

1 International Criminal Court  
2 Trial Chamber VI  
3 Situation: Democratic Republic of the Congo  
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06  
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and  
6 Judge Chang-ho Chung  
7 Trial Hearing - Courtroom 2  
8 Tuesday, 17 October 2017  
9 (The hearing starts in open session at 9.32 a.m.)  
10 THE COURT USHER: [9:32:15] All rise.  
11 The International Criminal Court is now in session.  
12 Please be seated.  
13 PRESIDING JUDGE FREMR: [9:32:41] Good morning, everybody.  
14 Court officer, please call the case.  
15 THE COURT OFFICER: [9:32:46] Thank you, Mr President.  
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor  
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.  
18 And we are in open session.  
19 PRESIDING JUDGE FREMR: [9:33:02] Thank you, court officer.  
20 Now appearances as usually, please.  
21 MS LUPING: [9:33:07] Good morning, Mr President. Good morning,  
22 your Honours. Appearing this morning on behalf of the Prosecution are myself,  
23 Dianne Luping, Nicole Samson, Laura Morris and Selam Yirgou.  
24 PRESIDING JUDGE FREMR: [9:33:20] Thank you, Ms Luping.  
25 Defence please.

1 MR GOSNELL: [9:33:24] Good morning, Mr President and your Honours.

2 Christopher Gosnell for Mr Ntaganda this morning, assisted by Didace Nyirinkwaya,

3 Chloé Grandon and Marie Mescam. Thank you, Mr President.

4 PRESIDING JUDGE FREMR: [9:33:39] Thank you, Mr Gosnell.

5 And Legal Representative of Victims, please.

6 MS PELLET: [9:33:44] (Interpretation) Thank you, your Honour. The former

7 child soldiers are represented by Vony Rambolamanana and myself, Sarah Pellet,

8 counsel with the Office of Public Counsel for Victims.

9 MR SUPRUN: [9:34:07] (Interpretation) Good morning, your Honour,

10 your Honours. The victims of the attacks are represented by Anne Grabowski,

11 associate lawyer; Claire Lefevre, intern; and myself, Dmytro Suprun, counsel with the

12 Office of Public Counsel for Victims.

13 PRESIDING JUDGE FREMR: [9:34:24] Thank you, Ms Pellet.

14 Thank you, Mr Suprun.

15 Today we are going to commence the fourth evidentiary block of the presentation of

16 evidence by the Defence, which shall run from today to 10 November 2017.

17 We will begin with the testimony of Witness D-0038 shortly, but before proceeding

18 with this testimony there are a few pending matters that I will address.

19 I will start by putting on the record some submissions communicated to the Chamber

20 by email and the Chamber's ruling thereon.

21 By email of 3 October 2017 and with reference to paragraph 16 of the updated

22 Defence list of witnesses, bearing filing number 2045, the Chamber directed that any

23 Defence requests pursuant to Regulation 35(2) of the Regulations and Rule 68(2) of

24 the Rules be submitted by Monday, 16 October 2017.

25 By email of 9 October 2017, the Chamber, referring to the procedure previously set

1 out in paragraphs 52 and 53 of its decision on the conduct of proceedings, bearing  
2 filing number 619, set the deadline for the filing of any Defence requests for  
3 admission of documentary evidence, other than through the remaining witnesses it  
4 intends to call, for Tuesday, 31 October 2017, to be complemented, if necessary, in  
5 light of the evidence presented after this deadline.

6 In this respect, the Chamber notes that the Defence has filed a request for revision of  
7 this deadline, bearing filing number 2062, specifically the Defence requests that the  
8 Chamber order the Defence to submit its proposal for the admission of documentary  
9 evidence to the Prosecution no later than 10 November 2017 and submit its motion for  
10 the admission of documentary evidence three days after the Prosecution's response  
11 regarding the proposed documents.

12 I will refer to this filing as "request". The Chamber has taken note of the arguments  
13 brought in support of the request and would like to hear from the Prosecution  
14 whether it has any observation in relation to this request.

15 So now, Prosecution, do you have any observations in response to that request?

16 Ms Samson, please.

17 MS SAMSON: [9:37:45] Thank you, Mr President.

18 The Prosecution does not object to the Defence filing its request by 10 November.

19 The procedure, as the Defence articulated in the request, that the Chamber had set out  
20 previously did indeed include a period of consultation between the parties. In the  
21 Prosecution's submission, however, that procedure did not particularly enhance the  
22 efficiency of the request in and of itself, because following consultations the  
23 Defence -- that the Prosecution filed its request and the Defence thereafter had 21  
24 further days to make its observations. And the Prosecution -- in the Prosecution's  
25 submission, greater efficiency could be reached if the Defence simply makes its

1 request on 10 November and the Prosecution has 21 days to respond, thereby  
2 eliminating the consultation which, as I said, did not in fact shorten the response time  
3 to the eventual filing.

4 That's the proposal the Prosecution makes in relation to the issue. Should the  
5 Chamber decide to uphold the regime of initial consultations first, then the  
6 Prosecution requests that it have until the end of November to provide its responses  
7 to Defence. It will endeavour to do so on a rolling basis throughout the period.  
8 Thereafter, as I understand, the Defence will file its formal request three days later  
9 and the Prosecution will have, as the Defence did, the usual 21 days to respond.

10 Thank you.

11 PRESIDING JUDGE FREMR: [9:39:24] Thank you, Ms Samson.

12 Mr Gosnell, any reaction from your part on the Prosecution's submission?

13 MR GOSNELL: [9:39:32] Yes, Mr President. Very briefly. Regardless of whether  
14 or not the process was, and the procedure that was followed previously was useful or  
15 not, or to what extent it was useful, it's nonetheless our submission that the same  
16 procedure should be followed in this case for the Defence as for the Prosecution in  
17 respect to the Bar table motion. Thank you, Mr President.

18 PRESIDING JUDGE FREMR: [9:39:54] Thank you.

19 So the Chamber will deliberate on that. And I believe that we will be able to render a  
20 decision on that shortly.

21 Now, with regard to the schedule for the remaining Defence witnesses, on 6  
22 October 2017 the Defence informed the Chamber, the Prosecution and the participants  
23 via email of a further reduction of its number of witnesses as compared to the list  
24 provided on 27 September 2017 bearing filing number 2045.

25 The Defence also advised on certain changes in the scheduling and the order of

1 appearance of its remaining witnesses. Those changes were later reflected in the  
2 updated Defence list of witnesses filed on 12 October 2017 and bearing filing  
3 number 2060, as well as in an updated forthcoming witnesses list for the fourth  
4 evidentiary block which was sent via email on the same day.

5 In an email sent on 10 October 2017, the Chamber noted that the proposed change of  
6 schedule and the Defence intention to call three witnesses during the current  
7 evidentiary block left a significant amount of scheduled courtroom time unused and  
8 directed the Defence to, inter alia, first, explore the possibility of calling at least one  
9 additional witness to testify during this block and/or, second, identify any reserve  
10 witnesses who would be available in the event that any of the three scheduled  
11 witnesses would fail to testify.

12 The Chamber further advised the Defence to explore the possibility of hearing the  
13 testimony of D-12 and/or D-17 via video link in the event of continued logistical  
14 difficulties related to the witness's travel to the seat of the Court.

15 The Defence replied by email of 11 October 2017 and indicated that, due to logistical  
16 reasons, it was not possible to move any of the witnesses scheduled to testify during  
17 the fifth evidentiary block to the fourth block. It also indicated that with regard to  
18 Witnesses D-12 and D-17, should logistical difficulties arise concerning their travel to  
19 the seat of the Court, it would be possible to hear their testimony via video link.

20 And now I would like to render our oral decision. It can be made in public session.

21 And it's the Chamber's oral ruling on the Prosecution's request to use Detention  
22 Centre conversations obtained in the context of Article 70 proceedings, which I will  
23 refer to as "Detention Centre conversations".

24 During the fourth Defence evidentiary block, filed on 25 September 2017 with filing  
25 number 2044, I will refer to this filing as "request".

1 The Prosecution seeks the Chamber's authorisation to use for its cross-examination of,  
2 inter alia, Witness D-12, whom I will refer to as "Witness", one of the Detention Centre  
3 conversations allegedly involving the accused and the witness, as well as the  
4 corresponding transcript and translation. I will refer to these items collectively as  
5 "conversation".

6 On 2 October 2017, the Defence opposed the request in filing number 2048. The  
7 Chamber recalls that in its decision with filing number 1883, it ruled that the  
8 Prosecution shall not be allowed to use the material obtained in the context of the  
9 Article 70 proceedings during the Defence presentation of evidence unless specifically  
10 authorised by the Chamber as necessary for the determination of the truth pursuant  
11 to its duty under Article 69(3) of the Statute upon receipt of a substantiated request to  
12 be filed sufficiently in advance of the intended use.

13 In its decision with filing number 1918 -- sorry, Mr Gosnell.

14 MR GOSNELL: [9:45:47] Mr President, I'm terribly sorry to stand up while you're  
15 in the middle of a ruling, but I think that it's incumbent upon me to advise  
16 your Honours that the last information that I received, and I understand that it is firm  
17 information, is that Witness D-12 will not be called by the Defence. And I think it's  
18 important that I advise you of that because you render your decision because I would  
19 not wish your Honours to be rendering a decision that is in respect of a matter that is  
20 moot.

21 PRESIDING JUDGE FREMR: [9:46:23] All right. So I will break rendering  
22 of our decision.

23 Prosecution, your position?

24 MS SAMSON: [9:46:32] Mr President, this is the first that we have heard that the  
25 witness may not come. We have not received any reasons for that but have no

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1 further observations at this present time.

2 PRESIDING JUDGE FREMR: [9:46:45] All right. So I will stop at this moment

3 and we will during the break again deliberate to what extent this information have

4 impact on our ruling and it's very likely that we will then proceed accordingly.

5 So I will stop reading out this decision and can continue with the rest of our

6 introductory agenda. And we can now turn to matters related to today's witness.

7 The Chamber recalls its decision dated 12 October 2017, bearing filing number 2061,

8 granting the Defence request for protective measures in relation to the witness in the

9 form of voice and face distortion during the witness's testimony and the use of a

10 pseudonym for the purposes of the trial.

11 For the record, I would also like to indicate that pursuant to the vulnerability

12 assessment for the witness provided by the VWU on 12 October 2017, no special

13 measures are recommended for the witness.

14 And finally, I recall that the Defence has indicated that it estimates to need four hours

15 for its examination-in-chief of the witness.

16 That completes the preliminary matters for this morning. So if there are no further

17 requests for the floor, which I don't think it's the case, we can commence with the

18 examination-in-chief of Witness D-38.

19 So now, court officer, please invite Mr Witness into the courtroom.

20 (The witness enters the courtroom)

21 PRESIDING JUDGE FREMR: [9:50:12] Mr Witness, good morning.

22 WITNESS: DRC-D18-D-0038

23 (The witness speaks Swahili)

24 THE WITNESS: [9:50:23] (Interpretation) Good morning.

25 PRESIDING JUDGE FREMR: [9:50:24] Can you hear me and can you also hear

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1 translation well in your headphones?

2 THE WITNESS: [9:50:36] (Interpretation) Yes. I'm very well.

3 PRESIDING JUDGE FREMR: [9:50:42] All right. So, Mr Witness, welcome. You  
4 are called to testify in the case against Mr Bosco Ntaganda. You will be soon asked  
5 questions both by the Judges and lawyers hear in the courtroom. And in that  
6 connection I would like to provide you with some guidance for answering the  
7 questions.

8 Please listen carefully to the questions that you will be asked. We want you to tell  
9 the truth and tell us what you saw, heard or sensed yourself. If you do not  
10 understand any question, feel free to ask for the question to be repeated. You may  
11 not remember all details, and it does not matter, please testify just on that which you  
12 really remember. Don't guess, don't make things up. There is nothing wrong in  
13 saying "I don't know" or "I don't remember".

14 Do you understand all this, Mr Witness?

15 THE WITNESS: [9:52:03] (Interpretation) Yes, I've followed you.

16 THE INTERPRETER: [9:52:06] Your Honour, could the witness be asked to speak a  
17 bit more loudly, asks the Swahili booth.

18 PRESIDING JUDGE FREMR: [9:52:12] And I believe it would assist if we could  
19 move microphone a little bit closer to Mr Witness.

20 But, Mr Witness, anyway -- yes, I also got a message from the interpreters that if you  
21 could speak a bit more loudly it would assist because they sometimes have problem  
22 to understand fully, so please try to speak a bit more loudly, okay?

23 Now, Mr Witness, protective measures are put in place to ensure that your identity is  
24 not revealed to the public. It means that the public cannot see your face today and  
25 that your voice is being disguised so that the public cannot recognise it. We will



1 refer to you as "Mr Witness" only and ensure that your name and any other  
2 information that risks revealing who you are is not broadcast to the public; therefore,  
3 whenever you need to describe anything that might reveal your identity, we will do  
4 so in so-called private session so that no one outside of the courtroom can hear your  
5 answer.

6 Do you understand that, Mr Witness?

7 THE WITNESS: [9:54:00] (Interpretation) Yes, I've understood.

8 PRESIDING JUDGE FREMR: [9:54:03] And now, Mr Witness, you should be  
9 provided with the text of the solemn undertaking, or maybe it will be easier I will  
10 read it out myself and please repeat after me.

11 So please repeat after me: I solemnly declare --

12 THE WITNESS: [9:54:36] (Interpretation) I solemnly declare --

13 PRESIDING JUDGE FREMR: [9:54:40] -- that I will speak the truth --

14 THE WITNESS: [9:54:46] (Interpretation) -- that I will speak the truth --

15 PRESIDING JUDGE FREMR: [9:54:52] -- the whole truth --

16 THE WITNESS: [9:55:00] (Interpretation) -- the whole truth --

17 PRESIDING JUDGE FREMR: [9:55:04] -- and nothing but the truth.

18 THE WITNESS: [9:55:08] (Interpretation) -- and nothing but the truth.

19 PRESIDING JUDGE FREMR: [9:55:17] Thank you, Mr Witness.

20 So now you are under oath. And you need to be aware that it is an offence to give  
21 false testimony. Do you understand that?

22 THE WITNESS: [9:55:44] (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: [9:55:45] And finally, Mr Witness, a few practical  
24 matters you should have in mind when giving your testimony: It's important to  
25 speak clearly, to speak at a slow pace to allow the interpreters to translate everything.

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1 You should also only start speaking when the person asking you the question has  
2 finished. And what is also quite important, when a question is asked, please do not  
3 respond immediately, but rather count in your head to three and only then give your  
4 answer because this pause of approximately three seconds between the question and  
5 your answer is essential for us to properly hear, record and translate what you are  
6 saying.

7 Have you understood all that, Mr Witness?

8 THE WITNESS: [9:56:58] (Interpretation) Yes, I've understood.

9 PRESIDING JUDGE FREMR: [9:57:00] Very well.

10 So that's it from my part, Mr Witness. And now I will give floor to the Defence  
11 counsel, Mr Gosnell, who will start your examination.

12 Mr Gosnell, you have the floor and we are in open session.

13 MR GOSNELL: [9:57:18] Thank you, Mr President. Before I begin, could I ask the  
14 Registrar to please lower the Elmo. I'd like to be able to see the witness. My vision  
15 is blocked.

16 PRESIDING JUDGE FREMR: [9:57:30] Court usher, please assist in that regard.

17 MR GOSNELL: [9:57:40] And while that's happening, Mr President, may I ask that  
18 we move into private session, please.

19 PRESIDING JUDGE FREMR: [9:57:46] Certainly.

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

21 And for the information of public, can you estimate at this moment how much time  
22 you will spend in private session, Mr Gosnell?

23 MR GOSNELL: [9:58:03] I think, Mr President, after a few minutes I will be able to  
24 move back into public.

25 PRESIDING JUDGE FREMR: [9:58:14] Thank you for that clarification.

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1 Are we in private? Not yet, all right. We will have to wait.

2 (Private session at 9.58 a.m.)

3 (Redacted)

4 (Redacted)

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10 (Redacted)

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3 (Open session at 10.14 a.m.)

4 THE COURT OFFICER: [10:14:50] We are back to open session, Mr President.

5 PRESIDING JUDGE FREMR: [10:14:57] Thank you, court officer.

6 And, Mr Gosnell, please proceed.

7 MR GOSNELL: [10:15:02]

8 Q. [10:15:11] Your last answer you said that you went there voluntarily and that  
9 no one was forced to go there, everybody was able to see what was going on and  
10 people could decide for themselves whether to go or not.

11 Sir, can you tell us your own personal motivations, if you had any, for wishing to  
12 receive military training at Tchankwanzi?

13 A. [10:15:51] I went there because of the killings. I felt that whether I went there  
14 or not nothing would change, given that there were too many killings.

15 Q. [10:16:09] And can you remember the names of places where killings had  
16 taken place prior to you going to Tchankwanzi from your home village?

17 A. [10:17:00] Do you want me to give you the names of all the villages, or just a  
18 few examples?

19 Q. [10:17:08] Perhaps you could just provide us with a few examples.

20 A. [10:17:27] Okay. For examples there were killings ordinarily around. I was  
21 in my village. And throughout my territory there were killings, killings in the  
22 villages that had been occupied by the Hema. For example, right next to my village  
23 there is a village called (Redacted) and in that area. So that's just one  
24 example I can provide. But as a general statement, there were killings throughout  
25 the entire territory.



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1 MR GOSNELL: [10:18:15] May I request a redaction, Mr President, at the  
2 appropriate time.

3 PRESIDING JUDGE FREMR: [10:18:19] Yes.

4 Please, court officer, follow that request.

5 MR GOSNELL: [10:18:30]

6 Q. [10:18:30] Mr Witness, how did you travel to Tchankwanzi from your  
7 home village?

8 A. [10:18:52] At that time the peace committee had been set up and its members  
9 provided us with vehicles to go all the way to Bunia.

10 Q. [10:19:09] And from Bunia, how did you travel to Tchankwanzi?

11 A. [10:19:23] From Bunia we travelled by air.

12 Q. [10:19:32] And once you were in Bunia who appeared to be organising  
13 travelling by air to Tchankwanzi?

14 A. [10:19:54] Our group, which was the second group, what I can say is that the  
15 person who organised our trip was Commander Mugabo.

16 Q. [10:20:09] Was he wearing any type of uniform that you recall and whether the  
17 uniform had any insignia on it?

18 A. [10:20:38] Yes, he was wearing a uniform. Now, when you say "insignia", I  
19 don't know what that means, what I know is that he was wearing a military uniform.

20 Q. [10:20:52] Were there any marks of any kind on this uniform that indicated an  
21 affiliation with a particular force?

22 A. [10:21:23] I no longer remember.

23 Q. [10:21:29] Who conducted the training at Tchankwanzi?

24 A. [10:21:53] We were trained by the UPDF.

25 Q. [10:22:00] And how long did the training at Tchankwanzi last, approximately?

1 A. [10:22:27] I cannot provide a specific answer, but I think it lasted more than  
2 eight months. But I cannot be more specific than that.

3 Q. [10:22:40] Can you describe the training? What did the training consist of?  
4 What did you learn as part of the training?

5 A. [10:23:11] Can you please repeat or rephrase your question, please?

6 Q. [10:23:19] What kind of training did you receive? Can you describe in a bit  
7 more detail how you were trained, what were the subjects?

8 A. [10:23:53] They taught us everything that soldiers are taught, but I don't know  
9 whether you want me to give you details.

10 Q. [10:24:04] Were you taught as part of this training how civilians who are not  
11 participating in combat should be treated, was that part of your training?

12 A. [10:24:39] We were not taught how to deal with civilians, but we were taught  
13 how to protect civilians. That is what I can say, given that we were told that our job  
14 was to provide protection for civilians. So that is what I can say; namely, that during  
15 our training the term "deal with" was not used, the word used was "protect".

16 Q. [10:25:20] Yes, Mr Witness, perhaps the way that I, the words I used were not  
17 the most neutral.

18 And how were you taught to protect civilians during combat?

19 A. [10:26:01] Normally the purpose of the soldiers is to protect civilians and all  
20 their property. The army and its soldiers could not fight against civilians. The aim  
21 of the army was to fight the enemy, the enemy who had come to attack civilians.

22 Q. [10:26:42] Was there ever discussion of the concept, and here I will speak  
23 Swahili, kupiga na kuchaji?

24 A. [10:27:11] When it comes to the expression kupiga na kuchaji, it is a strictly  
25 military term in Kiswahili. Kupiga na kuchaji means that when you attack an enemy

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1 camp you can take their weapons and their military equipment that you find at the  
2 camp with a view to weakening the enemy. That is the purpose. And so this is the  
3 expression we used, kupiga na kuchaji, you go to the enemy's camp and take away  
4 the enemy's weapons, all the enemy's weapons in order to weaken the enemy.

5 Q. [10:28:05] Does it encompass taking the goods of civilians?

6 PRESIDING JUDGE FREMR: [10:28:15] Hold on, Mr Witness.

7 Ms Luping.

8 MS LUPING: [10:28:18] Mr President, if I could ask Defence counsel to not use  
9 such leading questions. He can rephrase his question to ask in a more open-ended  
10 manner exactly what it encapsulates.

11 PRESIDING JUDGE FREMR: [10:28:33] Mr Gosnell.

12 MR GOSNELL: [10:28:34] Mr President, I think it's an appropriate question in the  
13 context, given, first of all, that the witness has given a definition already.

14 Secondly, we have a Prosecution case on the table. I think it's appropriate for  
15 questions that are in a relatively neutral -- posed in a relatively neutral fashion to put  
16 the matters that the Prosecution has indicated is its case on the table for a witness's  
17 comment, and I think that, in this case, I posed the question in a neutral manner to  
18 allow him to respond directly to what's on the table, so to speak, Mr President.

19 PRESIDING JUDGE FREMR: [10:29:23] Ms Luping, anything else, but please  
20 briefly?

21 MS LUPING: [10:29:25] Certainly, just one final comment. If in future if we do  
22 make these submissions, I would ask that the witness be asked to remove his  
23 headphones also. It's now too late on this point.

24 PRESIDING JUDGE FREMR: [10:29:40] Yeah, all right. Yeah, you're right. But  
25 for this issue the objection is overruled. In fact I share the view, argumentation

1 presented by Defence.

2 So, Mr Gosnell, please proceed.

3 MR GOSNELL: [10:29:51] Just in relation to the last comment, Mr President, I will  
4 say I chose my words very carefully in order to avoid the problem being raised  
5 by my colleague.

6 Q. [10:30:15] Sir, does the term "kupiga na kuchaji" include or allow or authorise  
7 taking the goods of civilians?

8 A. [10:30:43] This term was a term which was purely military. It wasn't about  
9 taking the property of civilians, no.

10 Q. [10:31:01] How did you come to leave Tchankwanzi?

11 A. [10:31:27] For our group we left there in order to go to Équateur. There were  
12 all types of groups there.

13 Q. [10:31:40] Before you left Tchankwanzi to go to Équateur, did any other  
14 trainees leave Tchankwanzi?

15 A. [10:32:17] There were two groups that left at the same time, but these two  
16 groups went in different directions.

17 Q. [10:32:29] Do you know what direction the other group went in, other than  
18 yourself?

19 A. [10:32:52] I don't know.

20 Q. [10:32:52] Was there ever a time when white people came to visit Tchankwanzi  
21 for any reason?

22 A. [10:33:12] Yes, there was a visit from white people.

23 Q. [10:33:18] Who were they?

24 A. [10:33:41] They had a UNICEF sign on their car.

25 Q. [10:33:48] And did you come to learn or did you observe why they were there

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1 or what they were doing there?

2 A. [10:34:14] I'm sorry, could you repeat the question.

3 Q. [10:34:19] What did they do in Tchankwanzi?

4 A. [10:34:38] When they arrived they chose those who they considered were  
5 young, they chose the youngest and they separated them from the others.

6 Q. [10:35:00] You said that they chose those who they considered to be young.

7 What was your impression of the actual ages of those who were chosen by UNICEF in  
8 comparison to those who were left behind by UNICEF at Tchankwanzi?

9 PRESIDING JUDGE FREMR: [10:35:27] Sorry to interrupt, Mr Gosnell, but I would  
10 rather rephrase this question: What was your knowledge, if any? And then maybe  
11 we can move to impression, but there is I believe some chance that there was some  
12 knowledge.

13 MR GOSNELL: [10:35:56]

14 Q. [10:35:57] What is your impression of the ages of those who were chosen by  
15 UNICEF?

16 PRESIDING JUDGE FREMR: [10:36:16] Sorry, probably you misunderstood,  
17 Mr Gosnell, so I will put the question myself because you ask for Mr Witness's  
18 impression, but I believe we should start with Mr Witness's knowledge, if any, of the  
19 age. Was I clear enough? Because you still insist on putting question concerning  
20 his impression. So maybe I can put question myself.

21 Mr Witness, you mentioned the group of the children selected by people from  
22 UNICEF. You said, according them, they were the youngest. Did you know the age  
23 of those youngest of the members of this group selected by the UNICEF people, at  
24 least some of them?

25 THE WITNESS: [10:37:29] (Interpretation) When they came, when they came to

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1 choose they did it in a by chance way, because among those who were chosen in a  
2 haphazard way they were sometimes older than me. So I don't know what criteria  
3 they were using in order to assess the age and to preselect. They were preselecting  
4 people in a haphazard way.

5 PRESIDING JUDGE FREMR: [10:38:06] All right. You said among those were  
6 even some people "older than me", so did you know the age of the members of the  
7 group selected by the UNICEF people?

8 THE WITNESS: [10:38:38] (Interpretation) I didn't know their exact age, but what  
9 I said is that among them some of them were older than me because some of them I  
10 grew up with, I knew them.

11 PRESIDING JUDGE FREMR: [10:38:53] All right. And according your  
12 knowledge, what was the age of the youngest members of this group?

13 THE WITNESS: [10:39:25] (Interpretation) I'm not certain as to the age of the  
14 young ones.

15 PRESIDING JUDGE FREMR: [10:39:30] It's fair, Mr Witness, but it is a little bit  
16 strange, frankly saying, to me that you are sure that there were some people older  
17 than you, so at least you are, it seems to me, make some estimation of the age of the  
18 olders, but you are not able to make even any estimation of those who were youngest.  
19 So could you at least make it that it's up to you to say, "I was not sure, but I would  
20 say". And Mr Gosnell even asked you about your impression. So what was your  
21 estimation or impression concerning the age of the youngest members within this  
22 group?

23 THE WITNESS: [10:40:34] (Interpretation) It's not easy to know somebody's age  
24 precisely if you haven't grown up with them. But among the group none of them  
25 was of an age which wouldn't make it possible for them to do military service.

1 PRESIDING JUDGE FREMR: [10:41:02] Interesting response. What is the age  
2 making possible people to do military service?

3 THE WITNESS: [10:41:33] (Interpretation) To do military service, according to  
4 Congolese law, you must be 18 years of age.

5 PRESIDING JUDGE FREMR: [10:41:41] All right. So now we are much clearer.  
6 So if I understood well, nobody from the group selected by the UNICEF people were,  
7 according your knowledge or impression, under 18; am I correct?

8 THE WITNESS: [10:42:36] (Interpretation) I don't have any precisions with  
9 regards to the age. Somebody I didn't grow up with, some people can seem very  
10 young due to their body size but they're in fact older, and vice versa. But what I do  
11 know is that the UNICEF selection was done without any criteria, without  
12 precise criteria.

13 PRESIDING JUDGE FREMR: [10:43:11] And, Mr Witness, how can you say that?  
14 You discussed that criteria with UNICEF people? How can you say they did it  
15 without any criteria?

16 THE WITNESS: [10:43:43] (Interpretation) Please, could you repeat the question.

17 PRESIDING JUDGE FREMR: [10:43:46] Yes, I will. It seems that you are sure and  
18 you are at least in translation to English, that you are stating the UNICEF people  
19 made their selection without using any criteria. And my question is: How you can  
20 be sure about that because I would suppose that you don't know what criteria  
21 they did use?

22 THE WITNESS: [10:44:38] (Interpretation) It's true that I didn't know the criteria,  
23 but I knew one person who I grew up with who was a year older than me and he was  
24 selected in the group. That's the reason why I said I don't know the criteria they use  
25 when they carried out their selection.

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1 PRESIDING JUDGE FREMR: [10:45:02] All right. I will give floor back to  
2 Mr Gosnell. And one guidance from my part, Mr Witness, when you are giving  
3 your response please look at me because -- look at the Chamber, because the Chamber,  
4 particularly the Chamber needs to see your face and your reactions in order to  
5 evaluate reliability -- sorry, credibility of your testimony. So please follow this  
6 guidance.

7 Mr Gosnell, please proceed.

8 MR GOSNELL: [10:45:37] Thank you, Mr President.

9 Q. [10:45:39] Now, Mr Witness, I want to come back to an answer that you just  
10 gave and ensure that it's well understood.

11 The answer that you gave in response to Mr President's question about what was  
12 your estimate or impression concerning the age of the youngest members within this  
13 group, your answer to that question was:

14 "Among the group, none of them was of an age which would not make it possible for  
15 them to do military service."

16 When you made that statement, as to what was the age which wouldn't make it  
17 possible for them to do military service, what did you have in mind? What age  
18 would you say is too young to be able to perform military service? And if you need  
19 to give an estimate, an estimate is completely fine.

20 PRESIDING JUDGE FREMR: [10:47:01] Hold on, Mr Witness. Sorry  
21 to interrupt you.

22 Ms Luping, is it really necessary to interrupt Mr Witness when he's giving  
23 his answer?

24 MS LUPING: [10:47:10] I apologise.

25 PRESIDING JUDGE FREMR: [10:47:12] And it's also possible to hear your



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1 submission with headphones on Mr Witness' head.

2 MS LUPING: [10:47:22] Indeed, if I could request that the witness remove his  
3 headphones before I make my submission.

4 PRESIDING JUDGE FREMR: [10:47:27] All right.

5 So Mr Witness, could you kindly take off your headphones for a while.

6 Now Ms Luping, please proceed.

7 MS LUPING: [10:47:37] Thank you, Mr President. I'm just looking at the question  
8 that was put to the witness and his response and when he was in fact asked by  
9 your Honour as to the age, what is the age making possible people to do military  
10 service, an answer has already been provided: To do military service according to  
11 Congolese law you must be 18 years of age.

12 So at this stage I see simply a repeat of the question that's already been put  
13 to this witness.

14 PRESIDING JUDGE FREMR: [10:48:11] In fact, Mr Gosnell, I have to agree because,  
15 in fact, you are now putting the same questions, but in fact you are leading  
16 Mr Witness a bit because he spontaneously answered, or this question from the, I  
17 would say, a legal point of view, saying what is the age limit.

18 Now you are asking the question a little bit in different way which Mr Witness, you  
19 know, made no reference to, so probably at least you should rephrase the question  
20 and not to promote that his answer, because his answer was clear and concerned a  
21 different criteria, so please rephrase the question having regard -- having into account  
22 Ms Luping's comment and my comment as well.

23 Now, Mr Witness, you can take your headphones.

24 And Mr Gosnell, please proceed.

25 MR GOSNELL: [10:49:17] Mr President, I'm going to approach this issue in a

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- 1 slightly different manner so I can get some specificity. May we have please, and  
2 then I'm going to come back to the more general questions. So I'm not abandoning  
3 the question I posed there, but maybe it's a bit premature.  
4 May we please have DRC-OTP-0134-0638, tab 3 of the Defence list.  
5 MS LUPING: [10:50:13] Perhaps just to assist, I do believe Defence counsel meant  
6 document ending 0626 at 0638.  
7 MR GOSNELL: [10:50:24] That's right. Thank you very much to my colleague  
8 for that.  
9 PRESIDING JUDGE FREMR: [10:50:29] Thank you, Ms Luping, for your correct.  
10 So, court officer, please assist.  
11 MR GOSNELL: [10:50:49]  
12 (Redacted)  
13 (Redacted)  
14 (Redacted)  
15 (Redacted)  
16 (Redacted)  
17 MR GOSNELL: [10:51:33] Mr President, I believe we need to go into  
18 private session.  
19 PRESIDING JUDGE FREMR: [10:51:37] For sure.  
20 Court officer, let's move into private session.  
21 (Private session at 10.51 a.m.)  
22 (Redacted)  
23 (Redacted)  
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- 13 (Open session at 11.06 a.m.)
- 14 THE COURT USHER: [11:06:03] We are back to open session, Mr President.
- 15 PRESIDING JUDGE FREMR: [11:06:12] Thank you, court officer.
- 16 We are taking our regular 30-minute break, which means that we will resume at 11.35.
- 17 THE COURT USHER: [11:06:24] All rise.
- 18 (Recess taken at 11.06 a.m.)
- 19 (Upon resuming in open session at 11.35 a.m.)
- 20 THE COURT USHER: [11:35:46] All rise.
- 21 Please be seated.
- 22 PRESIDING JUDGE FREMR: [11:36:12] Before we continue with the next part of
- 23 direct examination of our witness, the Chamber would like to react on the recent
- 24 information provided by Mr Gosnell.
- 25 So further to the information provided by the Defence this morning, the Chamber will

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1 now provide an update concerning the oral decision it had commenced delivering at  
2 the beginning of today's hearing, and the Defence indicated that the witness  
3 concerned would no longer testify.

4 The Chamber recalls that on 25 September 2017, in filing number 2044, the  
5 Prosecution filed a request to use Detention Centre conversations obtained in the  
6 context of Article 70 investigations for its cross-examination of Witnesses D-10 and  
7 D-12. And I will refer to this filing as "request".

8 On 2 October 2017, the Defence opposed the request in filing number 2048.

9 On 6 October 2017, the Defence informed the Chamber, the Prosecution and the  
10 participants via email that D-10 will no longer be called. This morning the Defence  
11 indicated that it would no longer call Witness D-12.

12 As neither of the witnesses referred to in the request will be called by the Defence, the  
13 Chamber considers that the ruling on the request is no longer required.

14 And now we can move to the next part of testimony of our witness.

15 Mr Gosnell, you have the floor and at the moment we are in open session.

16 MR GOSNELL: [11:38:31] Mr President, I'm afraid we'll have to go back into  
17 private session, please.

18 PRESIDING JUDGE FREMR: [11:38:36] Understandable.

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

20 (Private session at 11.38 a.m.)

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22 (Redacted)

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9 (Open session at 11.54 a.m.)

10 THE COURT OFFICER: [11:54:59] We're in open session, Mr President.

11 PRESIDING JUDGE FREMR: [11:55:03] Thank you, court officer.

12 Mr Gosnell, please proceed.

13 MR GOSNELL: [11:55:08]

14 Q. [11:55:08] Sir, it's possible that there was a translation issue. The question  
15 that I asked you was, who was the commander of the group with which you went to  
16 Équateur? Who was the overall commander?

17 A. [11:55:40] You want to know our commander who was in charge when we  
18 arrived in Équateur or before we left?

19 Q. [11:55:53] While you were in Équateur.

20 A. [11:56:07] Once we arrived in Équateur we were deployed in different areas,  
21 and that was customary in the army. And each person was in a different position.  
22 When I came to Équateur personally, I was part of the Roger Kimanuka (phon)  
23 platoon.

24 Q. [11:56:42] But do you know the name of the overall commander of the group  
25 with which you went to Équateur?

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1 A. [11:57:09] Could you please rephrase your question?

2 Q. [11:57:14] Yes. And perhaps I can pose a preliminary question to assist.

3 Once you arrived in Équateur, what was the name of the group that you were a part  
4 of, if there was a name?

5 A. [11:57:53] The name of the group that came from Uganda to come to Équateur,  
6 is that what you're asking? I haven't actually understood your question.

7 Q. [11:58:06] Yes, that is exactly my question.

8 A. [11:58:18] I would like some precision. Are you referring to the group that  
9 went to Équateur from Uganda, or which group are you actually talking about; which  
10 group are you referring to? That's what I want to know.

11 Q. [11:58:38] I'm speaking of the group indeed which you went with from  
12 Uganda to Équateur. And the question is, and I can specify it further --

13 PRESIDING JUDGE FREMR: [11:58:53] Sorry. We have a technical problem,  
14 court officer, because it seems -- it's okay. But maybe just as a caveat for future,  
15 several times we had no chance to in fact hear Mr Gosnell because the mic used by the  
16 interpreter hasn't been switched off, so I would like to ask the interpreter concerned  
17 to have it in mind. Otherwise, then we have some gaps in the record. It's not your  
18 problem, Mr Gosnell. It is the problem of the interpreters.

19 THE INTERPRETER: [11:59:34] Noted, your Honour.

20 PRESIDING JUDGE FREMR: [11:59:36] Very well. Now, Mr Gosnell,  
21 please proceed.

22 MR GOSNELL: [11:59:40]

23 Q. [11:59:40] Let me try again. Indeed, Mr Witness, I am asking you about the  
24 group with which you went from Uganda to Équateur, as you have said, and I would  
25 like to know the name of the overall commander of the force in which you -- of which

1 you were a member in Équateur, so not the platoon, not the company, but the overall  
2 commander of the force?

3 A. [12:00:31] It was General Hamuli.

4 Q. [12:00:37] And what was the name of the force that he was a member of?

5 A. [12:00:59] When we arrived in Équateur, he was the one who was general chief  
6 of staff of the group, and that group was the MLC.

7 Q. [12:01:19] And how did you come back from Équateur?

8 Well, first of all I should ask you, after Équateur where did you go?

9 A. [12:01:50] You would like to know when I returned, when I arrived in  
10 Équateur? I'm sorry, I didn't understand your question. If you could rephrase it.

11 Q. [12:02:00] After your time in Équateur, did you return at any point to your  
12 home village? And please do not mention the name of your home village.

13 A. [12:02:28] After my stay in Équateur, I stayed for a few days in town, and  
14 afterwards I went back to my village.

15 Q. [12:02:49] How did you travel back from Équateur to your home village, by  
16 what means of transportation?

17 A. [12:03:21] You're asking me when I left Équateur to go back to my village?  
18 I'm asking do you want to know what happened, or do you want to know the means  
19 of transport I used from Équateur to town and from town to my village? Which are  
20 you asking me?

21 Q. [12:03:52] Please describe generally the circumstances of your return from  
22 Équateur to your village.

23 A. [12:04:18] From Équateur to town I went by aeroplane, and from town to my  
24 village I went on foot.

25 Q. [12:04:35] And who was in command of your group when you came back by

1 aeroplane from Équateur?

2 A. [12:04:56] Before leaving we were with Commander Kisembo.

3 Q. [12:05:04] And was he the commander of the group?

4 A. [12:05:14] Yes, he was the commander of the group. I think that I have to  
5 give you some details with regards to that question. I have the impression that you  
6 think I don't understand things well. What I would say is that before leaving  
7 Équateur all the people from the east gathered together for a briefing, and he spoke to  
8 us and said that the alliance with Mbusa Nyamwisi had split with the MLC and, as  
9 such, we had to leave. It was at that time that Kisembo was battalion commander.  
10 He was not a general at that time. And that's how we left Équateur and we went to  
11 Zongo on the front, on the border with the Central African Republic. There were  
12 discussions at that time, and afterwards a compromise was found such that we were  
13 able to take the plane and return. We were all ready and we left. And the group  
14 commander was Kisembo.

15 We gathered together and we took the plane with Commander Kisembo, the first  
16 time. There were two trips which were carried out, in fact. Commander David  
17 came with the second group. The second group arrived when we were already  
18 arriving in town. That was three or four days later.

19 Q. [12:07:36] Thank you very much, Mr Witness, for that.

20 Now, you said that you returned to your home village, and we are in public session,  
21 so again without mentioning the name of your home village, can you tell us what the  
22 security situation was like at that time when you returned to your home village?

23 A. [12:08:13] When I returned to my village the massacres were continuing. The  
24 situation hadn't changed.

25 Q. [12:08:34] When you say that massacres were ongoing, or were continuing,

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1 what kind of massacres were taking place and who were committing them?

2 A. [12:09:11] There were massacres committed by the Lendu.

3 PRESIDING JUDGE FREMR: [12:09:15] Hold on, Mr Witness.

4 Ms Luping.

5 MS LUPING: [12:09:17] Mr President, if I could just ask that the witness remove  
6 his headphones just temporarily.

7 PRESIDING JUDGE FREMR: [12:09:22] Mr Witness, could you kindly again take  
8 off your headphones.

9 Ms Luping.

10 MS LUPING: [12:09:28] Yes, I didn't want to interrupt Defence counsel, but we've  
11 now had confirmation that when the witness returned to his village that massacres  
12 were continuing. We haven't at this stage had any indication of time period or time.  
13 We haven't had any questions indicating for how long the witness spent in Équateur,  
14 at what stage he had left Tchankwanzi.

15 Now, this was going to be very important for Prosecution in the context of  
16 cross-examination, so I would ask that there be some attempt to glean that  
17 information as to time periods.

18 Thank you.

19 PRESIDING JUDGE FREMR: [12:10:06] Mr Gosnell, before, if you want even to  
20 respond, but I have to confirm that even it would be in the interest of the Chamber at  
21 least to have timing when Mr Witness returned back and the massacres still were  
22 ongoing.

23 MR GOSNELL: [12:10:24] Yes, Mr President.

24 Q. [12:10:27] Mr Witness, can you provide an estimate as to how -- oh, sorry,  
25 Mr President, the witness needs his headphones, and he's put them back on I see.



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1 Mr Witness, can you provide an estimation as to how long you spent in Équateur  
2 before you returned to your home village?

3 A. [12:11:11] I can't give you a precise date, but I would say it took more or less  
4 than a year, because we left at the end of 2001. But I can't give you particular details  
5 as regards the day or month.

6 Q. [12:11:35] What political authority or leader, if you can recall, was in control of  
7 Bunia at the time that you returned from Équateur?

8 A. [12:12:09] I think that it was Mbusa Nyamwisi.

9 Q. [12:12:16] Now, you've told us that there were massacres ongoing or  
10 continuing upon your return to your home village, was your home village directly  
11 affected by these massacres?

12 A. [12:12:49] In my village, no. But in the surrounding villages, yes.

13 Q. [12:13:01] Were any measures taken in your home village to assure security or  
14 to prevent these massacres?

15 A. [12:13:37] Each village got organised in order to protect itself. There were  
16 structures set up for that. The youth president who had to monitor movements, and  
17 all that, was under the authority and control of the comité de paix, peace committee.

18 Q. [12:14:13] Did your home village have any weapons with which to defend  
19 itself from these attacks and massacres?

20 A. [12:14:40] Yes, there were weapons.

21 Q. [12:14:45] And what kind of weapons were there?

22 A. [12:15:07] There were only AK-47s.

23 Q. [12:15:07] How many AK-47s did your village have at this time, in total?

24 A. [12:15:29] There were four of them.

25 Q. [12:15:35] And where had they been obtained, if you know?

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1 A. [12:15:55] I wasn't the person who obtained the weapons but, according to the  
2 information I have, the weapons were bought from the Ugandans.

3 Q. [12:16:15] Did you yourself participate in the defence of your home village that  
4 you've described?

5 A. [12:16:49] We had just deserted the army. And one day people wanted to  
6 attack our village, but they didn't enter. They stayed in the surrounding villages.  
7 And we went there in order to prevent them from entering into the village.

8 Q. [12:17:26] Was there fighting?

9 A. [12:17:37] Yes, there was.

10 Q. [12:17:48] Can you describe the nature of the fighting?

11 A. [12:18:10] If I answer I'll mention the name and details which should not be  
12 known outside of here.

13 MR GOSNELL: [12:18:18] Mr President, may we move into private session?

14 PRESIDING JUDGE FREMR: [12:18:21] Certainly.

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

16 (Private session at 12.18 p.m.)

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- 10 (Open session at 1.03 p.m.)
- 11 THE COURT OFFICER: [13:03:27] We are back to open session, Mr President.
- 12 PRESIDING JUDGE FREMR: [13:03:36] Thank you, court officer.
- 13 And before we break one minor correction of the transcript; page 68, line 2, I said,
- 14 quote, "I overlooked previous question", not overruled.
- 15 And now we take our lunch break and we will resume at half past 2.
- 16 THE COURT USHER: [13:04:02] All rise.
- 17 (Recess taken at 1.04 p.m.)
- 18 (Upon resuming in open session at 2.31 p.m.)
- 19 THE COURT USHER: [14:31:49] All rise.
- 20 Please be seated.
- 21 PRESIDING JUDGE FREMR: [14:32:28] Good afternoon, everybody.
- 22 Good afternoon, Mr Witness.
- 23 I don't see any changes in appearances. But before we continue with the testimony, I
- 24 have one oral ruling to read out first. And it's oral ruling on the Defence request for
- 25 revision of the deadline for filing request for admission of documentary evidence



1 bearing filing number 2062, to which the Prosecution responded in Court this  
2 morning.

3 And I will refer to this filing as "Request".

4 The Chamber notes that the Prosecution does not oppose the Request and that it  
5 proposes to amend the applicable procedure set out in the decision on the conduct of  
6 proceedings with filing number 619. In this regard, the Chamber also takes note of  
7 the Defence submission that the same procedure followed during the Prosecution  
8 case should apply during the Defence case.

9 Having considered the parties' submissions, the Chamber finds it appropriate to grant  
10 the Defence an extension of time to file its request for admission of documentary  
11 evidence. Such a request should be filed in accordance with the applicable  
12 procedure set out in paragraphs 52 and 53 of the conduct of proceedings decision.

13 With regard to timing, the Defence is directed, as proposed in the Request, to submit  
14 its proposals for the admission of documentary evidence to the Prosecution no later  
15 than 10 November 2017 and to file a request before the Chamber three days after  
16 having received the Prosecution's position in relation to the proposed documents.

17 As for the time needed to conduct prior inter partes consultations, as provided for in  
18 paragraph 53 of the conduct of proceedings decision, noting the Prosecution's  
19 submission that the consultation procedure did not enhance efficiency in the past, and  
20 the fact that the Prosecution will have an opportunity to make further observations  
21 after the filing of the request, the Prosecution shall submit to the Defence its initial  
22 observations one week after receipt of the proposals, which are to focus mainly on  
23 whether any agreement as to the admissibility of any of the items can be reached.

24 Concerning the Prosecution's submission in relation to the timing of the filing of the  
25 response to the Request, the Chamber will assess at the time of the filing of the

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1 Request whether an extension of the time limit to file a response is required.

2 Finally, as previously decided, the Chamber recalls that the request may be  
3 complemented, if necessary, in light of the evidence presented after its filing.

4 This concludes the Chamber's ruling on the Request.

5 And the second minor point, it is in fact a request addressing Mr Gosnell.

6 Mr Gosnell we take note of your information concerning Witness D-12 and we would  
7 like to know as soon as possible what does it mean as regards timing of the Witness  
8 D-17? Do you have clarity on that or not?

9 MR GOSNELL: [14:37:03] Mr President, I am in -- I was informed last night by  
10 Maître Bourgon concerning these matters and that is the basis of the information that  
11 I can convey to you today and that I did convey to you this morning concerning first  
12 of all D-12.

13 As for D-17, I do understand that there are some issues concerning the timing of when  
14 he is able to travel, certain events that need to take place in terms of formalities that  
15 need to be performed before he can travel. I am not fully informed of the schedule  
16 for that, so if I could ask your Honours' indulgence, I think it might be best in terms of  
17 accurate information for us to provide that information to your Honours and to the  
18 parties in an email.

19 PRESIDING JUDGE FREMR: [14:37:57] Yes, it is fine with us and it is  
20 understandable. My only concern is just to get information as soon as possible. As  
21 you will be in position of that, please provide us with that. Thank you.

22 And now we can continue with the further part of direct examination of our Witness  
23 D-38 conducted by Defence counsel Mr Gosnell.

24 Mr Gosnell, you have the floor, and we are in the public session.

25 MR GOSNELL: [14:38:37] And I think we can stay in public session, Mr President.

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1 Q. [14:38:42] Good afternoon, Mr Witness. I would like to just go back to one or  
2 two passages from your testimony this morning to receive clarifications. And the  
3 first clarification that I would like to seek from you concerns the timing of your visit  
4 to Mandro when General Kisémbé gave orders to you and others to return to your  
5 home village. And in respect of the timing of that event you said the following, and  
6 I will quote:

7 "Question: Can you remember which political authority was in control of Bunia  
8 when you went to Mandro on this occasion?

9 Answer: Bunia; I believe the APC was still in Bunia. Who was the governor? I  
10 think it was Lompondo, and the UPDF was at the airport."

11 Do you remember having given that answer, sir?

12 A. [14:40:04] Yes, I do.

13 Q. [14:40:06] And I would like to know, please, after this moment when you went  
14 to Mandro that we were discussing before the break, was there a time when  
15 Lompondo left Bunia?

16 A. [14:40:52] (No interpretation)

17 Q. [14:40:53] The interpretation of the answer did not come through to the  
18 transcript.

19 PRESIDING JUDGE FREMR: [14:41:05] I'm afraid I can hear some --

20 THE INTERPRETER: [14:41:09] Sorry, Mr President, your Honour. Translation is  
21 a bit late.

22 PRESIDING JUDGE FREMR: Could the interpreters kindly repeat the translation.

23 THE WITNESS: Yes.

24 MR GOSNELL: [14:41:27] Just to make sure, the witness's answer was yes.

25 Q. [14:41:35] Sir, can you estimate how long after your visit to Mandro Lompondo

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1 left Bunia? Are you in a position to estimate that?

2 A. [14:42:04] I don't remember. But I don't think it would have been over  
3 a month.

4 Q. [14:42:12] Thank you. You also testified before the lunch break that  
5 General Kisembo said, and I quote, and this is from page --

6 And I'm not able to read the page, Mr President, but it was said.

7 Mr Witness, you said that General Kisembo said, and I quote: "That it was all over  
8 with the committee, the committee was a matter of the past, and that henceforth we  
9 would be under military service."

10 And then you said, "The matter of the committee was behind us. Now the service or  
11 the instructions that when there are attacks, attacks, please go there with the civilians,  
12 was all over from that day on, and that is when the military service started."

13 Sir, did this military service have a name, that you were aware of?

14 A. [14:43:40] I would like some clarification before I can answer the question.

15 Q. [14:43:57] Did the group that Kisembo was telling you about have a name?

16 A. [14:44:26] Perhaps I haven't understood. Are you asking for the name of the  
17 whole group that was led by Kisembo? I just want this clarification to better  
18 understand the question.

19 Q. [14:44:43] Yes, sir, that is my question.

20 A. [14:44:56] The armed group was called FPLC.

21 Q. [14:45:12] And you say that this group was led by Kisembo. What do you  
22 mean by that?

23 A. [14:45:37] Could you please rephrase this question so that I can better  
24 understand.

25 Q. [14:45:48] Who was the most senior commander in this group, the FPLC? Or

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1 the top commander, the highest authority, military authority in the FPLC?

2 A. [14:46:07] I think it was the army chief of staff. It was the army chief of staff  
3 Kisembo. After Kisembo it was the president, that's all.

4 Q. [14:46:25] And on the occasion of your trip to Mandro when you were informed  
5 of these developments by General Kisembo, do you know what role, if any,  
6 Bosco Ntaganda had in this force?

7 A. [14:47:06] I did not know, because it was the first time I came to Mandro. I did  
8 not have the opportunity to see him. I didn't know if he was there or not. But the  
9 day when I reached Mandro I had -- I was clueless; I did not know if he intended to  
10 participate or not. I wasn't aware of anything.

11 Q. [14:47:45] Did you later come to learn what role Bosco Ntaganda had in the  
12 FPLC?

13 A. [14:48:07] Yes.

14 Q. [14:48:12] What was his position, if you know?

15 A. [14:48:19] He was the deputy army chief of general staff.

16 Q. [14:48:36] Just before the lunch break we were talking about the selection of  
17 trainees to be sent to Mandro from (Redacted) and you were telling us that you were asking  
18 them orally their age and they were responding and telling you their age orally. Do  
19 you remember having said that before lunch?

20 A. [14:49:12] Yes.

21 Q. [14:49:18] As of what age that was communicated to you by individuals would  
22 a person be considered old enough to be sent for training at Mandro?

23 A. [14:49:42] Yes, there were people who were -- who had reached the age of  
24 undertaking the training.

25 Q. [14:49:57] And what was that age, specifically?

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1 A. [14:50:20] I recruited people who confirmed that they were 18.

2 Q. [14:50:34] Did everyone know their age or were there people who did not know  
3 their age?

4 A. [14:50:55] In fact, I was also estimating the age, and if I realised that they haven't  
5 reached the age I wouldn't induct them in.

6 Q. [14:51:23] Can you explain to us in what circumstances you had to estimate  
7 their age?

8 A. [14:51:48] It is easy to find someone who is very young or old. In Africa, even  
9 when you are very young, and if you're in fact old, you know that. After having  
10 asked for the age, the child may say he is old or not. And it's up to us to check if he  
11 was old enough to be inducted in or not.

12 Q. [14:52:40] Yes, thank you for that. I would just like to come back to a question  
13 that you didn't answer. And so please listen carefully to this question again. The  
14 question was: Did everyone know their age or were there people who did not know  
15 their age?

16 A. [14:53:05] In principle, in the group people who were coming with someone  
17 could help determine the age. But there were people who came and who knew how  
18 old they were.

19 Q. [14:53:50] You say that some people came with someone else who could help  
20 determine their age. Did I understand that correctly?

21 A. [14:54:09] Yes.

22 Q. [14:54:12] And why did people need help to determine their age?

23 A. [14:54:33] Could you please rephrase the question.

24 Q. [14:54:38] Yes. Under what circumstances did people, as you've said was the  
25 case on some occasions, in what circumstances did people need help giving you

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1 their age?

2 A. [14:55:21] Perhaps we haven't understood each other. You see, when people  
3 came -- let me give you an example, in fact. When I was recruited as a soldier I did  
4 not go there alone. I also had comrades, friends with whom I went. And amongst  
5 these friends some could help the others, especially ones who were coming with  
6 colleagues. It's not someone else coming from outside. There were people who  
7 were friends and they could help the individual determine the age.

8 Q. [14:56:06] Did you ever accompany any of the trainees from (Redacted)  
9 Mr President, I will have to request a redaction.

10 PRESIDING JUDGE FREMR: [14:56:22] Yes, understandable.

11 Court officer, please follow that request.

12 MR GOSNELL: [14:56:34]

13 Q. [14:56:34] Sir, do you remember my question?

14 A. [14:56:46] Could you please ask your question once again?

15 Q. [14:56:52] Yes. Did you ever go with any trainees to Mandro?

16 PRESIDING JUDGE FREMR: [14:57:05] Mr Witness, sorry to interrupt you? Are  
17 you comfortable with the headphones? Maybe we can adjust it better to your head?  
18 Court usher, please -- court usher, please assist.

19 THE WITNESS: [14:57:29] (Interpretation) Yes, the headsets are moving a  
20 bit too much.

21 PRESIDING JUDGE FREMR: [14:57:48] Is it better now, Mr Witness? Is it okay?

22 THE WITNESS: [14:57:56] (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: [14:57:57] Fine.

24 Mr Gosnell, please.

25 MR GOSNELL: [14:58:01] (Microphone not activated)

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1 Q. [14:58:02] Mr Witness, I understand that you just answered yes. Did you mean  
2 to say that you did go to Mandro with some of the potential trainees?

3 A. [14:58:25] Are you talking about a single recruit or a group of recruits?

4 Q. [14:58:37] A group, or any group.

5 A. [14:58:47] Yes.

6 Q. [14:58:50] Before lunch you testified, and I quote:

7 "... although we had selected them in the village, when they got to Mandro they were  
8 rejected and sent back to the village."

9 And you were just talking there a number that this could happen. Could you  
10 explain to us under what circumstances a person whom you had selected at your  
11 village was nevertheless rejected once you got to Mandro?

12 A. [14:59:52] In fact, we had to take them to the officer. Once we got there they  
13 were selected. Some of them who were taken to the officer were rejected because  
14 they did not fulfil the recruitment criteria.

15 Q. [15:00:36] And which amongst the recruitment criteria led to individuals being  
16 rejected at Mandro, even when they had been selected at your home village?

17 A. [15:01:07] The criteria were the same. You see, a military service, when I  
18 receive orders, those are orders, there is no discussion. But the criteria were the  
19 same for everyone.

20 Q. [15:01:35] Did you collect information about the schools that had been attended  
21 or were being attended by potential trainees from your village?

22 A. [15:01:51] In principle, those who were at the school, those who went to the  
23 school, those who went to school weren't recruited to follow training. Those who  
24 were recruited were those who had left school, who were never at school. But at the  
25 time of recruitment, even if somebody was of recruitment age, you couldn't take them



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1 while they were still at school.

2 Q. [15:02:42] Did you write down the information that you were taking from  
3 potential recruits from Mandro?

4 A. [15:02:59] Yes. We would write it down. We would write the full name,  
5 name and post-name, surname and post-name. It would be a list of names. We  
6 didn't write a lot of different elements down. There was another group that was  
7 responsible for taking information down. What we did is that we just put the people  
8 we recruited onto vehicles to take them to the place of training.

9 Q. [15:03:44] And by the place of training are you referring to Mandro?

10 A. [15:03:55] Yes.

11 Q. [15:03:58] And once you arrived there were there any formalities of registration  
12 in respect of the recruits that you were bringing from your hometown?

13 A. [15:04:22] It was at the training centre that registration as such was done. We  
14 had a list that we would use to put people onto the vehicles. But once we took them  
15 to the training centre, these recruits were in the hands of the people responsible for  
16 that centre.

17 Q. [15:05:01] And do you know what questions, if any, were asked by the people  
18 responsible for that centre to the recruits once they arrived there?

19 A. [15:05:27] No, I can't know that. My role was to take them to that place, then I  
20 would return to where I came from. I didn't know what questions were put to them.

21 Q. [15:05:44] May we have, please, Defence tab 8, DRC-OTP-2081-0003. This  
22 document is admitted.

23 Sir, have you ever seen this document before?

24 Perhaps I could rephrase the question, Mr President.

25 Mr Witness, at any time when you were involved in taking recruits to Mandro from

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1 your home village, did you see this document or a document that looks like this  
2 document?

3 A. [15:07:50] I never produced such a document. Perhaps it was produced there.  
4 It could be the case that it was written by the person responsible for taking down this  
5 information, that that person did it.

6 Q. [15:08:22] Do you recognise the name at line 32?

7 PRESIDING JUDGE FREMR: [15:08:38] Mr Gosnell, we are in open session. Does it  
8 mind or not?

9 MR GOSNELL: [15:08:45] I don't know whether this is a confidential document but  
10 to be the safe side, perhaps it certainly should not be displayed.

11 PRESIDING JUDGE FREMR: [15:08:54] Yes, I had the same concern about the  
12 document. Ms Luping or the court officer, could we verify whether this document is  
13 confidential or not.

14 MS LUPING: [15:09:02] My presumption is that it is confidential but it would need  
15 to be double-checked.

16 THE COURT OFFICER: [15:09:09] I corroborate the Prosecution. It is confidential  
17 in the metadata.

18 PRESIDING JUDGE FREMR: [15:09:13] So it shouldn't be, first of all, presented on  
19 the screen for public. And anyway, I would find better to move into private session  
20 because we will deal with names, concrete persons, so let's now move into private  
21 session.

22 (Private session at 3.09 p.m.)

23 (Redacted)

24 (Redacted)

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- 20 (Open session at 3.32 p.m.)
- 21 THE COURT OFFICER: [15:32:07] We are back to open session, Mr President.
- 22 PRESIDING JUDGE FREMR: [15:32:09] Thank you, court officer.
- 23 Mr Gosnell, please.
- 24 MR GOSNELL: [15:32:14]
- 25 Q. [15:32:14] Sir, against whom were you fighting in Bambu?



1 A. [15:32:33] When Lompondo left Bunia, all his soldiers had infiltrated the Lendu  
2 already. So it was not an attack between civilians as was the case before, it was  
3 fighting between soldiers, and weapons were used for that.

4 Q. [15:33:09] Approximately how long after the departure of Lompondo from  
5 Bunia did this operation take place, as best you can recall?

6 A. [15:33:38] I cannot provide any details in that connection because at that time we  
7 were not paying attention to the duration as such.

8 Q. [15:33:54] What kind of weapons did the enemy whom you were fighting on  
9 this occasion at Bambu use?

10 A. [15:34:18] The enemy was well armed. Before they arrived at the Bambu  
11 bridge they were able to launch some rockets and shells, so they were very well  
12 armed. But I have no clear idea about the types of weapons that the enemies had,  
13 but they had weapons such like the AK-47, the G2 and other weapons which I was  
14 not able to identify.

15 Q. [15:35:08] Did FPLC forces kill or target any civilians in Bambu, from what you  
16 were able to observe?

17 A. [15:35:29] In Bambu, when I participated in an attack, which, by the way, didn't  
18 last long, we had already come under attack at the bridge and when we got to the  
19 junction on the parish road, the civilian population was no longer there and the  
20 enemy was firing at us. We did not spend much time there and then we left.

21 Q. [15:36:14] Did FPLC forces engage in any pillaging of civilian homes?

22 A. [15:36:34] No, we didn't take control of the entire town of Bambu. Now, if you  
23 know Bambu very well, you would realise that from the bridge there was a building  
24 which is no longer in place today, right next to the roundabout or to the junction there  
25 was a brick building and at that time some people were living further down the slope

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1 and in that, in that area. But at that time the civilians had left, they had abandoned  
2 that area. There were no civilians and there was no property.

3 Q. [15:37:25] Sir, were you yourself ever disciplined within the context of your  
4 participation with the FPLC?

5 A. [15:37:52] Is your question in relation to me myself or in relation to all the other  
6 troops that were with us?

7 Q. [15:38:03] Sir, just so my question is clear, I'm not asking you anymore about  
8 Bambu. I'm asking you a general question, whether at any time you yourself were  
9 the object of discipline within the FPLC?

10 A. [15:38:29] Many times.

11 Q. [15:38:33] Were you ever put in prison as a discipline?

12 THE INTERPRETER: [15:38:52] Message from the Swahili booth, could the witness  
13 be asked to repeat his answer and speak closer to the microphone.

14 PRESIDING JUDGE FREMR: [15:39:02] Yes, Mr Witness, there is a request from the  
15 interpreters to repeat your last answer, and maybe the troubles could come because  
16 you are too far from microphone, so please try to get a little bit closer or -- very well.  
17 Thank you. And now please repeat your last response.

18 THE WITNESS: [15:39:40] (Interpretation) What I was saying was that within the  
19 FPLC I have already been imprisoned.

20 MR GOSNELL:

21 Q. [15:39:54] Can you tell us about the first time that you were put in prison. Why  
22 were you put in prison? What were the circumstances?

23 A. [15:40:16] Now, within the FPLC, I was imprisoned for the first time when we  
24 were at a location which was under our control and where a battle had taken place, in  
25 Barrière, at the headquarters of the area where we were located, and there was

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1 fighting in that area. And so we went to intervene at Barrière, and the enemy  
2 attacked on the other side and killed the leader of the collectivité.

3 The chief of the collectivité is a figure of distinction in the community, and that is why  
4 we were arrested, because I had failed in my mission to protect.

5 Q. [15:41:23] What was the name of that chief?

6 A. [15:41:37] His name was Bara Risasi.

7 Q. [15:41:47] And where was he killed?

8 A. [15:42:02] He was killed in Risasi. That is the headquarters of his village or the  
9 capital of his village.

10 Q. [15:42:11] Was anyone else killed on the same occasion that he was killed?

11 A. [15:42:25] He is the only one who was killed on that day. He was decapitated.

12 Q. [15:42:33] May we have, please, DRC-OTP-2080-0239, tab 16. May I request  
13 that the registry give control to the Defence bench so that this document can be  
14 shown?

15 PRESIDING JUDGE FREMR: [15:42:59] I believe it shouldn't be any problem.

16 THE COURT OFFICER: [15:43:03] The Defence has the floor, evidence channel 2.

17 MR GOSNELL: [15:43:16] Now, if we could just please scroll down a little bit on the  
18 screen. I'm not sure whether the witness is able to see the --

19 PRESIDING JUDGE FREMR: [15:43:27] Mr Witness, can you see the map on the  
20 screen?

21 THE WITNESS: [15:43:32] (Interpretation) No. I don't see it.

22 Now I do.

23 MR GOSNELL: [15:43:47]

24 Q. [15:43:48] Now, sir, here we have a map and down at the bottom of the map we  
25 can see Bunia, and then if we follow the road north, it passes along Iga-Barrière and

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1 then it comes close to a place called Gina and just below that there's a place called  
2 Risasi.

3 Can you tell us whether the name, the place that you have referred to named Risasi is  
4 accurately marked on this map as its location?

5 PRESIDING JUDGE FREMR: [15:44:53] Mr Witness, did you find this place?

6 THE WITNESS: [15:45:09] (Interpretation) I am looking for it.

7 PRESIDING JUDGE FREMR: [15:45:10] I think you are free to indicate by cursor  
8 where is this place.

9 MR GOSNELL: [15:45:17] Thank you, Mr President. Perhaps the cursor could be  
10 circled around Risasi several times.

11 Q. [15:45:24] Sir, if you look at the screen, in red it says Bahema-Nord.

12 A. [15:45:43] I'm there.

13 Q. [15:45:43] Is that the location of Risasi?

14 A. [15:46:00] Well, I believe that it is around that area, around that locality. But  
15 since you started off from Bunia, to go to Risasi you go to the right, and you get to  
16 Risasi before you get to Gina; Gina, which is on the main road, and Risasi is next to  
17 Gina, right next to Gina. So you can see here Gina is somewhat far off from the  
18 high -- or the main road, whereas Gina is right on the main road, and Risasi is further  
19 away from the main road.

20 Q. [15:46:56] Who ordered your detention in relation to this event?

21 A. [15:47:11] Well, we received an announcement that the deputy minister of  
22 defence, Chef Kahwa, had called us up, so when we got to Bunia, the deputy chief of  
23 general staff, Bosco, gave orders to the chief escort, to his chief escort, whose name  
24 was Claude, Uniform Zulu, and that is how we ended up being detained.

25 So the order came from the deputy chief of general staff, but I don't know whether he

1 got that order from someone else, someone higher up than him. What I know is that  
2 he is the one who asked that I be put in detention.

3 Q. [15:48:12] Did Mr Ntaganda speak to you on this occasion of being placed in  
4 detention?

5 A. [15:48:35] On that day I did not meet him. And I'm referring there to the day  
6 on which we arrived. The next day he arrived, and this is what I can say. We were  
7 detained for the first time and had to spend the night in a building in Leguma where  
8 our soldiers were staying. And today that place serves as a patrol station. At that  
9 time there was a tank at that location.  
10 Now, he arrived on the third day, and we were brought out, and then he asked us  
11 why we made it possible for the chief to be eliminated. Then he asked where he was,  
12 and then he continued to speak and then subsequently left.

13 Q. [15:49:54] Did you stay in detention at Leguma or did you go somewhere else,  
14 or were you placed in detention somewhere else?

15 A. [15:50:14] We were in detention in Leguma. We spent the night near the battle  
16 tank belonging to the Ugandans. Then the next day we were taken to another  
17 location which had been prepared for our detention proper.

18 Q. [15:50:42] And how long did you remain in detention?

19 A. [15:50:51] Please can you repeat your question?

20 Q. [15:50:57] Yes. How long did you stay in detention on this occasion?

21 A. [15:51:14] At that time one was not counting days, but I could estimate that we  
22 were detained for about a month, although I don't have any specific dates to give you.

23 Q. [15:51:44] Where did you go after you were released from detention after this  
24 month?

25 A. [15:52:09] I spent about one week at the general staff headquarters, and then

1 I was subsequently asked to return to my village and to wait for redeployment.

2 Q. [15:52:29] Did you in fact subsequently return to your village and wait for  
3 redeployment?

4 A. [15:52:52] When I returned to my village, there was a company commander  
5 already there and I was handed over to him. But I did not spend much time there.  
6 I subsequently went to Lingo.

7 Q. [15:53:20] Before you went to Lingo and while you were at your home village,  
8 did you see any preparations for a military operation?

9 A. [15:53:40] Before going to Lingo, where I did not spend much time, there was  
10 a gathering of the troops at Barrière and I wasn't involved in those preparations, so  
11 I didn't pay much attention to that.

12 Q. [15:54:14] What position did you assume when you went to Lingo?

13 A. [15:54:42] I was a platoon leader in Lingo.

14 Q. [15:54:51] Either when you -- at the moment that you went to Lingo or  
15 afterwards, did you at any point learn where that gathering of troops at Barrière went  
16 to, whether they went to a place and engaged in any operation?

17 A. [15:55:21] The troops that I was leading, they didn't go anywhere.

18 Q. [15:55:34] I think there may be a translation issue, Mr Witness. I was not  
19 asking you about the troops whom you were leading, but, rather, the troops that you  
20 have described who gathered at Barrière. Did you hear whether those troops who  
21 had gathered at Barrière went to participate in any operation?

22 A. [15:56:04] The troops were going to Mongbwalu. The idea was for them to go  
23 to Mongbwalu, but I don't know in what direction they went. What I know is that  
24 the plan was for them to go to Mongbwalu.

25 Q. [15:56:30] How long did you remain at Lingo as a platoon commander?

1 A. [15:56:52] I did not spend much time at Lingo. Just a few weeks. Not  
2 much time.

3 Q. [15:57:01] Where were you posted after that?

4 A. [15:57:18] From Lingo I was deployed to Largu.

5 Q. [15:57:24] How long did you spend in Largu?

6 A. [15:57:43] Largu, I spent a few months there. But what I know is that I left  
7 Largu after the battle with the Ugandans.

8 Q. [15:58:06] While you were posted at Largu, did you go to any other villages or  
9 visit any other villages in the area?

10 A. [15:58:33] When I was in Largu, well, let me say that it was my battalion  
11 commander who was there. I was in Blukwa, and I was the company commander in  
12 Blukwa, and from there I was deployed to Bule along the lake road, which is further  
13 away. And these are areas which I used to visit as well.

14 Q. [15:59:18] Could you please spell Blukwa?

15 A. [15:59:24] B-L-U-K-W-A, Blukwa.

16 Q. [15:59:46] Did you ever see Bosco Ntaganda in Blukwa?

17 A. [16:00:04] Can you please repeat your question?

18 Q. [16:00:12] Yes. Did you ever see Bosco Ntaganda in Blukwa?

19 A. [16:00:32] Are you asking that in relation to the time when I was a commander  
20 in that area?

21 Q. [16:00:38] Yes.

22 A. [16:00:51] I did not see him in Blukwa at that time. I saw him when he was  
23 leaving.

24 Q. [16:01:01] When was he leaving when you saw him at Blukwa? What were the  
25 circumstances?

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1 A. [16:01:19] The Ugandans had took possession of Bunia and they were -- and  
2 everyone in Bunia had to go to Bule and Fataki. These places were occupied but by  
3 the Ugandans and this is why people had to leave and this is when people from  
4 Blukwa left definitively and this is the last time I saw him.

5 Q. [16:02:05] You have just said "this is the last time I saw him", are you saying that  
6 at Blukwa was the last time you saw Bosco Ntaganda?

7 A. [16:02:28] The first time I saw him, it was the only time actually I saw him, when  
8 he was leaving. In Blukwa, this is when I saw him the first and the last time.

9 Q. [16:02:48] I just want to be clear because I think there -- there is either an  
10 interpretation or a transcription issue, Mr President, but I can clarify perhaps with an  
11 additional question.

12 PRESIDING JUDGE FREMR: [16:03:00] Please.

13 MR GOSNELL: [16:03:03]

14 Q. [16:03:05] Are you saying, sir, that this was the one and only time that you saw  
15 him, in Blukwa?

16 A. [16:03:19] I said that when I was working in Blukwa before the war with  
17 Ugandans I had never seen him. But when the Ugandans drove us away, that was  
18 the last time I saw him in Blukwa.

19 Q. [16:03:46] And how did he leave Blukwa?

20 A. [16:04:03] By air.

21 Q. [16:04:07] And was he with anyone on that occasion?

22 A. [16:04:14] He was with Thomas Lubanga.

23 Q. [16:04:26] After they had left where did you go?

24 A. [16:04:42] After they left I remained for a few days and then I was sent to jail by  
25 the Ugandans. But the priest were actually going to intervene in my favour and then



1 I went to Lopa.

2 Q. [16:05:12] Where were you when you were sent to jail by the Ugandans?

3 Where did they detain you?

4 A. [16:05:22] It was in the Drodro parish house.

5 Q. [16:05:36] Were you released?

6 A. [16:05:42] Yes.

7 Q. [16:05:46] How long were you detained?

8 A. [16:05:58] It was not even a day. It was from five in the morning till nine.

9 Q. [16:06:23] Now, you've just said that after your release you went to Lopa. Did  
10 anything happen in Drodro in the days or weeks that followed your release from  
11 prison there?

12 A. [16:06:56] Could you please ask your question once again. Could you just  
13 rephrase it, in fact.

14 Q. [16:07:08] Did something happen in Drodro soon after, in the days or weeks  
15 following the time that you were detained there?

16 A. [16:07:29] Are you saying that after my departure? I don't know. One week  
17 down the line there was a lot of murder in Largu, in Drodro, but that was after me.

18 Q. [16:07:53] Who was committing that murder in Drodro?

19 A. [16:08:05] The Lendu combatants.

20 Q. [16:08:20] Did you do anything to stop this murder that was going on in Drodro  
21 by the Lendu combatants?

22 A. [16:08:30] Right, this happened when I had already left. Because the UPDF  
23 were already there. So I had already left and I really couldn't step in.

24 Q. [16:08:54] What about the FPLC? Can you tell us why the FPLC did not step in  
25 to stop these murders?

1 A. [16:09:13] The FPLC's soldiers were quite dispersed, and everything was  
2 controlled by the UPDF. The question is, why did UPDF did not step in. If we  
3 were there, we would have been imprisoned. How could we even intervene?

4 Q. [16:09:44] When you went to Lopa did you have your weapon with you or any  
5 weapon with you?

6 A. [16:09:56] I had my weapon on me.

7 Q. [16:10:14] After this event, and perhaps I should first of all ask you, did you hear  
8 any stories from people from Drodro about what had happened there?

9 A. [16:10:49] Which events are you referring to? The killings, the murder?

10 Q. [16:10:54] Indeed.

11 A. [16:11:09] So you are asking if people, if I heard people speak about these  
12 killings. I would actually like to understand the question. Could you please repeat  
13 it again.

14 Q. [16:11:22] Yes, sir, you have understood my question well, just as you have  
15 repeated it.

16 A. [16:11:36] Right. In Drodro Largu everyone knew, even the international  
17 media was talking about; even RFI spoke about it, because many people died.

18 Q. [16:12:05] Where did you go from Lopa?

19 A. [16:12:20] Now, what time are you referring to?

20 Q. [16:12:29] After these events at Drodro, after you had left Blukwa, you have told  
21 us that you went to Lopa, and I would like to know when you left Lopa, after how  
22 long? If ever.

23 A. [16:12:56] Right. At that point of time when I was in Lopa, when UPDF started  
24 opening fire -- when UPDF withdrew, sorry, we tried to recover Bunia, the next day.

25 Q. [16:13:24] When you say "we", who are you referring to?

1 A. [16:13:33] We were many in numbers, because I couldn't do it on my own.

2 There was a group from Katoto and there was another group from Lopa, Barrière.

3 And people who were around Bunia.

4 Q. [16:14:04] When you say you tried to recover Bunia, did you succeed?

5 A. [16:14:20] No. We did not succeed. We stopped at the Lokoto bridge. If you  
6 go to Mudzipela and you continue, but before going, we just stopped there before  
7 actually entering the city.

8 Q. [16:14:51] Was that the only occasion that you participated in an attempt to  
9 retake Bunia or was there any other attempt?

10 A. [16:15:11] The second time wasn't an attempt, because we succeeded. Kisembo,  
11 the General Kisembo was already there.

12 Q. [16:15:25] To your knowledge did Bosco Ntaganda participate in this successful  
13 attempt to take Bunia?

14 A. [16:15:43] He was not there. He did not participate. If you have been given  
15 this information, it's false.

16 Q. [16:16:01] Who was in command of the operation to take Bunia when that was  
17 successful?

18 A. [16:16:17] It was Kisembo himself.

19 Q. [16:16:22] Was there, based on what you could observe, looting or pillaging  
20 committed by soldiers under his command in Bunia?

21 A. [16:16:48] It's unfortunate that you weren't there. When UPDF chased out  
22 FPLC, they put Lendu combatants in Bunia. Bunia was completely pillaged. The  
23 houses were open. All the goods were taken. Many people were killed. In fact,  
24 when we arrived we buried many people. There were no people in Bunia.  
25 There was nothing that you could find inside the houses in Bunia.

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1 Q. [16:17:44] Who had committed this pillage, according to what you knew?

2 A. [16:17:54] These were the Lendu combatants. Because when UPDF recovered  
3 Bunia, they introduced these combatants, and they are the ones who did this pillaging  
4 and the Ugandans just let this happen. Bunia was controlled practically by the  
5 Lendu combatants.

6 MR GOSNELL: [16:18:20] Mr President, may I enquire how much time I have  
7 remaining?

8 PRESIDING JUDGE FREMR: [16:18:25] Court officer, could we know how much  
9 time is still remaining till four hours allotted to Defence.

10 THE COURT OFFICER: [16:18:36] Three hours 47 minutes so far used by  
11 the Defence.

12 PRESIDING JUDGE FREMR: [16:18:43] It seems you still have 13 minutes to the  
13 normal limit.

14 MR GOSNELL: [16:18:50] Mr President, I would request an additional 15 minutes,  
15 and I could do that very efficiently tomorrow morning, if you allow me to.

16 PRESIDING JUDGE FREMR: [16:19:02] I think, yeah, we did it several times, other  
17 times, and 15 minutes is not so much. So you would like to continue with the  
18 remaining 12 minutes or -- we will grant you extra 15 minutes. But it is now up to  
19 you whether you want to continue now with the -- all remaining 20, 25 or 27 minutes  
20 or whether you would like to keep it for tomorrow.

21 MR GOSNELL: [16:19:31] It would be most efficient if I could break now because  
22 I am going to start looking at a rather long document.

23 PRESIDING JUDGE FREMR: [16:19:40] It was exactly my idea. So we will break  
24 now and we will continue with the, roughly, last 30 minutes of the  
25 examination-in-chief tomorrow.

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1 Now, we are still in public, yes.

2 So, Mr Witness, I thank you very much for today, for your cooperation. You

3 responded patiently, you, I believe, tried to respond clearly. We will continue

4 tomorrow with the rest of direct examination and then with cross-examination

5 conducted by Prosecution. And it's my duty to remind you that in the meantime till

6 tomorrow you must not discuss your today testimony with anybody else. Do you

7 understand that?

8 THE WITNESS: [16:20:35] (Interpretation) Yes, I have understood. There is no one

9 with whom I can speak about. I don't even have a phone. I have nothing. And

10 there's no one with whom I can discuss all this.

11 PRESIDING JUDGE FREMR: [16:20:53] Thank you for assurance. So we break now

12 and we will resume tomorrow at 9.30.

13 THE COURT USHER: [16:21:01] All rise.

14 (The hearing ends in open session at 4.21 p.m.)