

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 Tuesday, 28 November 2017  
8 (The hearing starts in open session at 9.19 a.m.)  
9 THE COURT USHER: [9:19:21] All rise.  
10 The International Criminal Court is now in session.  
11 Please be seated.  
12 PRESIDING JUDGE FREMR: [9:19:32] Good morning, everybody.  
13 Court officer, please call the case.  
14 THE COURT OFFICER: [9:19:35] 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 For the record, we are in open session.  
18 PRESIDING JUDGE FREMR: [9:19:51] Thank you, court officer.  
19 Appearances, please.  
20 MS LUPING: [9:19:55] Good morning, Mr President. Good morning, your Honours.  
21 The composition of the Prosecution team is the same except Mr Rens van der Werf is not  
22 with us for the morning session and Ms Nicole Samson was not with us as of 3.15  
23 yesterday afternoon but has rejoined us this morning.  
24 PRESIDING JUDGE FREMR: [9:20:14] Yes, I noticed. Thank you very much,  
25 Ms Luping.

1 Mr Bourgon.

2 MR BOURGON: [9:20:20] (Interpretation) Good morning, your Honours. There are  
3 no changes in the composition of the Defence representation for Mr Ntaganda this  
4 morning.

5 PRESIDING JUDGE FREMR: [9:20:34] Thank you, Mr Bourgon.

6 And Legal Representatives of Victims, please.

7 MS PELLET: [9:20:40] (Interpretation) Thank you, your Honour.

8 Ms Rambolamanana has returned to the courtroom. Otherwise, the composition is the  
9 same as yesterday.

10 MR SUPRUN: [9:20:56] (Interpretation) Good morning, your Honours. There are no  
11 changes on our side since yesterday. Thank you.

12 PRESIDING JUDGE FREMR: [9:21:03] Thank you, Ms Pellet. Thank you, Mr Suprun.

13 Before we continue with the next part of testimony of our witness, the Chamber has been  
14 informed that Defence would like to address us.

15 So, Mr Bourgon, you have the floor, and we are in open session.

16 MR BOURGON: [9:21:24] Thank you, Mr President. If we can move into private  
17 session, please.

18 PRESIDING JUDGE FREMR: [9:21:28] It was my presumption.

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

20 (Private session at 9.21 a.m.)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Open session at 9.24 a.m.)

5 THE COURT OFFICER: [9:24:53] We are back in open session, Mr President.

6 PRESIDING JUDGE FREMR: [9:25:10] Thank you.

7 Mr Bourgon, please proceed.

8 MR BOURGON: [9:25:13] Thank you, Mr President. These are two -- three material  
9 differences between the French and the English transcripts for which we would like to  
10 have a verification of the audio. The first one is English page 104, line 4, to be compared  
11 with the French version page 96, lines 15 and 16. We believe that the French version is  
12 the correct one.

13 The second correction is English transcript page 76, lines 9 and 10, to be compared with  
14 the French transcript at page 69, lines 8 to 10. Again, we believe that the French version  
15 would be the correct one that meets or that is the same as the audio version.

16 The third correction or we would like to have verified, in this case the French and the  
17 English are not materially different. I'm referring only to the French version page 85, line  
18 16 to 18, and the English version page 93, lines 10 and 11. In this case, the French and  
19 English are similar, but we have heard something different from the Defence side of the  
20 courtroom and we would like the audio to be verified.

21 Thank you very much, Mr President.

22 PRESIDING JUDGE FREMR: [9:27:05] Ms Luping, any comments at this moment on  
23 that request?

24 MS LUPING: [9:27:09] Not at this stage, Mr President, these are points that we'd have  
25 to have checked ourselves.

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [9:27:16] All right. So the Chamber fully supports this  
2 request, and now, court usher, you may bring our witness into the courtroom.

3 (The witness enters the courtroom)

4 PRESIDING JUDGE FREMR: [9:28:50] Good morning, Mr Witness. Can you hear me  
5 well? I was asking whether you can hear me well, but your mic was not switched on, so  
6 could you repeat your answer.

7 WITNESS: DRC-D18-D-0017 (On former oath)

8 (The witness speaks Swahili)

9 THE WITNESS: [9:29:24] (Interpretation) Yes, I can hear you well, and I am feeling  
10 very well this morning. Thank you.

11 PRESIDING JUDGE FREMR: [9:29:32] Thank you. I'm glad to hear it. It's my duty  
12 to remind you that even today you are still under oath, which means that you have to  
13 speak truth and nothing but the truth. Do you understand that?

14 THE WITNESS: [9:29:51] (Interpretation) Yes.

15 PRESIDING JUDGE FREMR: [9:29:53] All right. So we will continue with your direct  
16 examination conducted by lead counsel of the Defence, Mr Bourgon.

17 Mr Bourgon, you have the floor.

18 MR BOURGON: [9:30:12] (Interpretation) Thank you, your Honour. I think it might  
19 be wise to move to private session, your Honour, for this first part.

20 PRESIDING JUDGE FREMR: [9:30:30] All right.

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

22 (Private session at 9.30 a.m.)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Open session at 9.39 a.m.)
- 15 THE COURT OFFICER: [9:39:58] We are in open session.
- 16 PRESIDING JUDGE FREMR: [9:40:03] Thank you, court officer.
- 17 Mr Bourgon, please proceed.
- 18 MR BOURGON: [9:40:13] (Interpretation) Thank you, your Honour.
- 19 Q. [9:40:14] Mr Witness, do you recognise this photo?
- 20 A. [9:40:28] Yes, I can remember that.
- 21 Q. [9:40:29] And what is shown in the photo?
- 22 A. [9:40:40] The photo I see here in front of me is Kisembo's residence, the residence
- 23 of the chief of general staff, Kisembo. And I said yesterday that a trader had bought this
- 24 building and that it is now a petrol station selling fuel.
- 25 Q. [9:41:12] And what was the use to which this house was put that was occupied by

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 Kisembo, if you know?

2 A. [9:41:34] As I said earlier, he worked there before, and before he moved from this  
3 building, it was used as the general staff for the bodyguards of Bosco Ntaganda.

4 MR BOURGON: [9:41:58] (Interpretation) I would like to have this photo admitted,  
5 please, as Defence evidence.

6 PRESIDING JUDGE FREMR: [9:42:05] Prosecution, your position?

7 MS LUPING: [9:42:09] No objection.

8 PRESIDING JUDGE FREMR: [9:42:10] So the photo specified by Mr Bourgon is  
9 admitted as a further Defence exhibit.

10 MR BOURGON: [9:42:35] (Interpretation) Thank you, your Honour.

11 Q. [9:42:36] Mr Witness, at that time when you were coming back from Songolo,  
12 where were you living with Safari?

13 A. [9:42:55] If I recall correctly, Safari and I were living in Chief Kahwa's residence.

14 Q. [9:43:12] And at the same time immediately following your return from Songolo,  
15 do you know where Bosco Ntaganda and his escorts were living?

16 A. [9:43:35] I think I can say when we were in Mandro I knew well where he was  
17 living.

18 Q. [9:44:09] I would like to show you a photo and ask whether you recognise what it  
19 shows.

20 And I would like to have on the screen, please, DRC-D18-0001-5441, which is number 4 on  
21 our list. And it has already been admitted as evidence.

22 The photograph will appear on the screen in front of you and I will ask you a question  
23 thereafter.

24 PRESIDING JUDGE FREMR: [9:45:09] Mr Witness, can you see the picture, the new  
25 one?

1 THE WITNESS: [9:45:18] (Interpretation) Yes, I can see the photo.

2 MR BOURGON: [9:45:20] (Interpretation)

3 Q. [9:45:21] Now, Witness, do you recognise this photograph and if yes what is it,  
4 what's it about?

5 A. [9:45:42] This is the place where Bosco Ntaganda resided with his escorts.

6 Q. [9:45:47] This place, Witness, where is it if you compare it to Chef Kahwa's  
7 residence, where you were?

8 A. [9:46:15] To situate that against Chef Kahwa's residence, well, Chef Kahwa lived  
9 towards the hill and this residence was below that, next to the road.

10 Q. [9:46:33] When you say "it was below that" was it the balcony of Chef Kahwa's  
11 residence? Is the bottom of the hill towards the left or the right?

12 A. [9:46:57] If you're on the balcony and you look down, it must be on the left.

13 Q. [9:47:06] Thank you, Witness. Now, earlier you stated that when you saw the  
14 first photograph, the escorts of Bosco Ntaganda were in that place, and there you're  
15 saying that when you came back from Songolo, Bosco Ntaganda was in the photo that we  
16 see before us. Now, when did Bosco Ntaganda move from Mandro to the second  
17 location?

18 A. [9:48:04] When he moved to go to the second residence I don't know when that  
19 was. Are you speaking about Bunia here?

20 Q. [9:48:11] To the best of your knowledge, how much time did Bosco Ntaganda's  
21 escorts remain in the place of the photo, how much time were they there?

22 A. [9:48:37] As I said previously, I can't give you precise details as the duration  
23 because the events took place a long time ago.

24 Q. [9:48:59] Well, what was the first time? Do you remember the first visit to the  
25 residence of Bosco Ntaganda with his escorts in Bunia?

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 A. [9:49:27] We left with Safari's bodyguards and we went to the residence where we  
2 met Mr Ntaganda. Yes, I remember that well.

3 Q. [9:49:47] Do you remember how much time after Songolo that first visit occurred?

4 A. [9:50:15] I would also say here with regards to the duration, if you continue to ask  
5 me questions with regards to that aspect, that's something that I don't remember. If I  
6 have to tell the truth, I cannot invent anything.

7 Q. [9:50:32] That's fine, Witness. We will now go on to a different subject; namely,  
8 the issue of the arrival of the uniforms. Now, you testified on this subject yesterday.  
9 And, your Honour, I would, however, like to make a correction before changing subject,  
10 namely, to transcript on page 10 in French, lines 16 to 19. The answer seems to be the  
11 same on page 10, lines 24 and 25. What's in the record in the transcript is different to  
12 what we heard. I would therefore like the audio to be re-listened to for that particular  
13 part, your Honour.

14 PRESIDING JUDGE FREMR: [9:51:33] All right.

15 MR BOURGON:

16 Q. [9:51:44] Witness, going back to the issue of uniforms, could you tell us what you  
17 know concerning the arrival of the uniforms?

18 A. [9:52:13] With regard to the arrival of the uniforms, the military uniforms, what I  
19 would say is the following. From Mandro we prepared ourselves and we went to get the  
20 uniforms that were coming. There was a group of intellectuals who were also together  
21 so that they could follow for training which involved using heavy weapons.

22 Q. [9:52:50] Who did you get instructions from concerning what you had to do from  
23 Mandro?

24 A. [9:53:11] Instructions were given to us by Safari.

25 Q. [9:53:18] What was the task entrusted to you in Mandro? Safari entrusts you with

1 a task. What is the task concerning uniforms and the intellectuals that you mentioned?

2 A. [9:53:56] When I spoke about the intellectuals I said that we went together with  
3 them when we were on the road to go and get the uniforms, but they were on the road in  
4 order to follow training, which was how to handle heavy weapons.

5 Q. [9:54:19] So when you left Mandro, what place, what location did you go to in  
6 order to get the uniforms?

7 A. [9:54:41] We went on foot. We entered Mombili. From there we went to  
8 Tchomia.

9 Q. [9:54:57] And on the journey between Mandro and Tchomia, were all people in the  
10 convoy bearing weapons?

11 A. [9:55:21] In the convoy where I was, the intellectuals who were undergoing  
12 training in heavy weapons were not armed.

13 Q. [9:55:37] And what happened when you arrived in Tchomia? Please continue;  
14 please tell us.

15 A. [9:55:53] We arrived and we rested at the residence belonging to Chef Kahwa.  
16 And the next day we went to get the plane -- we went to where the plane was which was  
17 meant to bring the uniforms.

18 Q. [9:56:16] And in what way did the uniforms arrive?

19 A. [9:56:35] The uniforms were in bags -- were in boxes. And we arrived first, we  
20 were armed. We took our uniforms by packet and we went back to the residence.

21 Q. [9:57:03] So what happened when you took the uniforms? What did you do  
22 having taken the uniforms yourselves?

23 A. [9:57:23] On that day, the members of the population saw us going there without  
24 uniforms, but when we returned we were wearing uniforms; that motivated the young  
25 people as well. They were volunteers. They wanted to go to Mandro to also undergo

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 military training.

2 Q. [9:57:50] So what did you do with the boxes or bags of uniforms that arrived?

3 A. [9:58:08] As I said previously, the young people who saw us wearing the uniforms  
4 and looking so good or beautiful, they were the ones who helped us to transport the  
5 uniforms or these packets of uniforms and take them to Mandro.

6 Q. [9:58:39] And in the boxes or bags that you took to Mandro, was there anything  
7 else other than uniforms?

8 A. [9:59:00] No, on that day it was just the uniforms that we had transported.

9 Q. [9:59:08] And the young people, the volunteers who helped you to transport the  
10 uniforms, among them were there people who did the training in Mandro thereafter?

11 A. [9:59:36] Yes. Some of them went to Mandro to follow military training.

12 Q. [9:59:48] So earlier you were saying when you left Mandro there were a group of  
13 intellectuals with you. So what happened to this group of intellectuals once -- or on  
14 arriving in Tchomia?

15 A. [10:00:15] When the plane arrived to bring the uniforms, these intellectuals  
16 distributed the uniforms. And afterwards they got into the plane and they left. But I  
17 remember that one of them did not take that flight but remained.

18 Q. [10:00:50] Do you know the name of the person who didn't take the plane and who  
19 stayed behind?

20 A. [10:01:08] Yes. The intellectual who didn't catch the flight was called (Redacted)  
21 (Redacted)

22 PRESIDING JUDGE FREMR: [10:01:18] Hold on, Mr Witness.

23 Ms Luping.

24 MS LUPING: [10:01:22] Mr President, just out of an abundance of caution, if we're  
25 going to elicit names of various individuals if perhaps we can move into private session.

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1 We're currently in open session.

2 PRESIDING JUDGE FREMR: [10:01:33] It depends what names it will be, but  
3 otherwise I agree with you.

4 Mr Bourgon. Not any name could reveal Mr Witness' identity, so it depends.

5 MR BOURGON: [10:01:57] (Interpretation) To be prudent, I think that I agree with  
6 my colleague. We should go into private session, your Honour.

7 PRESIDING JUDGE FREMR: [10:02:04] All right, then.

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

9 (Private session at 10.02 a.m.)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Recess taken at 10.51 a.m.)

4 (Upon resuming in open session at 11.22 a.m.)

5 THE COURT USHER: [11:23:00] All rise.

6 Please be seated.

7 PRESIDING JUDGE FREMR: [11:23:22] All right, let's continue with the next, maybe  
8 last part. But I see Ms Luping on her feet. Ms Luping.

9 MS LUPING: [11:23:35] Yes, Mr President, just to note that Mr Rens van der Werf has  
10 joined us in the courtroom.

11 PRESIDING JUDGE FREMR: [11:23:40] Thank you, Ms Luping.

12 You may proceed, and we are in open session.

13 MR BOURGON: [11:23:45] Thank you, Mr President. Before I begin I would like to  
14 make a request for an audio verification. This is in relation to French transcript page 29,  
15 line 10, as opposed to English transcript page 29, line 4. Two names of individuals are  
16 mentioned. We believe that the French version is the correct one, and we would like that  
17 to be verified, Mr President, please.

18 PRESIDING JUDGE FREMR: [11:24:17] All right. Supported by the Chamber.

19 MR BOURGON: [11:24:21] Thank you, Mr President.

20 Q. [11:24:35] (Interpretation) Good morning once again, Mr Witness.

21 A. [11:24:39] Good morning.

22 Q. [11:24:40] I'd like to go back to an issue of clarification. You mentioned that a  
23 certain -- I think we have to go into private session, your Honour.

24 PRESIDING JUDGE FREMR: [11:24:52] All right.

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

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

- 1 (Private session at 11.24 a.m.)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Recess taken at 12.47 p.m.)

4 (Upon resuming in open session at 2.17 p.m.)

5 THE COURT USHER: [14:17:47] All rise.

6 Please be seated.

7 PRESIDING JUDGE FREMR: [14:18:08] Good afternoon, everybody. Good afternoon,

8 Mr Witness.

9 We are going to continue with testimony of our witness, D-0017. And now floor goes to

10 Mr Bourgon, lead counsel of the Defence, who is expected to complete his direct

11 examination of the witness.

12 Mr Bourgon, you have the floor.

13 MR BOURGON: [14:18:43] Thank you, Mr President. If we can move into private

14 session, please.

15 PRESIDING JUDGE FREMR: [14:18:48] Understandable.

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

17 (Private session at 2.18 p.m.)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Open session at 3.06 p.m.)
- 11 THE COURT OFFICER: [15:06:12] We are back to open session, Mr President.
- 12 PRESIDING JUDGE FREMR: [15:06:22] And my last intervention, court officer, may I
- 13 know how much time in fact Mr Bourgon used.
- 14 THE COURT OFFICER: [15:06:31] Of course, Mr President. The Defence team used in
- 15 total 6 hours 02 to question the witness.
- 16 PRESIDING JUDGE FREMR: [15:06:39] So usually, I'm reminding you, Ms Luping,
- 17 that you are generally entitled to use the same time unless there would be special specific
- 18 reasons and then you could ask for some extension of time, but please do not rely on that.
- 19 MS LUPING: [15:06:55] Thank you, Mr President. If you would just indulge me just
- 20 for one more minute, as the stand on my computer has broken, so I'm trying find some
- 21 way of propping it up.
- 22 PRESIDING JUDGE FREMR: [15:07:08] For sure. Take your time.
- 23 QUESTIONED BY MS LUPING:
- 24 Q. [15:07:34] So good afternoon, Mr Witness.
- 25 A. [15:07:39] Jambo sana.

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 Q. [15:07:40] Mr Witness, as you might recall, my name is Dianne Luping --

2 A. [15:07:44] Good afternoon.

3 Q. [15:07:45] -- and I will be asking you questions today on behalf of the Prosecution.

4 And we have met twice before.

5 Sir, Mr Witness, just, first of all, just to refer to your testimony from yesterday -- and I'm  
6 going to refer to transcript T-252, page 68, line 11, to page 70, line 9. And in this passage,  
7 sir, you described and you showed to the Judges the test that you say was used by the  
8 UPC to work out if recruits were old enough to undergo training at Mandro. Do you  
9 remember this test that you showed the Judges yesterday, Mr Witness?

10 A. [15:08:49] Yes, I remember that.

11 Q. [15:08:52] And am I right in saying that the test you described was basically to put  
12 your right hand over your head to your left ear; is that correct?

13 A. [15:09:14] Yes, that was it.

14 Q. [15:09:20] And you also explained that you had to be 18 years old to do the  
15 training. Now, just for my first question, Mr Witness, is it your testimony that a  
16 fourteen-year-old could not do the test that you showed to the Judges?

17 A. [15:09:58] I said this because this is what I remember we were asked to do. I  
18 didn't say that a fourteen-year-old could not do it.

19 Q. [15:10:19] And in your view, could a fourteen-year-old do that test?

20 A. [15:10:50] As I said, well, what I said to you was what I recalled. That was what  
21 was done. I did not confirm that a fourteen-year-old child could do this or not, or that it  
22 was a difficult test. I simply was telling you what we had to do in order to be accepted.  
23 And this is what I recall from that occasion.

24 Q. [15:11:23] And you have done the test yourself, Mr Witness, and you showed the  
25 Judges how to do that test. In your view, can a fourteen-year-old do that test?

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [15:11:37] Hold on, Mr Witness.

2 Mr Bourgon.

3 MR BOURGON: [15:11:39] Thank you, Mr President. I don't think we need -- but it is  
4 a matter of opinion. There are opinions that can be sought because I did also but this is  
5 strictly opinion matter. Thank you.

6 PRESIDING JUDGE FREMR: [15:11:51] Objection sustained.

7 MS LUPING: [15:11:53]

8 Q. [15:11:53] Mr Witness, I'm going to ask you a different question. Now, isn't it  
9 right, sir, that this test that you showed the Judges that was used in Mandro is one that is  
10 used or was used in the DRC with six-year-olds to see if they're ready to go to primary  
11 school; isn't that right, sir?

12 A. [15:12:30] I don't know anything about that. But what I said -- well, I answered  
13 simply by telling you what was done. That doesn't mean that I'm confirming this as  
14 being a test to confirm age. Our age was not asked and that is also what I told you.

15 PRESIDING JUDGE FREMR: [15:13:08] Ms Luping, to be fair to the witness, if I  
16 remember well, and please correct me if I am wrong, Mr Witness, that he said it was his  
17 understanding that this test should serve, but I think, I think he put it in that way, or his  
18 understanding that this test should serve for that purpose.

19 MS LUPING: [15:13:26] Mr President, what the witness did say is that, indeed, it was  
20 his understanding that this was a test relating to confirming age, and I'm simply now  
21 asking him for his knowledge, as he is from the DRC, about the use of this test in fact in  
22 the DRC. So --

23 PRESIDING JUDGE FREMR: [15:13:44] This is fine.

24 MS LUPING: [15:13:46] Thank you, Mr President.

25 Q. [15:13:48] I have one follow-up question.

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

- 1 MR BOURGON: [15:13:51] But, Mr President, to be fair to the witness, what my  
2 colleague is referring to, if we can have where the witness said this so we are on the same  
3 page.
- 4 MS LUPING: [15:14:01] Indeed, Defence counsel, I gave that reference at the very  
5 beginning, at the start, and it is page 68, line 7, to page 70, line 9, at transcript 252.
- 6 Q. [15:14:13] Now, Mr Witness, you confirmed -- I'm not going to ask you. I don't  
7 believe this is identifying, but you confirmed that you yourself underwent primary school  
8 education; isn't that right?
- 9 A. [15:14:36] Yes.
- 10 Q. [15:14:39] You started primary school at the age of six; is that correct?
- 11 A. [15:14:55] Yes.
- 12 Q. [15:14:57] I'm not going to refer to the year because we're in open session, but  
13 wouldn't it be right, sir, that you yourself would have had to do this test, would have  
14 done this test, at the age of six before you started your primary school education?
- 15 A. [15:15:32] I don't remember because that was a very long time ago.
- 16 Q. [15:15:38] I'm going to switch topics, and we're still in Mandro, sir, and you  
17 described the process of enrolment, and you explained that an individual called Sergeant  
18 Peter would enrol the recruits. He took down recruits' names, parents' names and  
19 recorded where they came from. And I refer to yesterday's transcript at page 64, lines 7  
20 to 4, and page 66, lines 12 to 17.
- 21 So my question is this, sir: This information you described that Sergeant Peter took  
22 down, so there were lists of recruits made at Mandro; is that correct?
- 23 A. [15:16:46] It's true. The information is true.
- 24 Q. [15:16:50] Now, yesterday Defence counsel asked you whether there were any  
25 recruits at Mandro who you believed would have been under 18, and you responded, and

1 I quote:

2 "I never saw any recruits aged under 18." End of quote.

3 That was transcript 252, page 71, lines 17 to 22.

4 Now, Mr Witness, you've also stated today that you did, indeed, remember giving a  
5 witness statement to the Defence, is that right, a statement that you signed on 7 November  
6 of this year?

7 A. [15:18:06] Yes, I did sign a witness statement.

8 Q. [15:18:14] And isn't it right that you also stated in your witness statement that the  
9 information contained in the statement was, to the best of your knowledge, true and  
10 correct; is that right?

11 A. [15:18:47] That's exactly true.

12 Q. [15:18:49] Now, I'm going to read a passage from your statement to you,  
13 Mr Witness, and it's at paragraph 29 of the statement. And the relevant part reads as  
14 follows:

15 (Interpretation) "I cannot confirm that all recruits who underwent the training in  
16 Mandro were more than 18 years old, but amongst those who trained with me, there were  
17 no -- there was no one below the age of 16 or 17."

18 (Speaks English) End of quotes. So that's the passage I'm going to read to you now.

19 So, Mr Witness, in your statement you said you did not see anybody below the age of 16  
20 or 17 at Mandro; is that right?

21 A. [15:20:06] Yes, and that's what prompted me to answer this way.

22 Q. [15:20:17] And you've referred to the ages 16 or 17. So you're saying some  
23 recruits could have been 16 or 17; is that right?

24 A. [15:20:48] Let me repeat the answer I gave you in Swahili. I said I don't think that  
25 there were children below 16 or 17 given the nature of the exercises and the drills that we

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 were made to do in this training programme.

2 Q. [15:21:13] My question is slightly different, sir. My question is: When you say  
3 that there were no children below 16 or 17, does that mean that there were children aged  
4 16 or 17 at Mandro?

5 A. [15:21:45] It's on the basis of my deduction that I replied this way.

6 Q. [15:21:55] Now, yesterday when you testified, sir, I'm going to just quote from a  
7 passage from the transcript, that's 252, page 70, lines 10 to 15, and I quote:

8 "In my group everyone was confident about their ages. But with regard to other groups  
9 from elsewhere, we couldn't be sure about their ages." End of quote.

10 So my first question is this, Mr Witness, you did not know the ages of all the recruits at  
11 Mandro, did you?

12 A. [15:22:42] Yes.

13 Q. [15:22:44] And you did not know all of them personally either, did you?

14 A. [15:22:57] Yes.

15 Q. [15:22:58] You never saw their ID cards, did you?

16 A. [15:23:17] Yes.

17 PRESIDING JUDGE FREMR: [15:23:21] Sorry, Ms Luping, I would like to put one  
18 additional question.

19 So is my understanding correct, Mr Witness, that your deduction of the age of the other  
20 recruits was based on their physical appearance, or did you have any chance to discuss  
21 with your closest colleagues in your group how old were they?

22 THE WITNESS: [15:24:09] (Interpretation) I think I said that in the group that left  
23 Mongbwalu with me, and it's during the trip that we got acquainted, and amongst the  
24 people who joined us, who came on board, they were strangers whom we did not know,  
25 and I said that there was no one who was below 16 or 17.

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [15:24:46] But, again, Mr Witness, so you based your  
2 deduction on their physical appearance; am I correct?

3 THE WITNESS: [15:25:13] (Interpretation) Yes. It's on the basis of their physical  
4 appearance that I inferred or deduced that they were not below 16 or 17. And this is  
5 what I've been trying to explain.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 THE WITNESS: [15:26:23] (Interpretation) Do you mean during this period?

12 PRESIDING JUDGE FREMR: [15:26:26] I mean during your service.

13 Mr Bourgon.

14 MR BOURGON: [15:26:30] Just because we are in public session, Mr President.

15 PRESIDING JUDGE FREMR: [15:26:33] Thank you for this.

16 Let's move into private session. But maybe I can just, I can just remain at general level.

17 And please redact the last name I mentioned from the transcript.

18 But my question was, in this relatively close group you have been a member of, you know  
19 what group I mean during your service, there were some young people, again I'm  
20 remaining in general level, did you discuss between this group, with male and female  
21 members of this group what is, what was their age, whether, for example, one member of  
22 the group said "Today I am, I have my birthday", or you simply did not discuss issue of  
23 age of single members of the group you were also member of?

24 THE WITNESS: [15:27:40] (Interpretation) No. If I recollect, we never talked about  
25 that.

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [15:27:45] Thank you, Mr Witness.

2 Ms Luping, you have the floor.

3 MS LUPING: [15:27:52] Thank you, Mr President.

4 Q. [15:27:54] So, Mr Witness, you were shown a video just a few moments ago by  
5 Defence counsel showing UPC recruits at the UPC military camp in Rwampara. And  
6 you've seen this video a few times now when you were interviewed by the Defence and  
7 also during witness preparation. And I'm going to show it to you again, but then I'm  
8 going to pause at two of the images and I'm going to ask you if you're able to state the age  
9 of the individuals that are depicted to the best of your knowledge.

10 So this is item 32, it's DRC-D18-0001-0463.

11 And sorry, Mr President, your Honours, if I could ask for the floor. The Prosecution is  
12 able to show the image as we know precisely where we are going to be stopping.

13 PRESIDING JUDGE FREMR: [15:28:57] Which is fine, but my concern is about the  
14 confidentiality. Could we remain in open session? Because if there could be some  
15 concrete persons which could reveal Mr Witness' identity, then we should move into  
16 private.

17 MS LUPING: [15:29:18] Defence counsel can correct me, but I don't believe that there  
18 should be a way to identify the individual from this particular extract.

19 Mr Bourgon, am I correct?

20 MR BOURGON: [15:29:31] If we're talking about the same extract, my colleague is  
21 right.

22 PRESIDING JUDGE FREMR: [15:29:38] Then we can proceed the current regime.

23 MS LUPING: [15:30:10]

24 Q. So I'll just repeat the instruction, Mr Witness. I'm going to be playing exactly the  
25 same extract that you were shown just a few moments before by Defence counsel, but this

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 time I'm going to be pausing at two images. The first will be at 00.29.17 and the second  
2 at image 00.29.44.

3 (Viewing of the video excerpt)

4 MS LUPING: [15:30:57]

5 Q. [15:30:57] Now, Mr Witness, there are two individuals between a man with a green  
6 shirt with pink roses or flowers, and another young person wearing a brown shirt. There  
7 appear to be two children in between them, one wearing what looks to be a singlet, the  
8 other with a white top. Can you see these individuals, Mr Witness?

9 A. [15:31:40] Before me on my screen I can only see three pictures, three images that  
10 are frozen. There's an image of three people, in fact.

11 PRESIDING JUDGE FREMR: [15:31:56] It's probably something wrong. Court usher,  
12 could you please check what is on the screen of Mr Witness because on my screen there  
13 are ten persons, so probably I do have, or we probably do have different picture.

14 MS LUPING: [15:32:25]

15 Q. [15:32:25] Mr Witness, did you actually see the video clip then before, or did you  
16 have a different image frozen in front of you?

17 A. [15:32:36] I've just seen a different image now compared to the image I had a few  
18 minutes ago.

19 Q. [15:32:53] I think for the sake of 15 seconds I would ask my colleague just to replay  
20 that, as the witness did not see it. And it would be starting again from 00.29.03 pausing  
21 again at 00.29.17.

22 PRESIDING JUDGE FREMR: [15:33:09] All right.

23 (Viewing of the video excerpt)

24 MS LUPING: [15:33:32]

25 Q. [15:33:32] And I'll repeat my question, sir: Do you see the two individuals that

1 appear before a man wearing a green shirt with pink flowers and a young person wearing  
2 a brown shirt? The two individuals appear to be two children.

3 PRESIDING JUDGE FREMR: [15:33:51] Ms Luping, rather avoid the term "children"  
4 because it is a little bit leading. "Two persons in the middle" I think is fine. It is up to  
5 you. But probably you will now ask Mr Witness to make his own evaluation, but if  
6 you're saying "two children", you know. The two small persons.

7 MS LUPING: [15:34:09] Certainly, Mr President. I can certainly refer to two small  
8 persons. I have been using leading questions previously, but if your Honours would  
9 prefer for this particular exercise.

10 PRESIDING JUDGE FREMR: [15:34:18] Yeah, no, it's not -- you are allowed to use  
11 leading questions. But if you now are, I guess we will test his ability to evaluate age, it is  
12 better to put it a little bit in an open way to increase quality of such a test.

13 MS LUPING: [15:34:33] Understood, Mr President. I'm happy to do so.

14 Q. [15:34:36] Sir, the two young-looking persons between the two taller individuals,  
15 could you give us your estimate of their age, sir?

16 A. [15:34:57] I can't give you an estimate of these two individuals.

17 THE COURT OFFICER: [15:35:06] Excuse me, your Honours, I just need to intervene.  
18 We are in open session. And for the video, the video was published, so I just want to  
19 make sure that we shouldn't do any post-factor redaction.

20 MS LUPING: [15:35:16] I'm sorry, court officer, I missed the question I had, because I  
21 was looking at the original at the same time.

22 THE COURT OFFICER: [15:35:18] The video is marked in our metadata as confidential.  
23 It was published in open session. I just would like to make sure that there is no post  
24 redaction needed because it was already broadcast.

25 MS LUPING: [15:35:32] With these images, court officer, we don't believe that we need

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 a redaction. Because these are -- that's why we selected these excerpts for showing in  
2 open session.

3 PRESIDING JUDGE FREMR: [15:35:39] And, court officer, do you know what was the  
4 reason for keeping it confidential? Because at the moment I don't see any.

5 THE COURT OFFICER: [15:35:47] Your Honour, it was marked initially as confidential  
6 in the list of documents from the Defence, I believe, and then it was just marked like this  
7 in our metadata. But we can, of course, from the Registry point of view change the level  
8 of confidentiality accordingly.

9 PRESIDING JUDGE FREMR: [15:36:02] I don't know whether other party or  
10 participants have different opinion. Do you see any reason to keep it confidential? I  
11 don't see --

12 MS LUPING: [15:36:11] Mr President, just from the Prosecution's perspective, the  
13 Defence may have rightly sought to keep at least certain aspects of it confidential because  
14 anything that may particularly identify the witness, for example, we fully understand that,  
15 but these current excerpts should not be identifying. But Defence counsel may have  
16 different views.

17 MR BOURGON: [15:36:32] We agree, Mr President. This particular excerpt does not  
18 need to be confidential. When the confidential status was given, that was for the  
19 complete video because there was indeed parts of that video, but for this one at least so far,  
20 if the situation does change, we will alert the court officer immediately, Mr President.  
21 Thank you.

22 PRESIDING JUDGE FREMR: [15:36:51] Thank you for understandable. So I believe  
23 that at the moment we are all on the same page and we can proceed.

24 Sorry, Mr Witness, you are asking. I'm not able to make any estimation. I have a  
25 problem to understand that. Nobody is asking for you to say exact age, but at least you

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 can say what you -- how you would estimate their age, even maybe by some range,  
2 between this and that, but to say I can't estimate, I think I don't understand.

3 THE WITNESS: [15:37:41] (Interpretation) I can say that there are short people and  
4 tall people. The image is rather hazy. You really cannot make an estimation on the  
5 basis of such an image. For me, it's really not easy to do so.

6 PRESIDING JUDGE FREMR: [15:38:06] Ms Luping, even such a response means  
7 something for the Chamber. Please proceed.

8 MS LUPING: [15:38:14] Thank you, Mr President.

9 Q. I'm going to -- before I move actually on to the next image I would ask you,  
10 Mr Witness, we will be moving through, and hopefully it will be less blurry, but would  
11 you agree with my contention that these two individuals are below the age of 15?

12 A. [15:38:59] Are you expecting an answer from me?

13 Q. [15:39:05] Yes, Mr Witness. I was posing a question to you. Would you agree  
14 with me, with my contention on behalf of the Prosecution, that these two individuals are  
15 below the age of 15?

16 A. [15:39:26] You've given two different versions. You first spoke about 14, you said  
17 14 first and now you're saying 15. So I'm just going to tell you what I told you before.  
18 There are people who are short and there are people who are tall. And on this basis, I  
19 really cannot agree with what you say.

20 Q. [15:39:51] And I will now ask my colleague to continue with this video and to  
21 pause at 00.29.44.

22 (Viewing of the video excerpt)

23 MS LUPING: [15:40:33]

24 Q. [15:40:33] And I'm going to simply ask you my question again, sir, but relating to  
25 the individual that you see in the middle of the screen wearing what appears to be a green

1 shirt. Are you able to provide your estimate, sir, of the age of this individual?

2 A. [15:41:16] When I see this person, I would say that she is 13.

3 PRESIDING JUDGE FREMR: [15:41:27] And allow me one additional question.

4 THE INTERPRETER: [15:41:30] The person is 13.

5 PRESIDING JUDGE FREMR: [15:41:32] Mr Witness, you also mention issue of physical  
6 suitability to meet, to carry out job of recruit. Do you think that this person we can see  
7 now would be physically suitable to become recruit successfully?

8 THE WITNESS: [15:42:14] (Interpretation) Right. I don't know what to say on the  
9 subject.

10 PRESIDING JUDGE FREMR: [15:42:21] So you're not sure, simply? You can give  
11 clear answer. According to you it is not clear whether such person would be suitable for  
12 being recruited; did I understand well?

13 THE WITNESS: [15:42:58] (Interpretation) People who took the decision, who -- to do  
14 this training means this person felt fit to do the training and the person trusted himself.

15 PRESIDING JUDGE FREMR: [15:43:17] Thank you.

16 Ms Luping, please proceed.

17 MS LUPING: [15:43:27]

18 Q. [15:43:39] So, Mr Witness, I'm going to refer to two past excerpts from your  
19 witness statement where you commented on this video that you were shown during your  
20 interview by Defence counsel. Now, the first excerpt, and I quote, where you  
21 commented on the age of the children, you stated:

22 (Interpretation) "In appearance it does not appear to be 18."

23 (Speaks English) Is that an accurate reflection of what you stated during your interview,  
24 sir, when you were shown this video?

25 A. [15:44:58] You see, there is a picture in front of me on which there are people. I've

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Open Session)

ICC-01/04-02/06

1 been asked a question with respect to something I met. The people at -- I met in Ndromo  
2 camp, and I told you that I said that when I was training in Mandro people resembled me,  
3 and I don't know if the question that you're asking concerns what aspect because your  
4 question is very long.

5 Q. [15:45:55] Okay. Just to confirm that I am reading from your witness statement,  
6 sir, and it was after you were shown this very same video excerpt that we showed you  
7 just now. So it is an excerpt from the Rwampara military training camp and UPC  
8 recruits. And I'm just referring to a quote from your own statement, sir, and I'll refer to it  
9 again, and my question is simply is it an accurate reflection of what you stated. And you  
10 stated:

11 (Interpretation) "It is evident that they are under 18."

12 (Speaks English) And this is what you stated in your witness statement; isn't that correct,  
13 sir?

14 That's at paragraph 168 of the statement.

15 PRESIDING JUDGE FREMR: [15:47:07] Mr Bourgon.

16 MR BOURGON: [15:47:08] Thank you, Mr President. In order not to mislead and be  
17 fair with the witness, paragraph 168 deals with an extract which lasts from 29.03 to 30.58.  
18 So if we are going to ask him about what he sees in the extract, we should show him the  
19 extract and read the full paragraph to him so that he can reply. Maybe if we can just give  
20 him a copy or just on the screen put this one paragraph and he will be able to say whether  
21 he agrees with what he said in his statement or not. Thank you.

22 MS LUPING: [15:47:42] Mr President.

23 PRESIDING JUDGE FREMR: [15:47:43] Ms Luping.

24 MS LUPING: [15:47:44] Mr President, your Honours, counsel is obviously free to do  
25 that in re-examination. I have asked specific questions relating to the age or the ages of

1 individuals appearing in the video.

2 The witness first stated in relation to one image that he was unable to confirm the age, and  
3 I am simply referring back to one point relating to where he gave a specific reference to  
4 age, a specific reference to age, and I'm just asking him to confirm that that is indeed what  
5 he said. But, again, if Defence counsel wish to go back on it, they may do so. I don't  
6 think it's necessary for me to do that.

7 PRESIDING JUDGE FREMR: [15:48:23] But to be honest, it was to me some clarifying  
8 effect from my understanding, because if I understood well, he made this concrete  
9 statement not regard to this image, but to another image; am I correct?

10 MS LUPING: [15:48:38] What the witness was shown was an extract running from  
11 minutes 29.03 through to -- pausing at 29.44. He has not been shown the entirety of the  
12 extract. That's approximately 15 seconds more. I'm happy to show the entirety.

13 PRESIDING JUDGE FREMR: [15:49:04] All right. So my issue was whether he in his  
14 previous statement reacted just on this image or just on the whole video?

15 MS LUPING: [15:49:16] It was a one -- sorry, I should say it is a one-minute extract.  
16 The entirety of the extract he was shown was one minute. I've shown 45 seconds as  
17 opposed to one minute.

18 PRESIDING JUDGE FREMR: [15:49:25] So I think now it's clear so now it's fine.

19 MS LUPING: [15:49:29] Thank you, sir.

20 Q. [15:49:30] So, Mr Witness, I will just repeat my question. I've read it, the extract to  
21 you, that where you stated an appearance, appeared small and it was evident they were  
22 not below the age of 18. That is a correct reflection of your statement, isn't that right, sir?

23 PRESIDING JUDGE FREMR: [15:49:48] Mr Bourgon.

24 MR BOURGON: [15:49:50] Mr President, if at least the paragraph itself could be read  
25 to the witness. We are paraphrasing a paragraph and we haven't played the two-minute

1 segment.

2 PRESIDING JUDGE FREMR: [15:50:02] Ms Luping, please do it because we I think did  
3 it several times in the past. Just to be 100 percent fair, please follow that.

4 MS LUPING: [15:50:10] Fine. If you did want me to show the excerpt, the one-minute  
5 extract, then I'll ask my colleague to show the extract from 00.29.03 to 00.30.58.

6 PRESIDING JUDGE FREMR: [15:50:22] All right.

7 (Viewing of the video excerpt)

8 MS LUPING: [15:52:39]

9 Q. So just for the record, I'll note that you were shown the extract up to 00.30.59, so just  
10 approximately one second more. But you've now been shown the entirety of the extract,  
11 sir. And this is an extract that you were shown previously including during your  
12 interview; is that correct?

13 A. [15:53:20] Are you talking about the picture that I now see in front of me?

14 Q. [15:53:27] I'm talking about the entirety, the whole one-minute video that you were  
15 just shown just now. Is it correct, sir, that this is the same extract that you were shown  
16 during your interview with the Defence?

17 A. [15:53:56] Counsel for the Defence asked me a question about this extract from the  
18 beginning to the point where the clip ends relating to Rwampara.

19 I was also shown another extract which relates to Camp Ndromo, and I was asked a  
20 question about that, and I said what I see on the extract of Camp Ndromo seems to look  
21 like the people who were training with me. But I did not answer any question about the  
22 extracts that related to Rwampara.

23 Q. [15:54:44] Well, at paragraph 168 of your witness statement, sir, and this is relating  
24 to this extract, I'm going to read to you the excerpt relating only to this extract and not the  
25 Camp Ndromo extract. And I quote:

1 (Interpretation) "The question was asked to me whether on the clip 29.03 to 30.58 I am  
2 able to give an opinion on the age of the recruits. It is not possible for me to give a  
3 precise evaluation of the age of the recruits who appear in the video. In addition, I don't  
4 know at what stage of their training these recruits are or even if some of them have started  
5 their training in Rwampara at this point. It would seem that some are small and it is  
6 evident that they are not yet 18 years old."

7 (Speaks English) Now, does that refresh your memory, sir, that this is what you said to the  
8 Defence about this extract?

9 A. [15:56:26] If you confirm that I am not asking the question about Rwampara but  
10 this video extract, then I can agree with what you say. I will correct what I say. So not  
11 about the video of Camp Ndromo. If it refers to this video, then there was a point when I  
12 did say that.

13 The counsel for Defence did ask me whether when I was in Mandro there were people  
14 there similar to the people who were in Rwampara, and then I said no, there were not. I  
15 think there may have been some problems with the paragraph in the statement that I  
16 made to the Defence with regard to these extracts.

17 PRESIDING JUDGE FREMR: [15:57:26] Hold on.

18 Mr Bourgon.

19 MR BOURGON: [15:57:34] Thank you, Mr President. Just the following sentence  
20 answers that question and also answers the question put to the witness earlier by the  
21 Chamber. I believe it would be fair to the witness to read the next sentence, which  
22 finishes the part which deals with Rwampara.

23 PRESIDING JUDGE FREMR: [15:57:55] Ms Luping, please.

24 MS LUPING: [15:57:58] Well, I may have misunderstood the witness's question. But  
25 as I understood, the witness is trying to clarify whether what he was shown is the Camp

1 Ndromo extract or the Rwampara extract.

2 Q. [15:58:11] Is that correct, sir, you want to know which one this is, is this Rwampara  
3 or Camp Ndromo?

4 A. [15:58:25] No. The extract in front of me, I recognise that extract, that is  
5 Rwampara.

6 Q. [15:58:33] Well, then I can confirm, sir, that the extract from your statement I just  
7 read relates to the Rwampara segment, so I hope that clarifies that now.

8 And I'm now going to move to a different video, it's item 85 on the Prosecution's list.

9 And before I do actually, Mr President, just to clarify, for our scheduling we finish at 4.15  
10 today; is that correct? Then there's ample time.

11 PRESIDING JUDGE FREMR: [15:59:04] Yes, you are right.

12 MS LUPING: [15:59:05] Thank you. So it is DRC-OTP-01200-0293. And I believe this  
13 extract will need to be shown in private session, Mr President, with your leave.

14 PRESIDING JUDGE FREMR: [15:59:21] All right.

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

16 (Private session at 3.59 p.m.)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-D18-D-0017

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (The hearing ends in private session at 4.21 p.m.)