, could you repeat your question? I didn't understand it well.

17 Q. Certainly. After you left Aru, so not while you were there anymore, but after
18 you left, did you ever see or hear that some soldiers from Aru had come to join the
19 UPC and fight with them and be a part of the group?

20 A. I didn't follow what happened in Aru well, but I saw Mzee Bosco talk with
21 Jérôme. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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(Private Session)

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10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. And these places you mentioned, Tchomia, Barrière, Katoto, Kasenyi, do you
18 remember what the ethnicity of those villages was?

19 A. All these villages that I've mentioned were Bahema villages.

20 (Redacted)

21 (Redacted)

22 Q. (Redacted). What was the purpose of the visits to those villages?

23 A. A lot -- well, we went into lots of different villages.

24 Q. Indeed. Do you know why you went there? What did you do when you
25 were there?

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1 A. Once we went to Tchomia, he spoke to the commanders, but I don't know what
2 he was speaking about.

3 Q. Were there commanders at all of those villages, or only in Tchomia?

4 A. All the villages had commanders. Everywhere where we went there were
5 soldiers.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted).

10 Q. Where was Mr Lubanga based within Bunia?

11 A. He lived in the subregion next to the school and also where there was the public
12 prosecutor's office.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. (Redacted). Did Mr Lubanga have bodyguards?

22 A. Yes, he had his own bodyguards.

23 Q. Where did you see them?

24 A. I haven't understood.

25 Q. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. And how old were Mr Lubanga's bodyguards?

6 A. There were kadogos, the same age as me, some were older than me. There
7 were all different ages, (Redacted). All the authorities -- with
8 all the authorities it was like that.

9 Q. And can you tell us how young the youngest of the kadogos that you saw at
10 Mr Lubanga's residence was?

11 A. I don't know very well because I wasn't with Thomas Lubanga, but I did see
12 kadogos. I didn't know their exact age, but I knew they were kadogos.

13 Q. And you've mentioned - last question, your Honour - you've mentioned that
14 some were your age and some were older. Did you ever see any who were younger
15 than you at Thomas Lubanga's residence, or not?

16 A. Yes, I saw some who were younger than me. We were calling them kadogo.

17 MS SAMSON: Given the time, your Honour, it is the likely time for the break.

18 PRESIDING JUDGE FREMR: Thank you. So we will break now. First we have to
19 move into the regime of closed session and the witness may be escorted out of the
20 courtroom.

21 (Closed session at 11.02 a.m.)

22 THE COURT OFFICER: We are in closed session, your Honour.

23 PRESIDING JUDGE FREMR: Thank you.

24 (The witness stands down)

25 PRESIDING JUDGE FREMR: And as soon as the witness leaves, we return into

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1 regime of open session.

2 (Open session at 11.02 a.m.)

3 THE COURT OFFICER: We are in open session, your Honour.

4 PRESIDING JUDGE FREMR: Thank you.

5 And I'm just making an announcement that we break now and we will continue with

6 the testimony of this witness after break at half past 11.

7 THE COURT USHER: All rise.

8 (Recess taken at 11.03 a.m.)

9 (Upon resuming in open session at 11.37 a.m.)

10 THE COURT USHER: All rise.

11 Please be seated.

12 PRESIDING JUDGE FREMR: We will continue with examination of the recent

13 witness.

14 Ms Samson, at what mode would you like to proceed?

15 MS SAMSON: Your Honour, I think we could move into open session, with your

16 leave. The topics I would like to address next are relatively general.

17 PRESIDING JUDGE FREMR: Yes, on that issue I would like to make one comment.

18 Because even the Chamber appreciates that you opted for this kind of regime for the

19 majority of your examination, because in -- our intention, and I think it was also

20 supported in the past by the Defence, we should make our -- we should do our best to

21 present as much as possible to public, to let them know what is this trial about and

22 even it's part of the public control of the fairness of the trial.

23 But at the same time we received several requests for redactions, so I think sometimes

24 I was reluctant whether to sign this order because it seemed to me that those requests

25 went too far and that we shouldn't overuse. So we have to find some reasonable

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1 borderline when some facts are really able to reveal the identity of the witness.

2 I don't think that any use of any name of any location necessarily should remain or

3 put our witness at risk of -- or, to reveal her identity. So I would just ask all parties

4 and participants to use those requests in a reasonable way.

5 You may proceed. So you said we can stay in open session?

6 MS SAMSON: Yes, please.

7 Q. Just before the break, Ms Witness, we were speaking about the bodyguards in

8 Mr Thomas Lubanga's bodyguard that you were able to see. And I wonder did you

9 ever see any of Mr Kisembo's bodyguards?

10 A. Yes.

11 Q. What was the age of his bodyguards?

12 A. There were kadogos, some of my age, some older than me. It was the same,

13 the same as with Bosco and other commanders.

14 Q. Did you ever see any of his bodyguards who were younger than you?

15 A. Yes. Those were the ones that we called kadogos.

16 Q. Do you know what age those young kadogos were?

17 PRESIDING JUDGE FREMR: Mr Bourgon.

18 MR BOURGON: This line of questioning was pursued before, Mr President.

19 PRESIDING JUDGE FREMR: Objection sustained. It was asked and answered.

20 MS SAMSON: Yes.

21 Q. While you were working in the UPC, did you ever visit Salumu Mulenda?

22 A. Yes, we did visit Salumu Mulenda.

23 Q. Where did you visit him?

24 A. He was often in Bambu.

25 Q. Did you visit him in Bambu?

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1 A. Yes.

2 Q. Do you know why he was often in Bambu?

3 A. I don't know, because Bambu was a mining area. There was gold mining, gold
4 panning there. I really don't know.

5 Q. Did you visit Mr Mulenda in Bambu before or after the first battle in
6 Mongbwalu?

7 A. I really don't know.

8 Q. Do you know whether there was ever any fighting in Bambu?

9 A. I never fought in Bambu, but I know that there was conflict there.

10 Q. And how do you know that?

11 A. I heard about it from Salumu's team.

12 Q. Did you hear who was in charge of the fighting in Bambu?

13 A. It was a team that belonged to Salumu.

14 Q. Did you ever hear Mr Bosco communicate with Mr Salumu on Motorola?

15 A. Yes, yes. He spoke to him, but I don't know what he spoke about.

16 Q. Have you ever heard of an expression or a term "shika na mkono"?

17 A. Yes. Yes, I know that expression.

18 Q. How do you know of it? What does it mean?

19 A. When we go to the front and we're fighting against the enemy to -- sorry, to the
20 enemy, to scare the enemy, you cry out, you shout, you shout out "Take them. Get
21 hold of them. Shika na mkono." That's the expression used to scare the enemy so
22 that they know that we're going to grab hold of them, we're going to take them
23 hostage.

24 Q. I'd like to ask you some few additional questions in relation to weapons.

25 You've already described some of the weapons that you saw in the UPC. Do you

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1 know where those weapons were stored, where they were kept?

2 A. I have no idea. I don't know. When the battle was being waged I just saw the
3 weapons that we were given.

4 Q. And when the battles were not being waged, did you see where weapons were
5 kept?

6 A. Well, this is what I can say: On our side, the support weapons that we had, we
7 had them (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. And did you, yourself, ever have occasion to collect weapons?

11 A. Can you please repeat your question? I didn't understand it.

12 (Redacted)

13 (Redacted)

14 A. Yes.

15 Q. Where did you go?

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted). They were speaking a language that we didn't understand.

23 Q. And did mister --

24 THE INTERPRETER: They started to load guns, rifles into the vehicle. Correction

25 from the Swahili interpreter.

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1 MS SAMSON:

2 Q. Did you ever learn or understand what language they were speaking?

3 A. I didn't understand the language they were speaking in. It was a language I'd
4 never heard. But it was Mzee Bosco who was talking to them.

5 Q. And did you go on any other trips to collect weapons?

6 PRESIDING JUDGE FREMR: Sorry, I would like rather go into private session for
7 the next part of testimony because it seemed that there would be some risk of
8 revealing some identifying facts. So let's move into private session now.

9 (Private session at 11.52 a.m.)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. Ms Witness, did you go on any other trips like the one in Libi to collect
15 weapons?

16 A. I was only involved in the trip to Libi. I don't know if there were others
17 involving other people. When we went to get the rifles -- well, when we got them,
18 several days later, we were then fighting against the Ugandans.

19 Q. Where did the fight against the Ugandans take place?

20 A. In Bunia.

21 Q. Did the UPC win that fight or did they lose that fight?

22 A. The UPC was beaten and we took flight.

23 Q. Where did you go?

24 A. We headed off to Katoto. We arrived there. We took Katoto, Barrière, and all
25 of those places. Then the Ugandans, together with the Lendu, took control of Bunia.

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1 Q. And who did you go to these places with?

2 A. (Redacted) because it was during

3 the battle, so everybody fled off. I was with a group of soldiers, and we didn't even

4 see our commanders. It was later, when we came back to recover Bunia, that we

5 joined up with our commanders again.

6 Q. And during the return to recover Bunia, were you successful in recovering

7 Bunia or not?

8 A. We managed to take Bunia, but we didn't stay there long; and then later on

9 white men arrived.

10 Q. Do you know who these white men were?

11 A. They were French.

12 PRESIDING JUDGE FREMR: Sorry to interrupt again. I guess if you continue

13 these types of questions, we can return to open session. Do you agree, Ms Samson?

14 MS SAMSON: Yes.

15 PRESIDING JUDGE FREMR: Court officer, let's move into open session now.

16 (Open session at 11.56 a.m.)

17 THE COURT OFFICER: We're back in open session, you Honour.

18 PRESIDING JUDGE FREMR: Thank you.

19 Ms Samson, you may proceed.

20 MS SAMSON: Thank you.

21 Q. You mentioned that the French men arrived. Do you know what they were

22 there to do?

23 A. When the French arrived in Bunia, we were not there in Bunia. We were in

24 Mongbwalu at that moment.

25 Q. And was that the first or second battle of Mongbwalu?

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1 A. It was the second battle.

2 Q. Did you remain in Mongbwalu when the French arrived, or did you leave
3 Mongbwalu?

4 A. When the French arrived, we went to fight in Mongbwalu, but we didn't
5 manage to take it. We were repelled. Mr Bosco was talking to somebody, I think it
6 was Thomas, using the Motorola radio, and he said, "You have to leave Mongbwalu,
7 we no longer have any munitions." We were chased out. We were repelled by our
8 attackers, so we fled Mongbwalu.

9 Q. When you fled Mongbwalu, where did you flee to?

10 A. We took the direction of Bunia.

11 Q. Did you -- did you go to Bunia, or did you go somewhere else?

12 A. When we left Mongbwalu after the second battle, we went to Bunia. We
13 arrived in Bunia, we stayed there for two days, and the French issued to the UPC an
14 ultimatum, a two-day ultimatum for them to leave Bunia.

15 Q. And where did you go after the ultimatum was issued?

16 A. This is what I can say: We went to Centrale. A little further off there was
17 Mzee Kisembo. When we left Bunia, we went to Centrale; but before we got there,
18 there was Kisembo. And in Centrale there was Bosco. It was the road to Barrière,
19 Katoto, up in that direction. There were other UPC commanders who had taken all
20 of those villages, but I was actually in Centrale.

21 MS SAMSON: Mr President, with your leave may we move into private session for
22 a few questions?

23 PRESIDING JUDGE FREMR: All right.

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

25 (Private session at 12.01 p.m.)

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(Private Session)

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9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. While you were in the UPC, did you ever see any of the soldiers, the girl

14 soldiers, get pregnant?

15 A. Yes.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

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Trial Hearing

(Private Session)

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Trial Hearing
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(Private Session)

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Trial Hearing

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1 Q. Do you know if Mr Bosco was married?

2 A. Yes, he was married.

3 Q. What was his wife's name?

4 A. His first wife was called Akiki.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

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14 (Redacted)

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17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. What was the name of that head of the presidential guard?

21 A. His name was Claude.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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(Private Session)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. While you were in the UPC, did you ever see a commander or bodyguard be
7 disciplined for raping any of the girl soldiers or punished for doing so?

8 A. I never witnessed that.

9 Q. You've mentioned Mr Bosco and you've mentioned some of his bodyguards,
10 you also mentioned Commander Pepe as people who raped the girl soldiers. Do
11 you know of any other commanders who also raped girl soldiers?

12 A. Yes, but a few names escape me. I know, for example, that Bagonza would
13 rape girls. And if a girl resisted him, he might even shoot at her.

14 Q. How do you know that?

15 A. Everybody knew it because it was talked about. And I also heard his case
16 mentioned. All of the UPC soldiers had heard it spoken about and people said that
17 that was how Bagonza was behaving.

18 Q. And were there any other commanders that you remember who was raping the
19 girl soldiers?

20 A. It was common practice amongst the commanders, whether it be the
21 commanders or any other members of the troops. And their victims were not only
22 the female soldiers, but also the civilians, women amongst the civilian population.

23 Q. Did you ever see or get to know of a time when Mr Bosco had raped members
24 of the civilian population?

25 A. On one occasion we went to Katoto and I saw a young woman by the name of

1 (Redacted) who had come in the company of one of Bosco's bodyguards, I don't know
2 whether she did it of her own volition, but this young lady went into the house where
3 Bosco was and they engaged in this act.

4 Q. And how do you know that they engaged in this act?

5 A. She was his girlfriend and everybody knew about it. And what is more, she
6 was pregnant.

7 Q. When you say that "they engaged in this act," just for the record, what act are
8 you speaking of?

9 A. These were sexual relations they engaged in, what a married couple would do.

10 Q. Could you please pronounce the woman's name again slowly?

11 A. Her name is (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 Q. You had mentioned that when you were in training you would often sing songs

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1 at the end of the day. Were there any songs in the UPC about PMFs?

2 A. Yes.

3 Q. What were those songs about?

4 A. I've forgotten. I can't remember.

5 Q. Would you like to have a moment? It seems like you're still thinking.

6 A. Yes. I've forgotten, if you can give me a moment.

7 I -- I have forgotten, but if I remember, then I'll tell you.

8 Q. Have you ever heard of a word called "guduria"?

9 A. Yes.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Open session at 12.33 p.m.)

15 THE COURT OFFICER: We are in open session, your Honour.

16 PRESIDING JUDGE FREMR: Thank you.

17 Ms Samson, you may proceed.

18 MS SAMSON: Thank you.

19 Q. What does the word "guduria" mean?

20 A. In the army, "guduria" simply meant restoration in the sense of taking
21 refreshments, where the army would go and eat and drink.

22 Q. Sorry, I thought you wanted to add something else?

23 A. I've just remembered the songs that you were talking about.

24 Q. And what were those songs about?

25 A. This is what the song said, Libabi, libabi (phon), which means misfortune. It's

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1 a song in Swahili and Lingala.

2 THE INTERPRETER: The witness is reading the words out in Lingala.

3 MS SAMSON:

4 Q. Ms Witness, what language are you speaking?

5 A. Most of the words in the songs are in Lingala.

6 MS SAMSON: Mr President, excuse me, we had alerted the interpreters to the

7 possibility that the witness would occasionally move into Lingala, and I was advised

8 that that would not be an issue. So I just query whether there is interpretation

9 capacity in Lingala-Swahili as well.

10 PRESIDING JUDGE FREMR: Swahili, is there any obstacle to translate text of the

11 song from Lingala?

12 THE INTERPRETER: Message from the English booth, Mr President: We do have

13 a Swahili booth and a Lingala booth. We have also some documents, but they are in

14 French, English and Swahili. And we would need to be guided in terms of knowing

15 precisely where we are in those documents when the song begins. Thank you.

16 PRESIDING JUDGE FREMR: And direct interpretation is not possible?

17 THE INTERPRETER: I would need to check that. One moment, Mr President,

18 please.

19 PRESIDING JUDGE FREMR: Mr Bourgon, in the meantime you may have the floor.

20 MR BOURGON: Thank you, Mr President. I note for the record that we were

21 never informed that the witness would maybe speak Lingala. We were never

22 informed that the interpreters were asked for a Lingala capacity. We were never

23 informed that they were given documents to help them in the interpretation of

24 Lingala. And this is taking place completely without the Defence having been

25 informed in any way. Thank you, Mr President.

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1 PRESIDING JUDGE FREMR: Ms Samson.

2 MS SAMSON: Certainly. Your Honour, in the witness's statement it is clear that

3 she sings songs in Lingala. And so that is not something I need to advise the

4 Defence of. They certainly are aware of that through, in particular, her most recent

5 statement, but not only, including the very first statement that she was ever given.

6 So I'm sure my friend is aware of that.

7 It's correct that we didn't advise the Defence that she may speak Lingala, but given

8 the information contained in the statement, it doesn't appear to me to be prejudicial or

9 problematic that the witness's songs are translated.

10 We have not provided documents to the interpreters, so I'm not particularly sure

11 what they have. We often provide copies of statements to the interpreters as well as

12 to the Chamber and to the parties and participants, and I'm told that on this occasion

13 we have. So what they have is simply the list of documents on the Prosecution's list

14 of documents. What I would ask, however, is that the interpreters listen to the

15 witness in Lingala and interpret it live.

16 PRESIDING JUDGE FREMR: It was also my inquiry to the interpreters. I was told

17 by English booth that there is some discussion on that. So may I get now a clear

18 answer from Swahili booth whether it is possible to directly translate what

19 Ms Witness either was saying or singing or will say in Lingala?

20 THE INTERPRETER: Message from the English booth: Yes, Mr President, live

21 interpretation can be provided. Obviously if it is a song it will have to be a little bit

22 slow because sometimes it can be very difficult to interpret songs; and normally it's

23 not really part of our remit, but we will do it. Thank you.

24 PRESIDING JUDGE FREMR: Thank you very much. It is fully understandable.

25 So now, Ms Witness, please try to repeat the lyrics of the song, but please do it slowly

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1 because it is not easy to translate it live, okay? So please repeat slowly the lyrics of
2 the song.

3 THE WITNESS: (Interpretation) Misfortune, misfortune. In French, call
4 malchance. Misfortune. Vaginas and penises have committed an error. They
5 have had a child. The child then had difficulties, and we continued to shoot night
6 and day. They went up into the bush. In Bunia we sought work and didn't find
7 any. Mimi, why do I have to marry a military -- a female soldier, PMF. If I marry
8 her, where will I take her? Mimi, why must I marry a PMF? If I marry her, what
9 will I do with her?

10 PRESIDING JUDGE FREMR: Thank you, Ms Witness.

11 Ms Samson.

12 MS SAMSON: Thank you.

13 Q. And Ms Witness, when would you sing these songs?

14 A. We would sing them during meetings. When we all came together for
15 meetings, we would then sing those songs.

16 Q. How did you feel as a PMF when you had to sing those songs?

17 A. It was the first time that I was hearing those songs. I felt that it showed lack of
18 respect towards women. I didn't understand what it meant, but the order was given
19 to sing, and I had to carry out the order.

20 Q. Do you remember any songs that you or others sang in the UPC about sexual
21 relations with civilians?

22 A. Yes.

23 Q. What were those songs about?

24 A. Most of those songs were about Lendu girls.

25 Q. What about Lendu girls? What did the songs say about them?

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1 A. Those songs said, "I'm crying. I'm crying. Give me a girl. Give me a Lendu
2 girl so that I can fuck her all night and then she'll complain about having back ache
3 because I screwed her."

4 PRESIDING JUDGE FREMR: And in order to have the record precise, I would like
5 to note that the witness was singing when answering this question.

6 Ms Samson.

7 MS SAMSON: Yes, thank you.

8 Q. What language was that sung in?

9 A. Lingala.

10 Q. Who sang that song?

11 A. The soldiers.

12 Q. Did any commanders ever hear you sing that song?

13 A. Yes.

14 Q. Did the commanders ever correct you as the military who were singing those
15 songs and tell you that those songs were not appropriate?

16 A. No. They didn't prevent us from singing those songs. Even if there were
17 four-letter words in the words of the songs, they didn't prevent us from doing it.

18 Q. Did the commanders sing that song with you?

19 A. When we would sing, they would applaud. They would clap.

20 Q. Did Mr Bosco ever hear you sing that song?

21 A. Yes. Yes, he would listen.

22 Q. Did you ever see him applauding when you finished singing that song?

23 A. I didn't understand.

24 Q. You said that the commanders would applaud. They would clap when you
25 finished singing that song. Did you ever see Mr Bosco applaud or clap when you

1 sang that song?

2 A. I didn't say that they were -- he would applaud after the end of the song, but it
3 was during the singing.

4 Q. Did you ever see Mr Bosco clap during the singing of that song?

5 A. Yes.

6 Q. Before you went into battles, did you also sing songs?

7 A. Yes. Before we went into battle, we would sing; and even on the way to the
8 battlefields, we would sing then as well.

9 Q. What types of songs would you sing then? What were they about in general?

10 A. I would say that Mr Bosco liked songs.

11 THE INTERPRETER: And the words are given by the witness in Swahili that were
12 said, things like "Commander, tell us something. We're ready. Politics is of the
13 essence."

14 MS SAMSON:

15 Q. And what was the purpose of singing those songs before going to battle?

16 A. I don't know how to -- to answer that, what was the point of the songs, but these
17 were the songs that we would sing.

18 Q. Did any of the songs refer to Mr Bosco by name?

19 A. There were a lot of songs. I've forgotten. Yes.

20 Q. And in general terms, you don't have to remember all the songs, but in general
21 terms what did the songs about Mr Bosco speak of? What were those songs about?

22 A. There were many songs. There were songs that we would sing when we were
23 going into battle. It was to boost our morale so that we wouldn't be afraid of
24 anything. When we went into battle, we had to sing those songs to boost morale,
25 and then when we arrived there we had to yell out as well so that the enemy would

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1 flee.

2 Q. When you were yelling out to the enemy what -- did you use a particular word,
3 or was it just yelling sounds?

4 A. This is what I can say: When we went into battle we had to differentiate
5 between fighting and yelling. When we would yell, we would say, "You have to
6 catch hold of the enemy with your hands." It was to confuse the enemy so that the
7 enemy would be disoriented.

8 Q. Thank you.

9 MS SAMSON: Mr President, I'm likely to move on to a new topic. I can start it
10 now. I see we have 5 minutes left. I leave it to the Chamber to determine whether
11 you would prefer to take the break now or I should start a new topic.

12 PRESIDING JUDGE FREMR: If the topic extensive then maybe it would be better to
13 break now.

14 So we will break.

15 First Ms Witness has to be escorted out of the courtroom, and for that purpose we
16 have to move into closed session.

17 (Closed session at 12.56 p.m.)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Open session at 12.56 p.m.)

23 THE COURT OFFICER: We are in open session, your Honour.

24 PRESIDING JUDGE FREMR: Thank you, court officer.

25 Before we break, Ms Samson, I am aware of the fact that I'm rather premature but, at

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1 least to have some idea, can you inform us how far you got at the moment with the
2 witness's testimony?

3 MS SAMSON: Yes, certainly. Happily today has been a much more -- well, better
4 day, a more productive day questioning wise than it was yesterday. So I've got
5 through quite a bit of the material that I have to go through with this witness.

6 There is still the issue of the video, which I think I will get to this afternoon, at least
7 the start of it.

8 I think that I will go a bit more tomorrow, but I don't anticipate needing much of
9 tomorrow. I -- at this point, I don't believe I would need the full morning even, but
10 I'll be in a better position at the end of the day to give your Honours a more -- a better
11 update.

12 PRESIDING JUDGE FREMR: Thank you.

13 So we break now and we will reconvene half past 2.

14 THE COURT USHER: All rise.

15 (Recess taken at 12.58 p.m.)

16 (Upon resuming in open session at 2.34 p.m.)

17 THE COURT USHER: All rise.

18 Please be seated.

19 PRESIDING JUDGE FREMR: Good afternoon, everybody.

20 We will continue with examination of the recent witness, P-10.

21 And my question goes to Ms Samson. Ms Samson, do you want to proceed in private
22 or in open session?

23 MS SAMSON: Open session, your Honour. And I note for the record that Ms
24 Umurungi is not present this afternoon.

25 PRESIDING JUDGE FREMR: Thank you. And you may proceed.

1 MS SAMSON:

2 Q. Ms Witness, are you familiar with the term "IS girls?"

3 A. I do not know the meaning of this abbreviation.

4 Q. It may be the translation, so I'll say it again. Are you familiar with the term "IS
5 girls?"

6 A. IS? Well, yes, I do know that when a girl is given the name IS.

7 Q. What does that mean?

8 A. When you talk about the enemy, this means that a girl, an IS girl, needs to go on
9 a recce and ascertain what kind of weapon the enemy is using. So this is with a view
10 to gleaning intelligence as to the kind of weapon used by the enemy.

11 Q. And you mentioned the term "recce." What does that mean?

12 A. Please put your question again. I didn't understand.

13 THE INTERPRETER: Message from the English booth: This was a term used by the
14 interpreter to actually transpose what the witness meant. It's just the term used by
15 the interpreter to transpose the meaning of her sentence of her response. Thank you.

16 MS SAMSON:

17 Q. When you mentioned that an IS girl needs to go and ascertain what kind of
18 weapons are being used, can you describe that a little bit more so it's clear to
19 everybody in the courtroom what type of mission that was?

20 A. It wasn't only the IS girls who could go on such a mission. The boys could also
21 be sent. This was a mission where one would go on a reconnaissance in order to
22 ascertain the position of the enemy. Often the young girls were sent because they
23 know that men like girls. And that was why young girls were often sent.

24 Q. And did the UPC have IS girls and boys?

25 A. It was when somebody was sent that they were called IS, when they went on a

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1 reconnaissance mission, whether it be a girl or a young boy. That was when they
2 were referred to as an IS, when they were sent on a reconnaissance mission.

3 THE INTERPRETER: Which is also the term "recce" from the interpreter in the
4 English booth.

5 MS SAMSON:

6 Q. And did you know anybody in the UPC who went on these reconnaissance
7 missions?

8 A. I did not quite understand.

9 Q. Did you know anybody who was sent on these reconnaissance missions?

10 A. Well, am I to talk about the UPC in general terms? I don't really understand.

11 Q. Did you ever go on these reconnaissance missions, or did you know anybody
12 else who did?

13 A. Yes, I did go on such a mission, but I don't remember to which village I went. I
14 did go on such a mission, but I can't remember the name of the village.

15 Q. Who sent you on this mission?

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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6 (Redacted)

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8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. What did you know about the enemy? Who were they?

12 A. The enemy was the Walendu. They -- the enemy was the Walendu and I fought
13 against the Walendu. The Walendu also used weapons.

14 Q. And did you have sex with anybody when you were in the enemy camp?

15 A. I cannot say that in public.

16 MS SAMSON: Mr President with your leave, may we please move into private
17 session?

18 PRESIDING JUDGE FREMR: Yes, it's right. Now let's move into private session,
19 court officer, please.

20 Mr Bourgon, on this point.

21 MR BOURGON: Yes, Mr President. I fail to understand the relevance of the
22 questions being asked to the witness. The testimony that is being elicited that she
23 was sent as an IS girl to do some kind of recce mission to find information from the
24 enemy, and that while with the enemy she would have probably engaged in some
25 kind of prostitution act, I don't see the relevance to any charges in the indictment, and

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1 I don't think this line of questioning should be allowed. Thank you, Mr President.

2 PRESIDING JUDGE FREMR: Ms Samson.

3 MS SAMSON: Thank you, Mr President. I would like to get a sense as to the ways
4 in which soldiers, particularly the girl soldiers were used when they were in the UPC
5 and the extent to which they were sexually exploited while they were there under the
6 orders of their superiors. And in my submission that is relevant to the charges.

7 Thank you.

8 PRESIDING JUDGE FREMR: Give me a second, I will confer with my colleagues.

9 (Trial Chamber confers)

10 PRESIDING JUDGE FREMR: So according the Chamber, this objection is overruled.

11 We find those facts relevant because it seems, according to witness, it was part of the
12 order given to her. But we have to anyway move into private session, please.

13 (Private session at 2.49 p.m.)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. And for the record, did you go to this camp voluntarily? Did you choose to go?

25 A. I left because I was given an order. It was not of my own free will.

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1 Q. Do you know how many girls within the UPC were given similar orders?

2 A. Many of them received the same order.

3 Q. Do you know whether (Redacted) came up with this order on his own or whether he
4 was ordered to transmit the order to you?

5 A. I'm not in a position to know that because (Redacted) gave me the order. But he
6 cannot issue me with an order without having been given one. But I'm telling you
7 that (Redacted) was the one who gave me this order.

8 MS SAMSON: Your Honour, with your leave we can move back into open session.

9 PRESIDING JUDGE FREMR: All right. Court officer, let's move into open session
10 now.

11 (Open session at 2.53 p.m.)

12 THE COURT OFFICER: We're in open session, your Honour.

13 PRESIDING JUDGE FREMR: Thank you.

14 Ms Samson, you may proceed.

15 MS SAMSON: Thank you.

16 Q. You mentioned, Ms Witness, drinking beer in the UPC. How often would you
17 and other soldiers drink alcohol in the UPC?

18 A. Well, I can't answer that specifically. I do not know how often people drank.
19 But it is sure that we did drink, we did drink alcohol.

20 Q. Were -- did you ever see anybody take drugs while you were in the UPC?

21 A. They used to smoke hemp.

22 Q. Was there any age limit to the soldiers who drank or smoked hemp?

23 A. Could you please repeat your question? I did not understand it correctly.

24 Q. Certainly. Did all soldiers in the UPC, regardless of their age, drink alcohol or
25 smoke hemp, or was it only people over a certain age?

1 A. Yes, I would say that everybody would smoke hemp and everybody would
2 drink alcohol. Everybody of all ages, even the kadogos.

3 Q. While you were in the UPC, did you ever hear of the leaders ordering the
4 demobilisation of kadogo or minors?

5 A. No, never.

6 Q. I would now like to ask you some questions about recruitment. Did you ever
7 see how the UPC recruited its soldiers?

8 A. I didn't understand.

9 Q. Were you ever present when UPC leaders asked people to join the UPC?

10 A. Yes, on one occasion, on the Mongbwalu road. Mzee Bosco talked to the
11 authorities and they called upon the population with a view to sensitising it to enter
12 the ranks of the UPC. I was there when he was talking to people. That was in
13 Mabanga.

14 Q. Do you remember more of what he said to the people?

15 A. He was calling upon them to enrol in the ranks of the army to fight for their
16 country, whether it be the kadogos, the Chibonge (phon), mothers. "Come and fight
17 for your country," he said. "You need to come and fight for your country. Nobody
18 else. You will come and undergo some training, then you will be good soldiers
19 capable of fighting for your country." That's what he used to say to them.

20 Q. And you mentioned some terms that our transcript hasn't captured. You said
21 that he was calling upon them to enrol in the ranks of the army to fight for their
22 country whether it be, and then you mentioned different types of individuals I think.
23 What did you say?

24 A. Tchibonge (phon). The tchibonge, those are large people, people are very fat,
25 they're tchibonge.

1 Q. And you mentioned mothers. And I heard you say "kadogo;" is that right?

2 A. Yes.

3 Q. When Mr Bosco was speaking to the people, did he set any age limit for those
4 who could join the UPC?

5 A. No, I never heard that.

6 Q. Did you see whether people joined the UPC after Mr Bosco spoke to them?

7 A. Please excuse me. Could you ask your question again?

8 Q. Certainly. After Mr Bosco spoke to the people in the village of Mabanga, did
9 you see anybody join the UPC?

10 A. We had already left. But there were people who had been enrolled, but we had
11 already left.

12 Q. Mabanga is a village of what ethnicity?

13 A. It is a Hema village.

14 Q. You spoke to us of your training at the Rwampara training camp. After you
15 finished your training, did you ever return to that camp?

16 A. I haven't understood your question.

17 Q. After your training was finished and you were now a soldier, did you ever go
18 back to the Rwampara training camp?

19 A. No, I don't understand your question.

20 Q. Did Mr Bosco ever visit training camps with you?

21 A. Yes.

22 Q. Which camps did you visit with him?

23 A. We went to Rwampara, Bunia. In Bunia there was -- there were two training
24 camps, Mandro and Rwampara. I went with him during the visit to Rwampara.

25 Q. Can you recall if this visit was before or after the first attack in Mongbwalu?

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1 A. It was after the attack on Mongbwalu.

2 Q. Do you remember if the visit to Rwampara was before or after the UPC fought
3 the Ugandans in Bunia?

4 A. It was before, before the battle between the UPC and the Ugandans.

5 Q. Who else went with you on this trip to Rwampara?

6 A. On this trip there were authorities like Mr Thomas, and other commanders and
7 Mr Bosco.

8 MS SAMSON: Mr President, may I ask to move into private session, but just for one
9 or two questions, please.

10 PRESIDING JUDGE FREMR: All right. Court officer, let's move into private session
11 now.

12 (Private session at 3.08 p.m.)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

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- 12 (Redacted)
- 13 (Open session at 3.11 p.m.)
- 14 THE COURT OFFICER: Your Honour, we're in open session.
- 15 PRESIDING JUDGE FREMR: Thank you.
- 16 Ms Samson, you may proceed.
- 17 MS SAMSON: Thank you.
- 18 Q. Ms Witness, what did you see during this visit to the Rwampara training camp?
- 19 A. We went to visit the recruits.
- 20 Q. Do you remember how the recruits were dressed?
- 21 A. The recruits were dressed in civilian clothing. Others who were almost at the
- 22 end of their training were dressed in military uniforms.
- 23 Q. Did the recruits have weapons?
- 24 A. No. They had branches from trees.
- 25 Q. What were branches from trees used for?

1 A. These branches we used during the training. They were used as a learning tool
2 to show how you would use a rifle. And when they got a rifle, they would see how
3 to use it. And that's the reason why they had that object. Even when they slept,
4 they had it with them. And if this branch got lost, the person was severely punished.

5 Q. What was the age of the recruits that you were able to see at the camp or the age
6 range?

7 A. Among them there were kadogos, but I couldn't estimate their age. There were
8 some very small ones among the kadogo. I would say 12, 13 years old, and others
9 who were over 13. They were different ages.

10 Q. Did any of the UPC leaders address the recruits during this visit?

11 A. I didn't hear.

12 Q. Did any of the leaders speak to the recruits during the visit?

13 A. Yes.

14 Q. Which leaders spoke to the recruits?

15 A. It was Mr Thomas Lubanga. Afterwards, I think it was the defence minister
16 who spoke to the recruits as well.

17 Q. Can you recall what Mr Thomas Lubanga said to the recruits when he spoke to
18 them?

19 A. He raised the morale of the troops so that they could clash with the enemy. I no
20 longer remember the content of the speech, but the most important part was morale
21 boosting.

22 MS SAMSON: Mr President, at this point in my examination I would like to move to
23 show the witness a video. But I do understand that there is an objection that we may
24 have to deal with in advance, and if that's the case, it will have to be dealt with in the
25 absence of the witness.

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1 PRESIDING JUDGE FREMR: Yes, I fully agree.

2 So now we have to move into closed session in order to escort witness out of the
3 courtroom.

4 PRESIDING JUDGE FREMR: Mr Bourgon.

5 MR BOURGON: Mr President, if my colleague wants to proceed and show a short
6 part of the video to the witness, then we can save some time and maybe the objection
7 can be withdrawn.

8 PRESIDING JUDGE FREMR: Now I didn't understand, Mr Bourgon, because you
9 originally objected to -- against the use of this video. So I don't see what's the
10 difference now.

11 MR BOURGON: The difference now, Mr President, is that she has been answering
12 some questions about an event, and now if she recognizes the event, and if she is
13 herself in the video, then we have a procedure in place and we will not object anymore.
14 But we did object in the beginning because we had information of a different event.

15 PRESIDING JUDGE FREMR: So may I take it that you, in fact, you don't have any
16 objection to use this video with the witness?

17 MR BOURGON: As long as we follow the proper procedure, which is the next step,
18 is for her to recognize part of the video that she can relate that this is what she's talking
19 about, we have no further objection.

20 PRESIDING JUDGE FREMR: Ms Samson, your position?

21 MS SAMSON: Yes, I'm grateful. We intend now to show a short clip of less than a
22 minute to the witness to see if she can identify the video and provide the Chamber and
23 the parties and participants with a sufficient basis to go forward and ask further
24 questions on the video.

25 PRESIDING JUDGE FREMR: Then very well. So the witness may remain in the

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1 courtroom, and you can -- and we are still -- and it's possible to stay in open session?

2 MS SAMSON: Your Honours, for the first minute, I would ask that we move into
3 private session for the witness --

4 PRESIDING JUDGE FREMR: Okay.

5 MS SAMSON: -- to give her account of what's in the video. And following that,
6 provided that there are no further objections and the Chamber authorizes it, we can
7 show the rest of the video in open session.

8 PRESIDING JUDGE FREMR: Mr Bourgon.

9 MR BOURGON: Thank you, Mr President. I have no objection. I just want to say
10 that we're talking about one minute. The idea is, is the video the event she's talking
11 about? That's the only question. And we can keep the viewing on that portion of
12 the video as per the decision on the conduct of the proceedings strictly to what is
13 necessary. Thank you, Mr President.

14 PRESIDING JUDGE FREMR: I believe we will do so.

15 Yes, important issue, this excerpt from video is without or with subtitles?

16 Because I can openly say that the Chamber would like to use video without
17 subtitles.

18 MS SAMSON: I can -- we can show the witness a version of the video that does not
19 have subtitles in order for her to familiarize herself with the video. I would ask to be
20 able to use a subtitled version thereafter so --

21 PRESIDING JUDGE FREMR: And why?

22 MS SAMSON: -- solely because the image quality has been enhanced on that version
23 and it is significantly better for her to be able to recognize people in the video.

24 As we know, the subtitles will unlikely pose an issue in this particular case for reasons
25 that the victims and witnesses unit have advised, and in any event, the witness is able

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- 1 to understand the -- what is being said in the video after we move into the portion
2 where there is sound because she speaks the language that is heard. So the subtitles
3 are not the issue, in my submission.
- 4 PRESIDING JUDGE FREMR: We will decide. But anyway, for the moment, the first
5 step should be to see, to watch the first minute without subtitles. So please --
- 6 MS SAMSON: Yes.
- 7 PRESIDING JUDGE FREMR: -- handle this.
- 8 MS SAMSON: Certainly, yes.
- 9 Once we move into private session, then I can provide the ERN of the video. And I
10 would at that moment ask that the Prosecution be able to manipulate the video from
11 the Prosecution's bench for ease of the exercise.
- 12 PRESIDING JUDGE FREMR: Always request is granted. And we now will move
13 into private session.
- 14 (Private session at 3.23 p.m.)
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23 (Redacted)

24 (Open session at 3.38 p.m.)

25 THE COURT OFFICER: We are in open session, your Honour.

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1 PRESIDING JUDGE FREMR: Thank you.

2 Ms Samson, you may proceed.

3 MS SAMSON: Thank you.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. Is that a place?

15 A. Yes, yes. It's a neighbourhood of Bunia.

16 Q. Then you continued with your answer and you said: "... and we walked
17 with them to (Redacted)."

18 I want to make sure that I have it captured correctly in the transcript. Could
19 you pronounce the name of the place that you walked them to slowly for the
20 record?

21 A. Yes, it was (Redacted).

22 Q. And is that also a place?

23 A. Yes. In fact, there is (Redacted). It's
24 the name of a place.

25 MS SAMSON: Thank you very much. Your Honour, that concludes my questions

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(Closed Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0010

1 for today.

2 PRESIDING JUDGE FREMR: Ms Witness, it will conclude your testimony for today.

3 So you now can take some rest and we will continue tomorrow morning at 9.30.

4 I would like to thank you because you followed our guidance. You attentively

5 listened to the questions. You responded directly. You observed pauses. So you

6 are doing very well. So I hope that tomorrow you will continue in the same way.

7 I also have to emphasise that overnight you must not discuss your testimony

8 with anybody else. Do you understand?

9 THE WITNESS: (Interpretation) Yes.

10 PRESIDING JUDGE FREMR: Very well. So thank you very much and we will see

11 you tomorrow.

12 Now we have to move into closed session in order to escort the witness out of

13 the courtroom.

14 (Closed session at 3.42 p.m.)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Open session at 3.43 p.m.)

20 THE COURT OFFICER: Your Honour, we're in open session.

21 PRESIDING JUDGE FREMR: Thank you. So we will adjourn now.

22 Oh, Mr Bourgon, you have the floor.

23 MR BOURGON: Thank you, Mr President. Since we have a few minutes, I do have

24 some specific requests to address to the Chamber in relation to the testimony of

25 Witness P-10.

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(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0010

1 The first one of these requests, Mr President, relates to something, a part of the
2 transcript from this morning. And I'd like to refer the Chamber to page 19,
3 lines 10 to 21. According to the information I received from the accused, what
4 is on the transcript would not correspond to what was said originally in
5 Swahili.

6 And the normal procedure probably would be for us to address a message or a
7 request to the language services. But since the witness is on the stand, maybe
8 we could proceed and listen to that segment again and confirm whether the
9 transcription is accurate or not. This is the first request, Mr President.
10 Should I move on to my further request or the Chamber prefers to address this
11 one first?

12 PRESIDING JUDGE FREMR: I think if you according -- in fact, according to your
13 client view, indeed, there is some mistake in transcript, you should address Registry
14 first and if there will be some disagreement, then you can just proceed to approach us,
15 okay?

16 MR BOURGON: Mr President, we're likely to begin cross-examination soon, and this
17 is critical information. This is why I raise this at this time. If it was not the case, I
18 would definitely put such a request in, but think it would be more practical if we
19 proceed right away to listen to the tape or at least that my request can be taken
20 immediately by the Registrar. I can certainly send a request tonight, but if I --

21 PRESIDING JUDGE FREMR: Please try and if you will not succeed, we will take into
22 consideration your proposal, maybe you can start in this way tomorrow morning; but,
23 first, please try to approach Registry first.

24 And the second issue?

25 MR BOURGON: Thank you, Mr President. Mr President, we will do.

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(Open Session)

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WITNESS: DRC-OTP-P-0010

1 The second request deals with the Trial Chamber's decision, and I refer to the
2 decision of 1 September 2015 granting the Defence access to materials in the
3 Lubanga proceedings. This decision was followed by a further decision or
4 further directions issued by the Chamber on 1 October 2015.

5 Now, because there is still ongoing litigation in respect of those further
6 directions, maybe -- and I take it that this is the reason we have not yet received
7 any of the material from the Lubanga proceedings even though this motion
8 was filed back in June or July.

9 Now, we've received the filings, the submissions, but we have not received any
10 of the exhibits. Yesterday I contacted the Prosecution to obtain copy of a
11 picture that was used in the Lubanga proceedings, a picture of Witness P-0010.
12 Initially, I was told that this was not material to the preparation of the Defence.
13 I provided further arguments, and in the end we reached an agreement on the
14 materiality of a picture of Witness P-0010, and my colleague provided us with
15 the said picture.

16 My request, Mr President, is I just sent an email to my colleague from the
17 Prosecution asking for her cooperation so that any material in the possession of
18 the Prosecution, which is related to P-10 in the possession of the Prosecution,
19 be disclosed to us without delay. We need this material in order to proceed
20 with the cross-examination, Mr President.

21 PRESIDING JUDGE FREMR: Ms Samson, your position on the second issue?

22 MS SAMSON: Yes. No difficulty, your Honour. We will check and see if there is
23 anything that hasn't yet been disclosed. The only pool of materials that could be
24 affected are Defence documents that are in eCourt accessible to the Prosecution. I
25 think now we have disclosed everything, so I just have to check and see if there is any

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(Open Session)

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1 outstanding -- this photograph was a document that the Defence tendered. So I'll
2 look to see. I have no difficulty with that at all, and hopefully there isn't anything
3 outstanding, but I'll respond to Mr Bourgon without delay.

4 PRESIDING JUDGE FREMR: Mr Bourgon?

5 MR BOURGON: Thank you, Mr President. Our third request, Mr President, deals
6 with a request we forwarded to the Prosecution. This request was sent on 4
7 November asking for disclosure of certain material related to Witness P-10.
8 One of the categories of material we were looking for refers to investigation
9 notes or statements related to Witness P-0010 security concerns. And I will
10 not read all of the paragraph that was in our email, but the response we
11 received to our request is the following: We received a response -- sorry. I'll
12 look here -- "Your third request is for all investigation notes or statements
13 related to Witness P-0010 security concerns. As mentioned above, the
14 Chamber has ruled that these are case-by-case assessments. What is disclosed
15 in relation to one witness does not necessarily result in disclosure for another
16 witness." There is a reference to a decision by the Chamber.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 PRESIDING JUDGE FREMR: For sure. Yes, yes, yes.

25 MR BOURGON: I apologise for the mistake.

Trial Hearing

(Private Session)

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1 PRESIDING JUDGE FREMR: So you want to continue?

2 MR BOURGON: Yes, Mr President.

3 PRESIDING JUDGE FREMR: Let's move into private session.

4 (Private session at 3.51 p.m.)

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 (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 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

1 MR BOURGON: Thank you, Mr President. In the same request that we sent to the
2 Prosecution last week on 4 November, we requested the disclosure pursuant to Rule 77,
3 of course, without prejudice to our position concerning Rule 76, and that was "any and
4 all material in the possession of the Prosecution"; and subparagraph 2, "all contacts
5 between the witness and intermediary P-0143."
6 Now, in this case, Mr President, we referred to the fact that -- to a ruling by the
7 Trial Chamber in the Lubanga case, which concluded that the real
8 possibility -- I quote here: "The real possibility that Intermediary 143
9 corrupted the evidence of these four witnesses, including P-0010 cannot be
10 safely discounted."
11 And then we said, "As such, the above-mentioned information is necessarily
12 material to the preparation of the Defence."
13 In response to this request, we received the following: We -- as soon as
14 possible tomorrow" -- now this is the response we received -- "I will send you
15 an advanced copy of a chart of known contacts between P-0010 and P-0143.
16 We received this document, which has barely a few numbers of witnesses and
17 nothing else.
18 We believe, Mr President, that it is absolutely necessary for us to get any and
19 all information in the possession of the Prosecution concerning Intermediary
20 P-0143. P-0143 was found and was a very significant witness in the Lubanga
21 proceedings.
22 Now, we have received some material that I have in my possession concerning
23 P-0143. What I ask at this time, further to my attempt to obtain this material, I
24 want to make sure that I've received everything in the possession of the
25 Prosecution concerning its dealings with P-0143. And there is a possibility

1 that I have already received everything, and I want -- inside of this material
2 there are -- the material is heavily redacted in some areas, and I would like to
3 have the lifting -- these redactions lifted before we begin on cross-examination.

4 This is my last request, Mr President. Thank you.

5 PRESIDING JUDGE FREMR: Ms Samson.

6 MS SAMSON: Yes. Mr Bourgon can always address his requests to the Prosecution
7 directly, your Honour. I haven't heard some of these new requests, and I'm not
8 unreasonable and certainly willing to speak to Mr Bourgon directly.

9 We also note what our obligations are via disclosure. And the best course of
10 action in this case would be, I think, to speak to me.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 But nonetheless, what had been disclosed in the Lubanga proceedings in
17 relation to intermediaries has also been disclosed in this proceeding. What we
18 provided to the Defence in addition was a chart of known contacts that we
19 know of between the intermediary and P-10. There are not a significant
20 number of contacts because, shortly after we met the witness, she was admitted
21 into the Court's protection programme and thereafter there was no further
22 need for an intermediary.

23 So we have provided that document to the Defence. I'm not entirely certain
24 what other documents he's referring to that he believes we have or which
25 redactions he seeks to lift. Until I know that, it's very difficult for me to

1 respond at the moment. But I'm happy to speak with Mr Bourgon
2 immediately following the hearing, and if there are any areas of dispute, I'm
3 sure we'll come back.

4 PRESIDING JUDGE FREMR: We would appreciate it.

5 And again, Mr Bourgon, if Prosecution would be, I put it particularly
6 non-cooperative, feel free to approach us. But it seems that Ms Samson is,
7 OTP is open to listen to your requests, so --

8 MR BOURGON: Mr President, this is not a new request. This is a request I was sent
9 last week. And we get an answer the following day, and the witness is on the stand.
10 The lifting of redactions of all material related to the witness should be something that
11 should be undertaken proprio motu by the Prosecution in order to ensure the Defence
12 is able to proceed.

13 There used to be a time when I was in this business, Mr President, that 30 days
14 before a witness would appear, everything was in the possession of the
15 Defence. Times have changed. Things have changed. Criterias have
16 changed. But we do make requests and we do get answers, and these answers,
17 they're very polite, they're very nice, such as our request, but they're always
18 buying time, and we end up with the witness on the stand and we do not have
19 the information.

20 There is material we received. This material is redacted. And I ask that
21 these redactions be lifted. Thank you, Mr President.

22 PRESIDING JUDGE FREMR: Ms Samson.

23 MS SAMSON: Yes, just one last thing, your Honour. I've never received a request
24 to lift redactions to anything related to P-143. And I will certainly speak to
25 Mr Bourgon. But what those redactions are, sometimes redactions cannot be lifted.

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WITNESS: DRC-OTP-P-0010

1 And Mr Bourgon sent his email to me at 9 o'clock at night. I responded the following
2 day, albeit at 6 something. But he had six separate requests to make.

3 I am diligent in responding to emails quickly. I certainly am not in any way
4 trying to delay. I note usually when I receive an email and I indicate that I
5 have received it and that I will respond as soon as possible. So I take great
6 exception to the suggestion that I don't respond quickly or am seeking to delay
7 proceedings. Thank you.

8 PRESIDING JUDGE FREMR: We believe that everything is in fact going well, so we
9 believe that tomorrow parties will just assure us that there is no more dispute on this
10 issue. If yes, then the Chamber could be involved.

11 So that's it for today, and as I said, we will -- Ms Samson.

12 MS SAMSON: Yes. On a different topic, your Honour, I'm told that we need to
13 make a redaction request orally because email is not functioning properly. So we
14 have a redaction request to lines 20 to 24, page 78 of today's transcript, which is the
15 section where Mr Bourgon had identified the part of the email in relation to the
16 protection needs of Witness P-10. Thank you.

17 PRESIDING JUDGE FREMR: Well noted. So if there are no further issues for the
18 third time, yes, I am announcing that we are adjourned. We adjourn now and we will
19 reconvene tomorrow 9.30.

20 THE COURT USHER: All rise.

21 (The hearing ends in private session at 4.03 p.m.)

22 RECLASSIFICATION REPORT

23 Pursuant to Trial Chamber VI's instructions dated 23 December 2015 and the
24 Prosecution submission, ICC-01/04-02/06-1089-Conf, dated 19 January 2016, the
25 reclassified and redacted public version of this transcript is filed in the case.