

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

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 Friday, 8 September 2017
8 (The hearing starts in open session at 9.31 a.m.)
9 THE COURT USHER: [9:31:46] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:32:13] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:32:18] Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 We are in open session.
18 PRESIDING JUDGE FREMR: [9:32:33] Thank you, court officer.
19 Appearances, please.
20 MS SAMSON: [9:32:37] Good morning, Mr President, and good morning,
21 your Honours. For the Prosecution today are Ms Kristy Sim, Ms Selam Yirgou and
22 myself, Nicole Samson.
23 PRESIDING JUDGE FREMR: [9:32:50] Thank you, Ms Samson.
24 Defence, please.
25 MS SAMSON: [09:32:53] Excuse me. Apologies, Mr President. I omitted

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- 1 Ms Umurungi, who is also in the team.
- 2 PRESIDING JUDGE FREMR: [9:33:00] Noted. Mr Bourgon.
- 3 MR BOURGON: [9:33:02] (Interpretation) Good morning. Representing
- 4 Mr Bosco Ntaganda, who is present today, the same Defence team as yesterday.
- 5 Thank you.
- 6 PRESIDING JUDGE FREMR: [9:33:12] Thank you, Mr Bourgon.
- 7 Legal Representative of Victims, please.
- 8 MS PELLET: [9:33:18] (Interpretation) Thank you, your Honour. The former child
- 9 soldiers are represented by Vony Rambolamanana and myself, Sarah Pellet.
- 10 MR SUPRUN: [9:33:31] (Interpretation) Good morning, your Honours. The victims
- 11 of the attacks are represented by the same team as yesterday.
- 12 PRESIDING JUDGE FREMR: [9:33:42] Thank you, Ms Pellet. Thank you,
- 13 Mr Suprun.
- 14 I am glad to see that all of us are present regardless of this terrible weather, even
- 15 some of us a bit wet.
- 16 Today we will continue by examination of our witness by LRV representing former
- 17 child soldiers by Ms Pellet, as we indicated. As we decided, Ms Pellet, you have
- 18 three hours at your disposal. Floor is yours.
- 19 Ms Samson.
- 20 MS SAMSON: [9:34:19] Thank you, Mr President. At the end of the day yesterday,
- 21 I had omitted to seek admission for impeachment purposes of two portions of
- 22 a transcript that I read out. They are indicated by ERN and line reference in
- 23 yesterday's transcript, and I would like to do that now, with your leave.
- 24 PRESIDING JUDGE FREMR: [9:34:39] Mr Bourgon, Defence position?
- 25 MR BOURGON: [9:34:41] We take no position, Mr President. Thank you.

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1 PRESIDING JUDGE FREMR: [9:34:44] In such a case, those two pieces of transcript
2 specified yesterday by Ms Samson are admitted into evidence for the purpose of
3 impeachment.

4 THE COURT OFFICER: [9:35:01] Could we please have the ERN number put into
5 the record.

6 MS SAMSON: [9:35:07] Yes, absolutely. DRC-OTP-2101-1436 at 1438, lines 14 to 23,
7 and at page 1439, lines 35 to 49.

8 PRESIDING JUDGE FREMR: [9:35:29] So now it's okay. So now Ms Pellet, you
9 have the floor.

10 MS PELLET: [9:35:43] (Interpretation) Thank you, your Honour. First of all, as we
11 begin, I do wish to make one point regarding my application.

12 As previously announced, it was possible that I might review my application in light
13 of cross-examination by the Prosecution and in light of the questions that were put
14 yesterday to Mr Ntaganda by my Prosecution colleague. I will drop points E and F
15 regarding demobilisation efforts and acts of sexual violence perpetrated upon child
16 soldiers.

17 PRESIDING JUDGE FREMR: [9:36:27] Frankly saying, I also thought about that
18 because we dealt, I would say, in depth with those topics yesterday, which, Ms Pellet,
19 also should lead to some shortening of your time. So according you, how much time
20 you would need now after cutting your topics?

21 MS PELLET: [9:36:47] (Interpretation) Thank you, your Honour. I think two hours
22 at the very most. Once again, depending how Mr Ntaganda answers the questions
23 and the need to recall various items from his previous testimony.

24 PRESIDING JUDGE FREMR: [9:37:11] Give me a second, I will consult my
25 colleagues.

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1 (Trial Chamber confers)

2 PRESIDING JUDGE FREMR: [09:37:25] So your proposal two hours is fine with
3 the Chamber. So at the moment you are granted two hours and in case that you
4 would need, you can come with request. If you will come -- will bring some relevant
5 reasoning, we can then decide about some extension.

6 Now, please proceed.

7 MS PELLET: [9:37:51] (Interpretation) Thank you, your Honour. Now, one point
8 before I begin questioning, and I'm terribly sorry, since for the reasons that I spoke to
9 you yesterday, the issue of the decision regarding conduct of proceedings also has to
10 do with the fact that paragraph 65 says, and I quote: (Speaks English) "Unless
11 authorised by the Chamber, the Legal Representative will not ask leading questions."
12 (Interpretation) In light of the reasons mentioned yesterday and the fact that my
13 questioning comes after the end of the questions put by the Prosecution, I would like
14 to ask for leave not to put leading questions to the witness but, rather, to make an
15 extremely limited use of suggestions to the witness so that I can save some time, both
16 for myself and of course for the Chamber and all parties and participants.
17 Thank you, your Honour.

18 PRESIDING JUDGE FREMR: [9:39:03] Before Chamber -- because it will require
19 Chamber's ruling, I would like to know position of both parties.
20 Prosecution?

21 MS SAMSON: [9:39:11] Mr President, the Prosecution believes it is appropriate for
22 the Legal Representatives to be permitted to put suggestions to the witness.

23 PRESIDING JUDGE FREMR: [9:39:22] Defence?

24 MS MARTINEAU: [9:39:24] The Defence opposes the request. According to
25 the Defence, no questions about credibility of the witness and leading questions

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1 should be authorised, as specified in the Conduct of Proceedings, because it is
2 the rule.

3 So this witness is not any witness. It is the accused. So it is even more important
4 that the rule is being respected and that no exception is granted.

5 And it is the same thing in the ICC jurisprudence. In Thomas Lubanga's case, at
6 paragraph 24 of the decision number 2127, it clearly states that the LRV are
7 participants and that therefore they have a unique and separate role and that the
8 manner in which they ask question is different and that there is a presumption of
9 neutral form of questioning.

10 In Bemba, the Trial Chamber rejected the use of leading question from the LRV to all
11 witnesses. And in Katanga, paragraph 90 of decision 1665, subheading (c), also
12 mentioned that no question regarding credibility and also the accuracy of the witness
13 testimony should, should be allowed. And in the, in the testimony of Mr Katanga
14 and Mr Ngudjolo, the leading questions were not allowed and the Defence did object
15 to leading questions that were posed and Chamber did limit the scope of questioning
16 for the vast majority of the question.

17 And to -- the Defence also submits that if Mr Ntaganda shows hostility while
18 responding, then the use of leading question could be allowed from the Legal
19 Representative. But at this stage, it shouldn't be appropriate to give an authorisation
20 to get -- for the LRV to ask suggestions which lead to questions relating to the
21 credibility of Mr Ntaganda.

22 Accordingly, we kindly request the Chamber to instruct the LRV to stick with the
23 paragraph 65 and to ask neutral and non-leading questions that do not relate to the
24 credibility of the witness or the accuracy of the witness testimony.

25 Thank you.

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1 PRESIDING JUDGE FREMR: [9:41:54] Thank you very much for your summary of
2 jurisprudence. Maybe I can add that, according my information, in Katanga,
3 Ngudjolo, leading questions were permitted upon specific authorisation of the
4 Chamber and questions of fact going beyond matters raised in the
5 examination-in-chief of the witness were permitted as long as the conditions in
6 paragraph 90 of decision ICC-01/04-01/07-1665 corrigendum were met.

7 Okay, I will deliberate on that with my colleagues. Give me a minute.

8 (Trial Chamber confers)

9 PRESIDING JUDGE FREMR: [9:43:38] So after silent deliberation in the courtroom,
10 our ruling is that we will decide on those cases mentioned by Ms Pellet on a
11 case-by-case basis. We will evaluate all aspects of such a suggestion in the concrete
12 context. She said it will be a very limited extent, so it should be still exemption from
13 the general rule and it's always possible in all cases to grant some exemptions. So
14 we will, as I said, deal with in the light of the concrete request or concrete suggestion.
15 Now, Ms Pellet, please proceed.

16 MS PELLET: [9:44:32] (Interpretation) Thank you, your Honour.

17 WITNESS: DRC-D18-D-0300 (On former oath)

18 (The witness speaks Swahili)

19 QUESTIONED BY MS PELLET: (Interpretation)

20 Q. [9:44:35] Good morning, Mr Ntaganda.

21 A. [9:44:44] Good morning.

22 Q. [9:44:44] We know one another by sight but I will introduce myself. My name
23 is Sarah Pellet and I represent the 282 former child soldiers who have been authorised
24 to participate in the proceedings. And in light of the leave that has just been granted
25 to me, I will be putting a number of questions to you having to do with the direct

1 interests of the Victims. Mr Ntaganda, ever since the very beginning of your
2 testimony you have been speaking in Swahili, and judging what I've observed, you
3 understand Swahili very well and you speak it very well too; is that correct?

4 A. [9:45:31] Yes. I speak Swahili, the Congolese variation of Swahili, and I
5 understand it.

6 Q. [9:45:44] At the very beginning of your examination-in-chief by your counsel
7 you explained that "kadogo" was a word used for any person, even very small people,
8 and in contrast, "kibonge" referred to fat people and that these expressions are used in
9 the army, and in particular in the UPC/FPLC; is that correct?

10 A. [9:46:29] Kadogo, going -- it's "kibonge", but I didn't hear "kibonge" within the
11 FPLC. This is going by my own experience. Or, rather, we were in the habit of
12 singing songs and we would say "kibonge" in these songs. But I did not hear people
13 use the expression "kadogo".

14 Q. [9:47:04] Thank you. Mr Ntaganda, is there a difference between kadogo and
15 kadogo? And for the purposes of interpretation, the accent of the first word is put
16 on the last syllable, kadogo, and the second term you put the accent on the middle
17 syllable, kadogo.

18 A. [9:47:44] Well, personally, kadogo comes from kadogo and, going by what I
19 know about Swahili, kadogo becomes kadogo because kadogo just means "small",
20 and when you use kadogo you see that it is associated with this term, kadogo. And
21 within the FPLC we even had a major and we called him Major Kadogo because he
22 was thin. So we used that expression because he was thin. And I should specify
23 that even today he is still there.

24 Q. [9:48:38] Mr Ntaganda, in my previous question, I asked you what the meaning
25 was of kadogo - kadogo - and you repeated your explanation about kadogo, and in

1 Swahili, do you know the meaning of kadogo?

2 A. [9:49:12] Kadogo means something, well, something that is small or a person
3 who is small.

4 PRESIDING JUDGE FREMR: [9:49:24] Ms Pellet, maybe this is the right time to put
5 your suggestion to Mr Ntaganda: What about your knowledge could word
6 "kadogo" mean?

7 MS PELLET: [9:49:43] (Interpretation) Yes, yes, your Honour.

8 Q. [9:49:47] Now, Mr Ntaganda, I put it to you that kadogo designates the child
9 soldiers in military jargon, whereas kadogo covers what you've always used, that is to
10 say people who are small, who are not fat. Would you agree with that suggestion?

11 A. [9:50:24] No. Personally, when you use that term to talk about children under
12 15, that only appeared in the allegations against me. Before I got here, I was not
13 familiar with this term and so before I didn't know, didn't know that term "kadogo".
14 It was only in the documents from the ICC that I discovered this term. And I've
15 already mentioned a Major Kadogo who got that name because he was thin. And
16 I think he was from the RCD/Goma.

17 THE INTERPRETER: [9:51:25] Specifies the Swahili interpreter.

18 MS PELLET: [9:51:29] (Interpretation)

19 Q. [9:51:30] Thank you, Mr Witness.

20 So according to you, this term in Swahili which describes this phenomenon of child
21 soldiers is "mtoto jeshi" and that is the answer that you gave to a question put by the
22 Presiding Judge.

23 A. [9:51:59] If I'm asked to translate the term "child soldier" into Swahili, I would
24 say "mtoto jeshi", and if I were to use that term the interpreter will certainly be able to
25 decide upon the term used. But if I'm asked in Kiswahili I would say "mtoto jeshi".

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1 Q. [9:52:35] Well, since this a literal translation of the word "child" and the word
2 "soldier" or "army," is that not so? Is that it?

3 PRESIDING JUDGE FREMR: Ms Martineau.

4 MS MARTINEAU: [9:52:51] Mr President, I took note that regarding questions of
5 kadogo, since it was the same spelling but the accent was put on a syllable more than
6 another one, it was hard for everyone to understand. Leading questions were
7 authorised, but at this stage, we are talking about other terms and I think that the
8 counsel for LRV could put an open-ended question and that we could get the same
9 answers. Thank you.

10 PRESIDING JUDGE FREMR: [9:53:18] Objection sustained. Please, Ms Pellet, just
11 rephrase the question in open-ended style.

12 MS PELLET: [9:53:31] (Interpretation)

13 Q. [9:53:32] Mr Ntaganda, the term "mtoto" means "child."

14 PRESIDING JUDGE FREMR: [9:53:42] I think the open-ended style means, in my
15 understanding, mean what does mean according your knowledge this term.

16 So I can just put it myself, Mr Ntaganda. According to your knowledge, what does
17 the term "mtoto" mean, according to you?

18 THE WITNESS: [9:54:34] (Interpretation) Do you want me to give an explanation in
19 Kiswahili or in French?

20 PRESIDING JUDGE FREMR: [9:54:40] It's up to Ms Pellet.

21 MS PELLET: [9:54:48] (Interpretation) Thank you, Mr President.

22 Q. What concerns us, sir, is the use of the word in Swahili, so would you like to
23 answer the Presiding Judge's question: To your knowledge, what is meant by
24 "mtoto"?

25 A. [9:55:22] It, naturally, it means "mtoto," and I think that it means someone who

1 is perhaps at the age of adolescence.

2 Q. [9:55:43] And what does "jeshi" mean, to your knowledge?

3 A. [9:56:01] In Swahili it means "jeshi" and it is translated into French as "soldier."

4 I don't think that I have any more language knowledge, linguistic knowledge, than
5 the interpreters who are doing their work.

6 Q. [9:56:24] I beg your pardon, Mr Ntaganda. I hadn't understood that you
7 wanted -- that you hadn't understood my question, as the translation. Well, in light
8 of all of the proceeding, and the word "mtoto" which means "adolescent", according to
9 you, and "mjeshi" means "soldier". Now is, is it this -- well, is this the -- is this the
10 words that cover the concept we are dealing with today? The --

11 PRESIDING JUDGE FREMR: Ms Martineau.

12 MS MARTINEAU: [9:57:11] Objection, your Honour. This question is leading and
13 also very confusing for the witness. Thank you.

14 PRESIDING JUDGE FREMR: [9:57:19] Ms Pellet.

15 MS PELLET: [9:57:22] (Interpretation) Your Honour, it was established that the
16 terms that were used in response to your question were "adolescent" and "war" or
17 "soldier". I am asking the witness whether that concept covers the case of my clients.
18 That is to say, soldiers under the age of 15 who took part in hostilities. I don't see
19 how my question can be described as leading.

20 PRESIDING JUDGE FREMR: [9:57:58] Maybe not leading, Ms Samson. But I also
21 have a problem with this question. It is a little bit unclear, and in my view it is not
22 up to the witness to evaluate whether something is covered by the concept of
23 you are -- you are advocating the concept of your client so, please, I will not allow this
24 question.

25 MS PELLET: [9:58:35] (Interpretation) Thank you. I will move on to another topic.

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1 Q. [9:58:42] Mr Ntaganda, over all these many hours that have gone by since the
2 beginning of your testimony, it has appeared clear that you are extremely
3 knowledgeable about military training, the military training that occurred within the
4 UPC/FPLC. Can you confirm that that is the case?

5 A. [9:59:22] Could you kindly repeat your question so I can better understand.

6 Q. [9:59:33] I will put the question to you directly: How much time, to your
7 knowledge, did military training last for in the UPC/FPLC training camps? The
8 conventional training, how long did it last for?

9 A. [9:59:59] In a war situation I would say, rather, it was depend on the assessment
10 of the instructors as to the amount of time needed for the recruits to end their training
11 and go to the frontlines. Depending on needs and requirements that came up, the
12 person in charge might ask the instructors to step up the training and that would
13 depend on the situation in the field.

14 Q. [10:00:43] And if instructors were asked to speed up the training, how much
15 time did this, this accelerated training would take. How long, to your knowledge?

16 A. [10:01:05] I will give you an example from the FPLC. When we began, I think
17 early in May, the first recruits received their weapon at the end of July so that meant
18 that the training lasted two months, so there you have it. That's a practical example
19 I can give you.

20 Q. [10:01:36] And these two months after the training, according to what you said,
21 is that normal, is that normal training or is it expedited or accelerated training?

22 PRESIDING JUDGE FREMR: [10:01:54] Ms Martineau.

23 MS MARTINEAU: It is not an objection per se, but would it be possible to specify if
24 we are talking about new recruits that are joining the FPLC and having their first
25 training, or if we are talking about soldiers that joined the FPLC and that are having

1 their ideology training, which are two different things. Thank you.

2 PRESIDING JUDGE FREMR: [10:02:17] Ms Martineau, I don't like very much your
3 submission because, first of all, it's up to Ms Pellet to specify her areas of interest;
4 moreover, Mr Ntaganda, in my view, would anyway explain all those differences;
5 and moreover, you will have chance to cross. So please be a bit, you know, modest
6 with your interventions.

7 Ms Pellet.

8 MS PELLET: [10:02:48] (Interpretation) Thank you, your Honour. I was speaking
9 about military training, and that's the question of interest to me.

10 Q. [10:03:06] Mr Ntaganda, I am going to put my -- the two months that you made
11 reference to in the answer to my previous question, does that cover common training
12 or the duration of accelerated or sped-up training which you referred to a moment
13 ago?

14 A. [10:03:33] It was basic training. When you had experienced instructors they
15 could give training according to the situation at the time because the training didn't
16 finish; when there was time, sufficient time, the soldiers would continue to be trained.
17 And you would have other trainings as well. But in my experience we were in
18 a period of war. And two months was enough given the quality of the instructors
19 that we had.

20 Q. [10:04:15] Thank you, Mr Ntaganda.

21 Now you testified that the military life was difficult, it wasn't always easy to go from
22 being a civilian to being a soldier. Would you confirm that?

23 A. [10:04:45] In all armies in the world it's difficult for a civilian to take up military
24 life. When a civilian joins the army, that civilian changes their life. They live in
25 different conditions, different to what they knew before.

1 Q. [10:05:15] Could you specify how the life of a soldier is difficult?

2 A. [10:05:31] Yes, I'm a soldier. Now, when I left home and I started with military
3 training. I saw that my life had changed following military training, which I
4 received. Living conditions changed. It was different.

5 Q. [10:05:59] Yes, Mr Ntaganda. I understood that the conditions were different,
6 the living conditions, but what I was asking you is how were they different? In what
7 way were they difficult as set out by you?

8 A. [10:06:24] When you're a civilian and you're living at home, you're free in your
9 decision-making, but when you join the army you have to follow military discipline,
10 military behaviour. You are given training, military training. There are books
11 about it. If you have the time, read them and you will see that the life of a soldier is
12 different to that of a civilian. That's what I'm trying to get you to understand. In
13 the army, when you join a section, you have to obey the section commander or the
14 battalion commander, if you're in a battalion.

15 You always have to obey superior orders, that's how it's organised. But in civilian
16 life I don't think that it's organised in the same way. You will be taught to do
17 a military parade, how to behave at the front, other military exercises and so on.
18 I think everything that's done in the army is different to what is done in civilian life.

19 Q. [10:08:03] To the best of your knowledge, were there soldiers for whom the
20 living conditions were too difficult who were not able to bear those conditions?

21 A. [10:08:21] That's a question which is -- well, is that a general question or do you
22 want to know what happened within the FPLC?

23 Q. [10:08:34] Thank you. All my questions concern the UPC/FPLC.

24 A. [10:08:44] No. In the FPLC all those who joined the FPLC did so on a voluntary
25 basis. They held up, they held up well and if somebody had a problem, a family

1 problem or a personal problem, they could ask to be released and we released them.

2 Lots of people wanted to join the army and that's why we got them in groups. There
3 were so many of them we couldn't take all of them. There was an enthusiasm, a lot
4 of people wanted to go to the front given the situation Ituri was in. And what they
5 saw in Mandro. They wanted to join the front in order to deal with it.

6 Q. [10:09:50] Mr Ntaganda, I understand that if ever a soldier wanted to discharge
7 the military obligations, that request could be made and that request would
8 immediately be granted.

9 A. [10:10:13] I didn't speak about children. In your question, you asked me what
10 a child represented for me and I tried to tell you that, for me, a child is somebody who
11 has the age of an adolescent. But in all that I have said, I didn't say that there were
12 children in the army. There were people over the age of 18.

13 MS PELLET: [10:10:51] Your Honour, there would seem to be a question -- a
14 problem with the interpretation.

15 Q. Was there ever a soldier who was discharged of his -- if -- was there ever
16 a soldier who was discharged of their military functions? Was my question. I
17 made no reference to the term "child". I asked on the basis of what Mr Ntaganda
18 said and I asked if it was the case, if it was easy to leave the ranks of the UPC/FPLC if
19 somebody made a request in that regard.

20 A. [10:11:36] Yes, yes. If somebody wanted to leave the army, that was authorised.
21 If somebody leaves you can replace that person with a hundred volunteers, it's
22 possible. Anybody who had a personal problem and who wanted to be discharged
23 of their functions, we made that possible for them without imposing any conditions
24 thereto.

25 Q. [10:12:09] Thank you. Mr Ntaganda, according to you the recruits in the

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1 training centres, were they fed correctly? You said it was very important because
2 you went several times to Rwampara to see if they were eating sufficiently. And I'm
3 going to quote transcription 220, page 36, lines 26 to 37, line 2:

4 "Now, personally, Mr Ntaganda, did you go on several occasions to Rwampara?"

5 Your answer: "I can't say how many times I went there, but I went there several
6 times, particularly to see if the recruits were eating sufficiently, but I can't tell you
7 how many times I went there."

8 Do you confirm that the recruits in the training centres were eating sufficiently such
9 that they would no longer be hungry?

10 A. [10:13:40] *In all the FPLC training camps, they were eating correctly.

11 They were eating beans, they were eating maize, it was a good meals. Bilibo is
12 what the Iturians call it and in schools, boarding schools, a lot of people love this type
13 of food.

14 MS PELLET: [10:14:13](Interpretation) Your Honour, I would like to use document
15 DRC-OTP-2082-1832. This is document 16 on our list. It was admitted as evidence
16 via a witness in a Bar table motion by decision 1838. It's a confidential document
17 and it was in March 2017 that it was admitted.

18 PRESIDING JUDGE FREMR: [10:14:55] Defence, it's my understanding there is no
19 objection against the use of this document; am I correct?

20 MS MARTINEAU: [10:15:02] Exactly. No objection for the use.

21 PRESIDING JUDGE FREMR: [10:15:03] Thank you.

22 THE INTERPRETER: [10:15:21] Interpreter corrects: Decision 8838.

23 MS PELLET: [10:15:26](Interpretation) Witness, I am going to quote this document
24 to you:

25 (Speaks English) "Investigation Mission - Ituri. Child soldier issues."

1 (Interpretation) Dated the 12th -- dated 12 April 2003. It was compiled by Madam
2 Peduto who testified before this Chamber.

3 I would now like to go to page 1844 thereof.

4 PRESIDING JUDGE FREMR: [10:16:15] Ms Martineau.

5 MS MARTINEAU: [10:16:18] The Defence just want to put on the record that this
6 report covered a period from 25 March until 3 April 2003.

7 PRESIDING JUDGE FREMR: [10:16:30] Noted.

8 MS PELLET: [10:16:50](Interpretation) If you could go down to the middle of the
9 page. That's it. Thank you.

10 Q. [10:16:59] Mr Ntaganda, I am going to read an excerpt of this report to you:

11 "In Mandro there were about 80 children, the youngest 11 years old. They ate very
12 little and groups were regularly sent away to steal food. There were a lot of young
13 girls --" I am going to stop there.

14 Where it concerns the food, to steal the food, is that how the recruits had to behave in
15 order to be able to be fed during the training?

16 A. [10:17:52] I don't know this document. At the time it was written, on 24 April,
17 when they arrived in Bunia, we had already been driven out of Bunia. The FPLC
18 were not in Bunia. UPDF troops and combatants were there.

19 But I'm going to answer your question with regards to Mandro. Our army had
20 sufficient food. We had a large stock with salt and a lot of foodstuffs. I don't know
21 where -- from where the drafters of this document got this information. We were
22 driven out of Bunia in April 2003. We weren't even around Bunia. Myself, I was
23 not in Ituri.

24 Q. [10:19:07] Mr Ntaganda, when you were fighting, as regards that period, how
25 were your soldiers fed at that time?

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1 A. [10:19:29] We had a G4, we had an organisation, somebody was responsible for
2 purchasing the food. There were also soldiers who had to go into fighting and
3 therefore there was an organisation, G1, G2, G3, G4. That's the reason why there
4 were different services. There was a logistics service which was responsible for
5 finding food for the soldiers to eat.

6 Q. [10:20:04] And to the best of your knowledge, were the soldiers fed sufficiently?
7 That's what I understand from your previous answer.

8 A. [10:20:27] Yes, the soldiers were fed sufficiently. There was no lack of food.

9 Q. [10:20:40] And in the same way, what was the situation with regards to
10 provision of food for the troops FPLC when you fled Goma in March to June 2003
11 after the battle of Bunia, leaving your soldiers stationed in Mabanga? Was there
12 sufficient food there?

13 A. [10:21:10] I haven't understood your question. You said that when I was in
14 Goma, where were our soldiers?

15 Q. [10:21:25] In your testimony, transcript 21, page 45, line 6 to 8, you indicated the
16 following:

17 "Speaking about the period in Goma quickly, how much time did you stay in Goma
18 for?"

19 Answer: "We stayed in Goma until the month of June."

20 You previously indicated that you had fled to Goma after the battle of 6 March in
21 Bunia and that you left troops stationed in Mabanga. So how were these troops fed
22 during the period that you were in Goma, from March to June 2003?

23 A. [10:22:40] I don't remember having said that when we were in Goma we had an
24 army in Mabanga. Please, could you read this passage which shows that when I was
25 in Goma at the same time we had an army or troops in Mabanga. I know nothing of

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1 that. Please, could you read the passage where I allegedly said that.

2 Q. [10:23:08] Mr Ntaganda, after the defeat in Bunia on 6 March 2003, what
3 happened to your soldiers?

4 PRESIDING JUDGE FREMR: [10:23:22] Ms Martineau.

5 MS MARTINEAU: [10:23:26] Your Honour, Mr Ntaganda asked for a reference. I
6 think it would be fair to the witness that he be provided with it. Thank you.

7 PRESIDING JUDGE FREMR: [10:23:32] Ms Pellet, it would be fair to Mr Ntaganda.

8 MS PELLET: [10:23:50](Interpretation) Yes, your Honour, we are going to find it,
9 and I will move on to another question while we are finding it.

10 Q. [10:24:24] Mr Ntaganda --

11 PRESIDING JUDGE FREMR: [10:24:25] Sorry, Ms Martineau.

12 MS MARTINEAU: [10:24:28] I thought that maybe I can use this time for a quick
13 correction of the transcript. Well, we would like that the audio be re-listened,
14 English transcript page 17, lines 14 to 18, something like an additional answer was
15 captured by our interpreter. So we would like the audio to be re-listened. And
16 page 29, lines 9 and 10, for the date where interpreter listened to another date.
17 Thank you.

18 PRESIDING JUDGE FREMR: [10:25:00] Noted and supported by the Chamber.

19 So how far you are, Ms Pellet, with finding reference? Still ongoing process?

20 MS PELLET: [10:25:24](Interpretation) Yes, thank you, your Honour.

21 Q. [10:25:34] Now, in the transcript 221, page 73, lines 4 to 14, you explained, and
22 here I will quote:

23 Question: "You mentioned earlier having entered Mabanga following the Bunia
24 battle. How much time did you stay in Mabanga for and what did you do?"

25 Answer: "I deployed troops. When I returned I went via Mabanga. We spent the

1 night in Mabanga, having left Commander Roy in that place, to whom I gave the
2 responsibility of leading those troops. So later I went to Centrale then to Bunia -- in
3 Centrale, not Bunia, because we did not have a position in Bunia."

4 I understand from this answer that you had troops in Mabanga and I would like to
5 ask you how these troops were fed during your absence.

6 PRESIDING JUDGE FREMR: [10:26:42] Ms Martineau.

7 MS MARTINEAU: [10:26:45] There seem to be a confusion with the date and the fact
8 that it is in Goma or not. Because here we are talking about June 2003. So just to be
9 clear, maybe the temporal scope of the question can be specified so that the witness
10 can give a clear answer.

11 PRESIDING JUDGE FREMR: [10:27:07] Ms Pellet.

12 MS PELLET: [10:27:15](Interpretation)

13 Q. [10:27:21] How were your troops who were stationed in Mabanga fed, the ones I
14 just referred to?

15 PRESIDING JUDGE FREMR: [10:27:31] Ms Martineau.

16 MS MARTINEAU: [10:27:34] We would still like counsel for LRV to put a time
17 frame in the question so that Mr Ntaganda can give a specific answer to that time
18 frame. Thank you.

19 PRESIDING JUDGE FREMR: [10:27:48] In fact, you mentioned June 2003, so
20 Ms Pellet, you also meant June 2003?

21 MS PELLET: [10:27:58](Interpretation) Yes, your Honour. What I'm interested in is
22 how the troops in Mabanga were fed in June 2003, in June 2003. I accept the
23 proposal from Maître Martineau. I don't have the transcript in front of me.

24 PRESIDING JUDGE FREMR: [10:28:20] It was also my understanding. So, yes, you
25 may proceed.

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1 THE WITNESS: [10:28:30] (Interpretation) I don't know if that's a new question
2 because you asked me a question related to the time when I was in Goma when the
3 troops were in Mabanga. I was in Goma in March and I left in June. Now here
4 you are saying that I returned or that it was before the liberation of Mongbwalu on
5 the third occasion. Now, I was confused with regards to that. Our troops who
6 were in Mabanga were fed. Foodstuffs were bought from the population, so food
7 would be bought from members of the population.

8 MS PELLET: [10:29:40](Interpretation)

9 Q. [10:29:41] In this time period, where did the money come from in order to buy
10 food?

11 A. [10:29:52] Where it concerns the money, I didn't work in the financial service.
12 It was the president Thomas who was responsible for the funds for the front. I don't
13 know how he obtained them. What I saw was that our troops had food to eat.

14 Q. [10:30:15] So after the defeat in March 2003 in Bunia, there were no difficulties to
15 obtain money in order to feed the soldiers, that's what you're saying; is that correct?

16 A. [10:30:35] At certain times it was possible to mobilise people who supporting the
17 movement. There was a person in charge of finance and he was given money. And
18 with that money we were able to buy foodstuffs for the front. But that really was
19 part of the financial side of the movement. So that was not my area of responsibility,
20 I didn't handle that.

21 Q. [10:31:16] But just to pick up on the answer that you gave at page 23, lines: "I
22 saw that our men, our troops had food to eat." Is that what you said?

23 A. [10:31:38] Yes. There were people within the G4 who handled the supply of
24 foodstuffs.

25 Q. [10:31:48] Thank you, Mr Ntaganda. I'll move on to another series of questions

1 now.

2 Now, in the past weeks you have explained several times what the criteria were for

3 a person to be admitted to the UPC/FPLC. And I will quote what you said. I'll

4 quote the relevant passages, transcript 214, page 31, line 4 to page 32, line 16:

5 "In respect to the recruits, you said that they met other criteria." You were talking

6 about the PMFs. "They met other criteria, they had to be able to carry rifles and

7 boxes of ammunition. If a soldier was injured on the battlefield, these people had to

8 be able to carry them. They met all these criteria."

9 Later on you said, you reiterated what all these criteria were. And I believe

10 yesterday you also spoke to that, yesterday. Can you confirm this, these criteria?

11 A. [10:33:28] Well, I mentioned two criteria. First of all, when the person came in

12 *we would ask for the age, whether the candidate was under 18. If that was the

13 case the person would be sent back home. We wanted people who could fight the

14 APC and the enemy.

15 The second criterion was after, after meeting the first criterion, namely age 18 or over.

16 You as a commander, you had to verify whether the person could carry his individual

17 weapon and a crate of ammunition and possibly another soldier, an injured soldier,

18 someone who had been injured on the front. So you had to check both of these

19 criteria.

20 Q. [10:34:28] Thank you, Mr Ntaganda. Now, transcript 213, page 72, lines 4 to 13,

21 and I quote:

22 "Mr Ntaganda, was the question put to people who came in, namely how old they

23 were?"

24 And your answer was this:

25 "No, we did not attach a lot of importance to that because there were no identity

1 documents. That's why we established these criteria that I have mentioned because
2 these people might deceive us about their age. We wanted to find people who were
3 able to go through military training and would be able to deal with the situation,
4 namely war. For these reasons, we wanted -- well, we didn't want to ask questions
5 because if we asked a question about age, the recruit might give us a false age, might
6 try to deceive us."

7 And now it is true that yesterday in response to a question from the Presiding Judge
8 you said that, and I quote:

9 Question: My question was -- I beg your pardon, this is transcript 239, page 14,
10 unedited version. The Presiding Judge asked this:

11 "My question was whether you asked the recruits how old they were. Was that part
12 of the recruitment process? Were the candidates asked how old they were?"

13 And you answered, you said:

14 "That was mandatory, we had to ask them, but asking them their age was not enough.
15 There were no documents at that time. You could ask the candidate what the age
16 was, but if there was any doubt you would ask whether the person would be able to
17 carry his weapon on the battlefield, would he be able to take an injured soldier and
18 carry him on the balance field. Those were the criteria we used to make sure that we
19 had people who were strong and capable."

20 So from your earlier response, I gather that you used to ask recruits what their age
21 was and, what is more, you would then apply these criteria that you have referred to;
22 is that correct?

23 A. [10:37:17] It was absolutely necessary to ask the ages, but the answer was not
24 enough. I repeat: There were no official documents. And when the candidate
25 said that he was 18 or older, we had to check whether he was able to carry his weapon

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1 and ammunition and possibly an injured comrade in arms. So those were the
2 criteria we had to use to make sure that the soldiers were truly able to deal with the
3 mission.

4 PRESIDING JUDGE FREMR: Ms Martineau.

5 MS MARTINEAU: [10:38:00] Your honour, I note for the record that we did not
6 object to the previous line of questioning. However, contradicting the witness with
7 two passage of his own testimony doesn't fall within the role of the counsel of LRV,
8 except --

9 PRESIDING JUDGE FREMR: [10:38:17] Sorry, sorry, there is some technical issue
10 because I see that your mic is on --

11 MS MARTINEAU: On.

12 PRESIDING JUDGE FREMR: -- but I can't hear you --

13 THE INTERPRETER: [10:38:20] Apologies from the interpreter, the interpreter
14 neglected to turn off his microphone, thereby blocking the channel.

15 PRESIDING JUDGE FREMR: Ah.

16 MS MARTINEAU: Could you hear me better?

17 PRESIDING JUDGE FREMR: [10:38:27] So please, kindly start from the beginning
18 because this was not captured by the interpreters.

19 MS MARTINEAU: [10:38:33] I simply wanted to note for the record that the Defence
20 did not object to the previous line of questioning, however it does not fall within the
21 field of questioning of counsel for LRV, because contradicting the witness with his
22 own testimony is not something that falls within their questioning, except if exception
23 is granted by the Chamber to ask the question. But just for the record, we noted that
24 this is, in principle, not allowed. Thank you.

25 PRESIDING JUDGE FREMR: [10:39:04] Ms Pellet.

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1 MS PELLET: [10:39:10](Interpretation) I didn't contradict the witness, I was trying to
2 determine which response I should go by, the one on transcript 213 or the answer at
3 transcript 239, so that I could put my questions to him. And the witness has
4 answered my question.

5 PRESIDING JUDGE FREMR: [10:39:35] I believe it's fine because, you know, if it's
6 not clear contradiction, some -- logically some questions could have some, I would
7 rather say, contradicted aspects, so if this clearly contradicting question then you may
8 object but, as I said, it was not so purely contradicting so still fine with me.
9 Please proceed.

10 MS PELLET: [10:40:09](Interpretation)

11 Q. [10:40:11] Mr Ntaganda, you also explained that the screening of recruits that
12 was carried out on the basis of these criteria you have reiterated was very important
13 because, and I quote, I quote transcript T-213, page 69, line 26 to the following page,
14 quote:

15 "The objective was to train people who would then be able to face the enemy. And
16 our thoughts were that soon we were going to be facing the enemy and fighting."

17 Can you confirm that that was the case, that that was your general objective?

18 A. [10:41:13] When we would give the training to our soldiers, we wanted to them
19 to have the knowledge and the discipline later on to face the enemy. They were
20 seasoned fighters the enemy, that's the objective. So our men had to have the
21 knowledge and the discipline so that we would be able to defeat the enemy.

22 Q. [10:41:50] So applying these criteria was to have a strong army to fight the APC
23 but not to check the age of the recruits who would come in; is that correct?

24 A. [10:42:17] Well, that goes without saying. You couldn't use people who weren't
25 old enough to do the job, because the young members would not have been able to

1 square off against the enemy. That is why we would ask them about their ages and
2 we would check whether the person was physically capable and strong enough.
3 And it was only after that the person was then allowed to enter training.

4 Q. [10:42:58] Thank you, Mr Witness.

5 Now, at the very beginning of your examination-in-chief your counsel asked you
6 about Congolese culture and I believe there was an explanation. I'll quote:

7 "He explained this. He said it was important for the witness to have an opportunity
8 to talk about his African traditions."

9 Now, to your knowledge, in the Ituri region, was it the custom for children to help
10 their parents with agricultural work, working in the fields, that sort of thing?"

11 Transcript 209, page 36, lines 3 to 4.

12 A. [10:43:54] Myself, when I was still young, I helped my parents.

13 Q. [10:44:03] Did you have to carry heavy burdens, for example, at that time?

14 A. [10:44:27] My parents gave me things to carry, but things I could carry, loads
15 that I could carry.

16 Q. [10:44:36] Similarly, in the African tradition, which your counsel referred to, is it
17 normal for young girls to take care of their brothers and their sisters and carry them
18 on their backs? Is that customary?

19 A. [10:45:07] Well, if I take my own example, because I'm African myself, and I
20 could give you the example of my own sister. I would see my sister carrying my
21 little brothers on her back from time to time, so my answer is yes.

22 Q. [10:45:34] Therefore, it is probable that young teenagers were used to helping
23 their parents, they were used to taking care of younger siblings, so they'd have
24 a certain amount of strength? Can you confirm that that is so?

25 A. [10:46:17] Usually, within a family, when you have a younger brother you

1 have -- you are supposed to take care of the younger sibling. It's completely natural.
2 I mean you're supposed to love your younger sibling, be it a man or a woman, a boy
3 or a girl. It's quite -- it's entirely natural for the elder child to carry the younger child,
4 the child who is younger than him or her.

5 Q. [10:47:04] That doesn't answer my question, sir. I'll put it to you again. Now,
6 in light of the fact that girls and boys would take care of their younger siblings,
7 carrying them on their backs or help -- would help their parents with agricultural
8 labour, working in the fields, to your knowledge would this allow them to develop
9 a great deal of strength from a young age?

10 A. [10:47:56] Well, I can't make that suggestion because I'm not a doctor. I don't
11 know whether carrying a child on one's back helps with physical development.
12 What I said was that within a family it's entirely natural for an older child to carry his
13 younger brother or sister on his back. But I didn't do that so that I could later be
14 stronger. I just did that -- well, I said that is an entirely natural reaction.

15 Q. [10:48:36] Thank you, Mr Ntaganda.

16 PRESIDING JUDGE FREMR: [10:48:40] Ms Martineau.

17 MS MARTINEAU: [10:48:42] I simply want to note for the record that counsel for
18 LRV asked four questions and used four different terms: "Enfant", children at
19 page 28, line 17; "petite fille" at lines -- at page 28, lines 27; "jeune adolescent", page 29,
20 lines 6 and 7; and the fourth question, "jeune âge", page 29, line 24. And that
21 Mr Ntaganda tried to answer to all of questions, but that there is confusion because
22 the terms refer to different people having different age. Thank you.

23 PRESIDING JUDGE FREMR: [10:49:29] Noted. But I don't believe that it would
24 have any impact on our evaluation whether bringing siblings on their backs would
25 have some impact on charges, frankly saying.

1 Ms Pellet, please proceed.

2 MS PELLET: [10:49:57](Interpretation) Thank you. I do note that Mr Ntaganda was
3 not confused, did not appear to be confused when he was answering my questions.
4 I will now move on to another topic.

5 Q. [10:50:15] Several times you've explained to us, and I believe you reminded us
6 this morning that all the people who were doing the training came of their own free
7 will and that the camp was a place of refuge, a shelter. And the quote that I will
8 provide, you also said they came of their own free will or they were sent by their
9 parents. I will quote the transcript 213, page 72, lines 15 to 18:

10 Question: "Now, the people who came for training, were they volunteers?"

11 Answer: "At that time, at that time we had set up some measures to limit the
12 number of people because there were thousands of people who wanted to come and
13 do the training with us. Did -- these people realise that our training centre was their
14 last chance for survival, so they would come of their own free will and in large
15 numbers without anyone forcing them to come."

16 Later on, page 73, lines 1 to 6, particularly line 3 to 10 you explain this, you said in
17 response to the question:

18 "Was the question put to the recruits whether their parents were in agreement that
19 they should be at Mandro?"

20 And your answer was this, line 5: "I saw that these committees from the villages
21 would bring the children, they would bring these people to the training centre. We
22 even saw young people, soldiers in the villages who would come and they would be
23 singing. They would be running along and singing at the same time, coming to join
24 our training camp. They were very happy and they had the approval of their
25 parents."

1 Now you explained that there were no children under 18 in the army, but why
2 couldn't they have decided by themselves whether they were going to take part in
3 your army and had to -- and join your army with the approval of their parents?

4 A. [10:53:17] I explained to you that some of them came, but they were not
5 accepted. We sent them back home when we saw that they were under 18. They
6 might stay for two or three days, they were fed, and then they would -- then we
7 would find an escort to send -- so that they wouldn't have any trouble going back.
8 We would send them back home. The ones who had come from far away, now they
9 would, would be taken from vehicles of local organisations by candidates who came
10 from the surrounding area. They would come on foot or they would come in
11 running, jogging. They might come with soldiers or with the peace -- the local peace
12 committees from the village.

13 PRESIDING JUDGE FREMR: [10:54:17] Sorry, Ms Pellet. I would like at this
14 moment put some additional question.

15 Mr Ntaganda, have you been personally ever involved in any campaign encouraging
16 people from Ituri to join FPLC?

17 THE WITNESS: [10:54:44] (Interpretation) Not at all, your Honour.

18 PRESIDING JUDGE FREMR: [10:54:49] So just to be sure that you understood well
19 my question, so you would exclude that you ever make any speech in school or in
20 square encouraging people either to join or send, for example, children to join FPLC?

21 THE WITNESS: [10:55:19] (Interpretation) I did not go to any school in the region of
22 Ituri to ask young people to join the army. I did not go to any village to ask people
23 to join our army. The place where I was, we had enough candidates and we actually
24 were obliged to turn some of them down.

25 PRESIDING JUDGE FREMR: [10:55:50] Thank you, Mr Ntaganda.

1 Ms Pellet, please proceed.

2 MS PELLET: [10:55:53](Interpretation) Thank you, your Honour.

3 Q. [10:56:12] Mr Ntaganda, well, what interested me in the quote that I just
4 provided was this, the last part of the sentence, I'll repeat that last part of the sentence:
5 "They were very happy and with the support, the approval of their parents."

6 Can you explain to me why in response to the question you said that they had the
7 approval or the support of their parents? I can read the question and the reply to
8 you once again, if you like. This is from your previous testimony.

9 PRESIDING JUDGE FREMR: [10:57:00] Ms Martineau.

10 MS MARTINEAU: [10:57:03] I think it would be clearer if the counsel repeat the
11 question that was asked in the testimony as Mr Ntaganda already provided a part of
12 the answer today.

13 PRESIDING JUDGE FREMR: [10:57:13] Yes, I do agree, it's very sensitive detail so it
14 would be better to put it in whole context, including question put to Mr Ntaganda.

15 MS PELLET: [10:57:33](Interpretation)

16 Q. [10:57:34] I will read the passage out to you again.

17 This is transcript 213, page 73, lines 3 to 10:

18 Question: "Now, was the question put to the recruit whether their parents were
19 agreeing to them being in Mandro?"

20 The answer was this:

21 "Well, I would see this village committee who would bring in the recruits in vehicles.
22 They were local organisations in the villages that would bring these people to the
23 training centre. We would even see young people, soldiers, in the villages and they
24 would come. They would be singing, they would be running in. They were very
25 happy. And they had the support or the approval of their parents."

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1 A. [10:58:50] Could you put the question again? I no longer recall what the
2 question was, that question you asked me earlier.

3 Q. [10:59:00] Was the question put to the recruits, were they asked whether their
4 parents were in agreement with their going to Mandro? Why was that necessary,
5 given that if they passed the screening you were able, according to what you said,
6 you could apply these criteria and determine whether they were over 18, so why was
7 it necessary to ask them whether their parents were in agreement with them being in
8 Mandro?

9 A. [11:00:08] Now you say that I apparently said that we knew that they were 18
10 when they got there. But when recruits were brought to us the civilians who would
11 bring them were not familiar with the criteria that had to be met and so it was our
12 duty as soldiers to ask questions of these candidates to verify that they met the
13 criteria.

14 Q. [11:00:41] So, Mr Ntaganda, I understand that the question was an additional
15 question put at the moment of screening; is that correct?

16 A. [11:01:08] You're talking to me about an extra question in relation to what? I
17 haven't really understood your questions. It's not clear to me.

18 MS PELLET: [11:01:24](Interpretation) Your Honour, since I am going to have to
19 quote some passages from Mr Ntaganda's testimony again and since I see the time, I
20 will continue after the break.

21 PRESIDING JUDGE FREMR: [11:01:35] No problem for the Chamber. When we
22 are talking about timing, so now I got information that so far, Ms Pellet, you have
23 used one hour and 10 minutes, which would mean that you still have at your disposal
24 50 minutes. Do you see feasible to complete your examination in next 50 minutes?

25 MS PELLET: [11:02:00](Interpretation) Yes, I do think so, your Honour.

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1 PRESIDING JUDGE FREMR: [11:02:05] Very well. And before we leave for the
2 break, one correction from my part. Now I checked, double-checked transcript and I
3 realise that I in fact reacted on one of the initial objections made by Ms Martineau that
4 I said you will have chance cross-examine the witness, which is not legally correct,
5 but I had in my mind that she would want to have a chance also put questions
6 connected with questions put by Ms Pellet during the redirect, which I meant that it is
7 legally possible that a part of redirect led by Mr Bourgon also Ms Martineau, with his
8 consent or approval obviously, could also participate in redirect on the topics touched
9 by Ms Pellet.

10 Now we break and we will reconvene at half past 11.

11 THE COURT USHER: [11:03:08] All rise.

12 (Recess taken at 11.03 a.m.)

13 (Upon resuming in open session at 11.30 a.m.)

14 THE COURT USHER: [11:30:26] All rise.

15 Please be seated.

16 PRESIDING JUDGE FREMR: [11:30:49] We will continue and we are going to
17 complete examination of Mr Ntaganda by Legal Representatives of former child
18 soldiers, Ms Pellet.

19 Ms Pellet, you have the floor.

20 MS PELLET: [11:31:19](Interpretation) Thank you, your Honour.

21 Q. [11:31:25] Mr Ntaganda, I'll go back to what we were talking about before the
22 break. And I'm going to quote you. I'm going to quote all the section in the
23 transcript 213, lines -- page 73, lines 3 to 10:

24 Question: "Was the question put to the recruits whether their parents were in
25 agreement with their presence in Mandro?"

1 Answer: "We saw them. I saw this village committee which brought these recruits
2 in vehicles. These were local organisations in villages which brought them to the
3 training centres. You saw young people who were soldiers in the villages and who
4 came. They were singing and jogging. They were running, singing to join our
5 training camp. They were very happy and they had the support of their parents."
6 So I go back to my question which I asked previously before the break: At what time
7 was the question put as to whether their parents were in agreement with their
8 presence in Mandro?

9 A. [11:33:03] There I understand the question well now. We know that their
10 parents had authorised them to come because the comité de paix, the peace
11 committee, which is a local organisation at village level in the groupement, in the
12 locality would bring them by vehicle. They were the representative of the parents,
13 they brought them themselves. That showed us and demonstrated to us that their
14 parents were in agreement. That was sufficient in order to be convinced of the
15 support given by the parents.

16 Q. [11:33:41] And why was it important to have the blessing of the parents?

17 A. [11:33:56] Well, it wasn't important. They didn't ask the question to the person
18 who had brought them. Me, as a commander I saw, for example, a vehicle of
19 representatives that had come from Ropa, for example, or from Mabanga, from Largu,
20 and I saw these representatives with these candidates and I couldn't say that it was
21 important. I can't answer your question. What I saw was that these representatives
22 were bringing their recruits and others were coming by foot, they were singing and
23 they were jogging. As soldiers, when these recruits arrived, we would proceed with
24 the screening. The screening was more important. I therefore am not able to
25 answer your question.

- 1 Q. [11:34:58] Thank you very much, Mr Ntaganda.
- 2 I'm coming to the last part of my question and I want to show you two videos.
- 3 I would like to show Mr Ntaganda two videos and to the Chamber as well. And that
- 4 is video, the Rwampara video, DRC-OTP-0120-0293, I would like to play it from 16.03
- 5 to minute 25, without the sound. That's my first video.
- 6 Before showing this video, I have a few questions to put to Mr Ntaganda. But as I
- 7 can't operate it from here, I would like to indicate it for the Registry, because they
- 8 kindly accepted to help us in this regard.
- 9 PRESIDING JUDGE FREMR: [11:36:15] Ms Martineau.
- 10 MS MARTINEAU: [11:36:17] No objection.
- 11 PRESIDING JUDGE FREMR: [11:36:22] All right then.
- 12 MS PELLET: [11:36:26](Interpretation)
- 13 Q. [11:36:27] Mr Ntaganda, I am going to show you the video, but before I do that I
- 14 have got a question to put to you. Yesterday -- well, I'm going to quote you, I'm
- 15 going to quote part of your testimony that you gave yesterday, the non-edited version
- 16 of the transcript 238, page 85, lines 14 to 28. I'm sorry, I'm going to quote the
- 17 question as well. So that's from line 11 to lines 28:
- 18 Question: "You spoke about criteria, firstly there has to be water and it has to be far
- 19 from the population. Only a few people lived in the area. Do you remember
- 20 having said that?"
- 21 Your answer from line 14: "And if you speak about the training centre in my
- 22 experience I had to find a place where there was water such that the recruits could
- 23 have access to water to clean themselves and I also had to find a place which was far
- 24 from the population."
- 25 Question: "It's important therefore to be far from the civilian population because the

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1 military training camps are places where information is dealt with which is
2 confidential and we don't want everyone to be aware of that?"
3 Your answer, line 24: "That has to be absolutely a selection criteria, and the members
4 of the population must not be mixed up with the recruits."
5 Do you confirm that?
6 A. [11:38:37] Yes, I remember having said that yesterday.
7 Q. [11:38:40] Very well.
8 So, your Honour, we can now show the video, DRC-OTP-0120-0293,
9 16.03 to minute 25.
10 Mr Ntaganda, I would like you to watch the video, paying attention to the persons on
11 this video. And after showing it I will show you some pictures there from such that
12 everything is clear about what is of interest to me.
13 THE COURT OFFICER: [11:39:28] The video will be displayed on the evidence 1
14 channel.
15 MS PELLET: [11:39:40](Interpretation) This is a public video, your Honour.
16 (Viewing of the video excerpt)
17 MS PELLET: [11:48:17](Interpretation) We can stop the video. I don't know what
18 minute it stopped at. I think it was 24.39, for the transcript, for the record.
19 PRESIDING JUDGE FREMR: [11:48:47] I see that it is confirmed by our
20 court officers.
21 MS PELLET: [11:48:56](Interpretation) Thank you, your Honour.
22 Q. [11:48:59] Mr Ntaganda, this is Rwampara camp, is it not? It was filmed there,
23 was it not?
24 A. [11:49:12] Yes, that's the Rwampara site. You will have seen that I was present
25 there.

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1 Q. [11:49:20] You were reading my thoughts. You were present when this video
2 was filmed?

3 A. [11:49:29] Yes. You saw me when this event was filmed. I was present.

4 Q. [11:49:51] Mr Ntaganda, so that my question gets to the heart of the matter, I am
5 now going to ask the usher to show images from the video that you saw a moment
6 ago. That's picture 16, it's at -- it's the picture at 16.03

7 PRESIDING JUDGE FREMR: [11:50:18] But before doing that, I would have two
8 questions, which will be the time used by me; it will not be included in your time,
9 Ms Pellet.

10 Mr Ntaganda, do you remember what was this event we could see and who was the
11 speaker, main speaker?

12 THE WITNESS: [11:50:52] (Interpretation) It was the 12th, 12 February 2003. This
13 is part of a long video. I was the first person to arrive. This is a video sequence that
14 my counsel showed me before, before the part that we saw, I arrived there to prepare
15 Thomas Lubanga's arrive and Tinanzabo's arrive. When I went to the recruits,
16 President Thomas Lubanga arrived. He spoke. There was a screen that was carried
17 out. Now, in the part that wasn't seen, there was a group of very young persons and
18 elderly persons. At the arrival of Thomas Lubanga, he assembled everybody and he
19 spoke, as well as Tinanzabo. And we didn't see the first part. That relates to the
20 screening exercise.

21 PRESIDING JUDGE FREMR: [11:52:05] Thank you, Mr Ntaganda.
22 Ms Pellet, please proceed.

23 MS PELLET: [11:52:13](Interpretation)

24 Q. So this is about recruits present at Rwampara camp; is it not?

25 A. [11:52:26] Yes. Some had arrived before us. They arrived on the 11th, the day

1 before. I arrived on the 12th. That's how in the video I can be seen asking if there
2 were people who had arrived the day before.

3 Q. [11:52:48] Thank you very much, Mr Ntaganda. I am now going to ask the
4 usher to be so kind as to show the video at 16.03 firstly.

5 Mr Ntaganda, I would ask you to pay attention to the people that you see on this
6 picture. I'm going to show you several people and I will ask you my questions at the
7 end.

8 You will see the second -- I want you to pay particular attention to the two people
9 who are on the left of the picture.

10 PRESIDING JUDGE FREMR: [11:53:57] Ms Martineau.

11 MS MARTINEAU: [11:53:59] If LRV counsel is referring in particular to two people
12 on that picture, on that screenshot, we would suggest that the question be asked right
13 now when Mr Ntaganda can still see the picture on his screen. Thank you.

14 PRESIDING JUDGE FREMR: [11:54:15] Yes, I fully agree. I also prefer to put
15 questions not after showing several pictures, but I don't see any problem in that, but
16 when Mr Ntaganda can see the picture now.

17 THE COURT OFFICER: [11:54:41] The picture is displayed on the evidence 1
18 channel.

19 PRESIDING JUDGE FREMR: [11:54:47] And, please, you said that two persons on
20 the left are of your interest. Ms Pellet, could you be even more specific, for example,
21 by describing their clothing.

22 MS PELLET: [11:55:10](Interpretation) Yes, your Honour. I understand the
23 concerns of Counsel Martineau, but my question refers to all the pictures I am going
24 to show. I don't think Mr Ntaganda will have got them because I have just got five
25 of them and the operation could go quite quickly. But I will describe each time in

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1 accordance with your suggestion. I will describe the persons about whom or about
2 whom I wish him to pay most attention to, if you give me leave to do so,
3 your Honour.

4 PRESIDING JUDGE FREMR: [11:55:52] And sorry, I am not sure I understood also.
5 Those two persons will appear on all those five pictures, no?

6 MS PELLET: [11:56:02](Interpretation) No, that's just my words, your Honour. I
7 would like Mr Ntaganda to pay particular attention to certain individuals who are on
8 the five pictures. He has seen the video; it is not the first time that he has seen the
9 video. He was present when the video was filmed. I think this exercise should not
10 be overly tasking or too difficult for Mr Ntaganda.

11 PRESIDING JUDGE FREMR: [11:56:31] No, no, Ms Pellet. I see a difficulty.
12 Please put questions just after one, after each -- having seen this picture individually.
13 And, moreover, to say even pay attention, I think, you could clearly say what you are
14 interested in. Identity, age, I don't know, ethnic.

15 MS PELLET: [11:57:02](Interpretation) Very well, your Honour.

16 Q. [11:57:04] Mr Ntaganda, the two people on the left of the photograph, the first
17 dressed in white and the second with a green vest, can you see them?

18 A. [11:57:40] I see two people, but the picture isn't very clear. But I do see two
19 people on the extreme side over there.

20 Q. [11:57:53] Are you able to assess their age?

21 PRESIDING JUDGE FREMR: [11:57:59] Mr Ntaganda, if you want, maybe it is better
22 to look at the screen because, you know, from my angle of view, I also have much
23 worse picture on my screen than on this big one. So please, it would be better for
24 you, please, stand up and to look at the main screen.

25 THE WITNESS: [11:58:43] (Interpretation) I've seen it.

1 MS PELLET: [11:58:49](Interpretation)

2 Q. [11:58:49] Are you able to assess their age?

3 A. [11:59:04] It's impossible to evaluate their age. It's difficult to give the exact age
4 of these two individuals.

5 Q. [11:59:20] On the other hand, Mr Ntaganda, I understand that they did pass the
6 screening which was referred to and you've just referred to.

7 A. [11:59:33] No. Some of them arrived the day before. The video has been cut.
8 Now if I was shown the whole video, I could have explained to you phase by phase
9 what the instructor told me. When the President Thomas arrived, he asked for
10 everybody to come together in one sole place.

11 Q. [12:00:03] You don't need to repeat that. You've already mentioned that. I am
12 going to quote what you just said exactly. And here I'm referring to your answer,
13 page 40, line 22 to 4: "This is on 12 February 2003. This was part of the video,
14 your Honour. I was the first person to arrive. It was a video sequence that my
15 counsel showed me. Before the part, you can see me. I took the floor in order to
16 announce the arrival of President Thomas Lubanga and Tinanzabo, and when I
17 arrived to look at the recruits that was when Thomas Lubanga arrived. He took the
18 floor. There was a screening which was carried out. That was a very young group
19 and there were elderly person as well. On the arrival of President Thomas he
20 brought everybody together and he spoke. Tinanzabo, we didn't see the part with
21 the screening exercise. So I understand that the screening exercise took part in the
22 first part of the video."

23 That's what I understand, Mr Ntaganda, that's what you say on page 41, line 4.

24 A. [12:01:39] Yes, because all these people dressed in civilian clothing had not yet
25 started their training.

1 Q. [12:01:58] But the screening had taken place. That's what you said on page 41,
2 line 4?

3 A. [12:02:02] When I arrived, the screening was ongoing. Those who were very
4 young were set to one side, but the screening does not mean that the people were
5 taken. You see, some elderly persons as well as some who were not physically apt
6 would be set aside with the intention of sending them back to their homes.

7 Q. [12:02:31] Mr Ntaganda, the two people we are talking about on the photograph
8 were -- are seen in a group, rather, with people who are much taller than them; is that
9 correct?

10 A. [12:02:49] Yes. When President Thomas arrived he asked for everyone to
11 assemble and that is why you see some in military uniforms while others are in
12 civilian attire. Everybody came together to listen to his message.

13 Q. [12:03:07] Thank you.

14 I would now invite the court usher to please display minute 23.50.

15 PRESIDING JUDGE FREMR: [12:03:48] Ms Martineau.

16 MS MARTINEAU: [12:03:52] I would like the audio to be checked for page 40,
17 line 28 and page 41, line 1. What was said in French and what my colleague
18 quoted is:

19 (Interpretation) "There was a screening exercise that was ongoing, there was a group
20 of young persons and" -- (Speaks English) (Overlapping speakers) problem here is
21 probably the tense of verb that was used by Mr Ntaganda because here is "qui se
22 faisait", which means that it would be ongoing, whereas my colleague suggested that
23 the screening was already done. So maybe the audio can be checked so that we have
24 a definitive answer on that and that we can take that in re-examination if necessary.

25 PRESIDING JUDGE FREMR: [12:04:43] All right.

1 MS PELLET: [12:04:50](Interpretation) Thank you, Mr President.

2 Q. [12:04:51] Now, Mr Ntaganda, I will ask you to go through the same exercise
3 and it might be better for you to go to the bigger screen and to take a look at the
4 picture and then I will put a question to you.

5 PRESIDING JUDGE FREMR: [12:05:15] And what persons are of your interest,
6 Ms Pellet?

7 MS PELLET: [12:05:30](Interpretation)

8 Q. I am interested specifically in the person to the left of the screen wearing a green
9 and brown shirt which looks like a military uniform, as well as the person in the
10 centre of the picture wearing a blue blouse, as well as the person standing between
11 the person wearing a military-type shirt and the other person wearing a white shirt
12 and who looks much smaller.

13 A. [12:06:40] Are you talking about this person whom I am pointing at?

14 MS PELLET: [12:06:55] (Interpretation) For the purposes of the record, Mr Ntaganda
15 is pointing at the person I am interested in who is between the two persons I
16 mentioned before, one of them in a brightly coloured attire and another in a darker
17 attire.

18 Q. Yes, Mr Ntaganda, I agree.

19 So I put the same question to you as I did for the previous pictures: Are you in
20 a position to assess the age of these children -- or, sorry, of these persons?

21 A. [12:07:56] I am not in a position to estimate the ages of those people, but based
22 on the criteria which I already mentioned, those persons would not have met those
23 criteria, so I am not, however, able to tell you whether they would have been *15,
24 16 years, or would have been of any other age. What I can tell you, however, is that
25 these people did not meet the criteria which I outlined before. The same would have

1 applied to the other persons on the previous picture.

2 Q. [12:08:36] Thank you, Mr Ntaganda.

3 My last question, Mr Ntaganda, to you is the following: Do you stand by your
4 testimony that there was no possibility of children less than 15 to be members of the
5 UPC/FPLC?

6 A. [12:09:01] I stand by my testimony. Here, what I can say is that if you had
7 shown the first part of that video you would have seen that there was a group of
8 young children who had to go back home. Then there was another group of more
9 elderly people who were going to start the training because they had already
10 succeeded in the screening. And then there was another group of people who were
11 already undergoing the training and then you would have also been able to see that
12 those who were already admitted into the army were those who had met those basic
13 criteria which I had already outlined. Those who did not were simply sent back
14 home.

15 Q. [12:09:53] Thank you, Mr Ntaganda.

16 MS PELLET: Mr President, I have no further questions.

17 PRESIDING JUDGE FREMR: [12:10:00] Thank you very much, Ms Pellet. Which
18 means that we reach the end of the agenda for today. As the Chamber indicated, we
19 granted request made by the Defence to start redirect on Monday.

20 One important, one important information, please have in mind that for the next
21 week all our sessions will start earlier, 15 minutes earlier, at 9.15, because of some
22 logistic, logistic reasons.

23 So before we adjourn any requests for the floor? I see Mr Bourgon on his feet.

24 Mr Bourgon.

25 MR BOURGON: [12:10:44] Thank you, Mr President. Just to inform the Chamber

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1 that yesterday I mentioned in our request that we would require 10 hours and I said 8
2 would be the minimum, that was before of course the last day of cross-examination.
3 It is very likely, Mr President, that we will need more than eight hours. I cannot
4 confirm at this time, but I will come with a justified request next week and this of
5 course has to do especially with the material used in the last hour that was given to
6 the Prosecution when the topic of the conversations was touched upon for the first
7 time, and so that might be the main reason, but I cannot confirm at this time. Thank
8 you.

9 PRESIDING JUDGE FREMR: [12:11:25] Mr Bourgon, usual procedure will be used
10 as we did in the past. At the moment you are granted eight hours. Yes, we see the
11 reason you mentioned now, it could lead to some extension of time. As usually, we
12 can then decide about that if you will persuade us by your reasons. On the other
13 hand, I would like to highlight that we believe that thanks to the fact that you will
14 have part of the Friday and whole weekend for preparation of your redirect, it could
15 or should lead to concentration and streamlining of your questioning. So we believe
16 it could again help you to make it in eight, eight hours.

17 Ms Samson.

18 MS SAMSON: [12:12:16] Thank you, Mr President.

19 Not on this issue but on a new request. Counsel announced to the Court this week
20 that he has been able to reduce his witness list by 11 witnesses and that in conformity
21 with the Chamber's decision, he will be able to provide a further update within the
22 deadline set by the Chamber.

23 I have approached counsel to see if the Prosecution could be advised now of the
24 identity of those 11 witnesses for our internal working purposes.

25 Counsel has declined to provide that on the basis that he prefers to abide by the

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1 deadline. But given that the -- given that the announcement was made and it's been
2 confirmed to the Chamber that 11 witnesses will not be coming, the Prosecution
3 makes a request to have the names of those 11 witnesses because they appear to be
4 confirmed and it would assist us to know which witnesses are not coming as soon as
5 possible.

6 PRESIDING JUDGE FREMR: [12:13:22] Mr Bourgon, your position.

7 MR BOURGON: [12:13:24] Thank you, Mr President. Indeed my colleague
8 approached me this morning and I did not wish to give this information at this time.
9 The Chamber will understand that even though I did confirm 11 witnesses, I also said
10 that there are likely to be more than 11. But of course we need to take full stock of
11 Mr Ntaganda's testimony before we confirm any of this information to the Chamber.
12 And we have been given a deadline of two weeks following Mr Ntaganda's testimony,
13 or at least maybe the -- maybe there is a fixed date. But by that time, the time that is
14 set, we will come forward with our new list of witnesses. So we need to really first
15 analyse carefully and then inform the Chamber of the situation.

16 Thank you, Mr President.

17 PRESIDING JUDGE FREMR: [12:14:10] Understandable. I have one additional
18 question on that issue: Is any one of those 11 potentially disappearing witnesses
19 from your list was intended for this block?

20 MR BOURGON: [12:14:27] No, Mr President. So there is absolutely no, no
21 prejudice to the Prosecution. None of these witnesses -- and actually we have been
22 in consultation with the Prosecution concerning the order of these witnesses and both
23 the Prosecution and the Defence are doing their utmost to maximise the number of
24 witnesses. Yesterday an issue came up with the Prosecution request to change the
25 order of a witness and that would have led maybe to losing one afternoon and both of

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1 us we agreed that we would prefer not to change the list in order to maximise, as we
2 promise, all the time available in this block.

3 Thank you, Mr President.

4 PRESIDING JUDGE FREMR: [12:15:07] Ms Samson.

5 MS SAMSON: [12:15:09] Yes, Mr President. The prejudice is simply in terms of
6 time and the Prosecution's time in particular. We have prepared for the upcoming
7 Defence witnesses for sure for this block, but there are a hundred witnesses to be
8 heard still, 105 I believe, and so the Prosecution is also furthering investigations into
9 the remaining witnesses and Defence counsel confirmed that he is reducing the list by
10 11, and having two and a half weeks additional time for us to cease investigations on
11 some of those witnesses is a lot because we get witness blocks only one month in
12 advance. Thank you.

13 PRESIDING JUDGE FREMR: [12:15:59] The Chamber set up some deadline, I can
14 even now consult my colleagues whether they do see any reason for reconsideration
15 of the previous ruling.

16 (Trial Chamber confers)

17 PRESIDING JUDGE FREMR: [12:16:53] So after brief silent deliberation in the
18 courtroom the position of the Chamber is that at the moment we don't see any reason
19 to force Defence to provide Prosecution with this list before deadline we set up. At
20 the same moment, we are saying that, on the basis of good faith, if the Defence would
21 be ready to make it earlier, in the spirit of collegiality, I think it would be appreciated.
22 Mr Bourgon.

23 MR BOURGON: [12:17:28] We will endeavour to do so if we are in a position once
24 we analyse the testimony of Mr Ntaganda. If we can do it, we will. Thank you.

25 PRESIDING JUDGE FREMR: [12:17:37] Very well.

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- 1 So now we adjourn and we will reconvene on Monday, 9.15.
- 2 THE COURT USHER: [12:17:45] All rise.
- 3 (The hearing ends in open session at 12.17 p.m.)
- 4 CORRECTIONS REPORT
- 5 The Language Services Section has made the following corrections in the transcript:
- 6 *Page 15, line 10:
- 7 "During all the training that the FPLC had," is corrected to "In all the FPLC training
- 8 camps,"
- 9 *Page 21, line 12:
- 10 "we would not ask for the age" is corrected to "we would ask for the age"
- 11 *Page 40, lines 23-24: "14, 15 years," is corrected to "15, 16 years,"