

Trial Hearing

(Open Session)

ICC-01/04-02/06

1 International Criminal Court

2 Trial Chamber VI

3 Situation: Democratic Republic of the Congo

4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06

5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung

6 Trial Hearing - Courtroom 2

7 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.

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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.) *(Reclassification partially in public)

21 THE COURT OFFICER: [9:21:37] We are in private session, Mr President.

22 PRESIDING JUDGE FREMR: [9:21:48] Thank you.

23 Mr Bourgon, please proceed.

24 MR BOURGON: [9:21:50] Thank you, Mr President. At this point in time the Defence
25 wishes to convey some information to the Chamber which was received yesterday late in

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Thank you, Mr President.

18 I also have three transcript corrections to make after this point, please.

19 PRESIDING JUDGE FREMR: [9:24:18] As regards this point, any comments from the
20 parties or participants? Ms Luping.

21 MS LUPING: [9:24:26] Not at this stage, Mr President, your Honours.

22 PRESIDING JUDGE FREMR: [9:24:30] I don't see any request for the floor from Legal
23 Representatives.

24 So in that case, Mr Bourgon, please proceed with correction of the transcript, and I guess
25 that may be done in open session.

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1 MR BOURGON: [9:24:44] Yes, Mr President.

2 PRESIDING JUDGE FREMR: [9:24:45] So court officer, let's return back into open
3 session now.

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.

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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.) *(Reclassified partially in public)

23 THE COURT OFFICER: [9:30:37] We are back in private session.

24 PRESIDING JUDGE FREMR: [9:30:52] Thank you, court officer.

25 Mr Bourgon, please.

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1 MR BOURGON: [9:30:58] (Interpretation) Thank you, your Honour.

2 QUESTIONED BY MR BOURGON: (Interpretation) (Continuing)

3 Q. [9:31:00] Good morning, Mr Witness.

4 A. [9:31:05] Good morning.

5 Q. [9:31:07] My first question this morning relates to a clarification of reply you gave
6 yesterday. Please listen carefully to the reply you gave yesterday, which was on page 99
7 on line 7 of the French transcript 252. We were talking about Songolo, and my question
8 was as follows:

9 "Do you recall with whom you were when you left Mandro when you went to the general
10 staff and from there to Songolo?"

11 Your reply on lines 7 and 8 was:

12 "From Mandro we went with (Redacted) and his bodyguards."

13 Do you recall having given that reply yesterday, Mr Witness?

14 A. [9:32:23] Yes, I do recall that.

15 Q. [9:32:25] So my question this morning is, when you left Mandro with (Redacted) and his
16 bodyguards, do you recall a person who also lived in the same residence as you, that was
17 Chef Kahwa's residence?

18 A. [9:33:10] I don't know. I don't know how this question was formulated and I
19 don't know what you expect of me.

20 Q. [9:33:23] I will put the question again to you, Mr Witness. When you left with
21 (Redacted) to go to Songolo, was there an important visitor who was staying in Chief Kahwa's
22 residence at that time?

23 A. [9:33:56] Ah, well, when we were in Chief Kahwa's residence, the visitor was
24 President Thomas Lubanga who was accompanied by a minister called Ntumba Luaba.

25 Q. [9:34:22] And do you recall any incident which involved Minister Ntumba Luaba?

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1 A. [9:34:45] If I recall correctly, one day, one morning, very early in the morning he
2 woke up early in order to go out for a run, and when he came back he said that he had
3 injured his leg and that he had a problem with his ankle.

4 Q. [9:35:16] Was this on the same day that you left that this took place?

5 A. [9:35:39] I don't remember exactly. I don't know whether it was the same day, but
6 I know that -- I do know that he was still at the residence when we left.

7 Q. [9:36:00] My next question is directed at the very end of the operation in Songolo.
8 Yesterday, you gave the following reply, and this was at page 103 of the French transcript
9 on lines 12 to 15. Please listen carefully to the reply you gave yesterday.

10 The question you were asked was as follows:

11 "And where did you take Kisembo in Bunia?"

12 And your reply in lines 13 to 15:

13 "Once we arrived in Bunia, we took him to his residence where we left him. I think he
14 was there -- from there he was taken to the hospital for medical care."

15 Do you recall having given this reply yesterday, Mr Witness?

16 A. [9:37:05] Yes, I do recall saying that.

17 Q. [9:37:07] So I would, at this point, like to show you a photo to see whether you can
18 identify him.

19 Your Honour, I would like to have on the screen, please, item DRC-D18-0001-5279, and on
20 the list it is number 5.

21 PRESIDING JUDGE FREMR: [9:37:44] Court usher, please assist.

22 MR BOURGON: (Interpretation)

23 Q. [9:37:59] Mr Witness, you will see a photo on your screen and I would like to ask
24 you some questions about this photo. You should now be able to see this photo. And
25 my first question is, do you recognise this photo?

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- 1 THE COURT OFFICER: I'm sorry, Mr Bourgon, we are having some trouble publishing
2 the document. I see that it is now published on the evidence 1 channel.
- 3 MR BOURGON: [9:38:42] (Interpretation)
- 4 Q. [9:38:43] (No interpretation)
- 5 A. [9:38:46] No, I've never seen this.
- 6 PRESIDING JUDGE FREMR: [9:38:49] Court usher, could you assist Mr Witness
7 because I can see it well, so there's probably some problem on his part.
- 8 Thank you, court officer.
- 9 So, Mr Witness, can you see now the picture of the photo?
- 10 THE WITNESS: [9:39:28] (Interpretation) Yes, now I can see it.
- 11 MR BOURGON: [9:39:41] Mr President, we can go back into public session.
- 12 PRESIDING JUDGE FREMR: [9:39:44] All right then.
- 13 Court officer, let's return back into open session.
- 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

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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?

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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?

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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

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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

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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.

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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.) *(Reclassified partially in public)

10 THE COURT OFFICER: [10:02:13] We are in private session, Mr President.

11 PRESIDING JUDGE FREMR: [10:02:24] Thank you, court officer.

12 Mr Bourgon, please proceed.

13 MR BOURGON: [10:02:36] (Interpretation) Thank you, your Honour.

14 Q. [10:02:37] Now, Witness, you mentioned a name just previously. We're now in
15 private session. What can you tell us on the subject of the person called (Redacted)?

16 When did you see this person for the first time?

17 A. [10:03:10] I saw him for the first time when he was in the group of those who had
18 been taken to (Redacted). It was at that time that I
19 saw him for the very first time.

20 Q. [10:03:31] During your training in Mandro, had you seen this person called
21 (Redacted)?

22 A. [10:03:55] No. When I was undergoing training I hadn't met him.

23 Q. [10:04:04] So the person called (Redacted) who stayed behind, what happened
24 to him?

25 A. [10:04:33] If I remember correctly, there was a rally and there were exercises that

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1 were carried out before getting on, and he wasn't able to pass the test and that's the reason
2 why he was taken out.

3 Q. [10:04:58] Where did he go afterwards or what did he do?

4 A. [10:05:19] He was ready to carry out the journey. He was also among the
5 (Redacted). And in order not to discourage them, (Redacted) gave the order that they can
6 join our group.

7 Q. [10:05:40] So within your group with (Redacted), what was the work carried out by
8 (Redacted)?

9 A. [10:06:09] At that time he was just doing the normal bodyguard work.

10 Q. [10:06:37] I'd like to clarify something with you, Witness. I'm not sure about your
11 answer. So did he carry out the same work as the other bodyguards? Because when I
12 read your answer here it says, in French, "At that time he did nothing other than the work
13 that the bodyguards were doing." So my question is, was he doing the same work or
14 was he doing something else?

15 A. [10:07:21] I can confirm that because before being given the work of bodyguard, it
16 was given to a commander chief of platoon to initiate military marching, and that's why I
17 said that what he was doing as work was the same work as what the bodyguard was
18 doing.

19 Q. [10:08:08] Witness, I'm now going on to another subject, namely, the next operation
20 in which you participated after getting the uniforms.

21 Now yesterday you mentioned an answer, and I will go back to your answer. This is
22 what you gave yesterday; this is in transcript 252, page 95. Now, your answer is in lines
23 4 to 6. And what you said, "I'm trying to situate myself with regards to the time period.
24 It was during the second operation when we were already wearing military uniforms."
25 So what's this operation when you were wearing uniforms? Did you have another

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1 operation in which you participated?

2 A. [10:09:23] I can state the following. I was wearing the uniform during the second
3 operation, the Komanda operation.

4 Q. [10:09:37] And during the second operation, was (Redacted) with you?

5 A. [10:09:51] Yes, (Redacted) was with us.

6 Q. [10:09:55] To the best of your knowledge, was Bosco Ntaganda present with you?

7 A. [10:10:27] I remember the day (Redacted). He wasn't there.

8 Q. [10:10:35] So yesterday, Witness, you spoke about your injury and you also spoke
9 about the wound of the bodyguard of Kisembo. Can you tell us a bit about the battle?

10 What happened?

11 A. [10:11:04] Very well. When it concerns (Redacted) and that of the other
12 bodyguard that I mentioned, Kisembo's bodyguard, I would say that there was an
13 intensification in the fighting; there was mortar fire towards us. I was able to see the
14 bodyguard who was hit in the stomach and he was wounded. He was afraid. Me too.
15 I also got a fragment in (Redacted).

16 Q. [10:12:00] Do you remember the name of the escort, Kisembo's escort, who was
17 wounded?

18 A. [10:12:10] He had a nickname, Robo.

19 Q. [10:12:31] (Redacted)

20 (Redacted)

21 A. [10:12:48] (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [10:13:17] So what was the result of this operation, Witness?

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1 A. [10:13:40] Even though the battle was difficult, we were able to win and get the
2 centre.

3 THE INTERPRETER: [10:13:50] Interpreter correction: Safari was hit, not the other
4 soldier, by the fragment.

5 MR BOURGON: [10:14:08] (Interpretation)

6 Q. [10:14:09] When you recovered the centre, as you said, what action was taken by
7 your group once the centre of Komanda had been re-taken?

8 A. [10:14:38] One group remained on the road going to Oïcha-North Kivu, and
9 another group set up on the road going towards Kisangani.

10 Q. [10:15:09] Mr Witness, during this operation, once you had arrived, you'd been hit,
11 you'd re-taken the centre and you'd occupied the roads, did any of the forces in
12 your -- with you destroy or set fire to houses?

13 PRESIDING JUDGE FREMR: [10:15:36] Hold on, Mr Witness.

14 MS LUPING: [10:15:38] Objection, Mr President, your Honours. Leading. We
15 haven't had an elicited account of a spontaneously -- as to a description of the events or
16 what happened. The witness should be simply asked to state what he observed
17 happened rather than specific instances of potential chronality put to him in this way.

18 PRESIDING JUDGE FREMR: [10:15:59] Mr Bourgon.

19 MR BOURGON: [10:16:06] I'm -- I do not understand the objection. The question was
20 whether in the operation that he just described -- I'm asking him what he did. I'm asking
21 him whether his group burnt or destroyed houses. There is no -- it's not a leading
22 question, and I believe the witness is in a position to say what he saw and what he did.

23 PRESIDING JUDGE FREMR: [10:16:32] Yes, the objection is overruled because we all
24 know that from the previous evidence in many operations houses had been destroyed and
25 set fire. So the question whether in this operation Mr Witness witnessed something like

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1 that, it's absolutely legitimate. So please put the question again.

2 MR BOURGON: (Interpretation) Thank you, your Honour.

3 Q. [10:17:07] Mr Witness, you spoke of the Komanda operation and you talked about
4 your arrival, that you were wounded. You talked of Robo, having re-taken the centre,
5 and then having deployed on two roads. So my next question is, during all these
6 operations, did you see any houses which had been set fire to by your group?

7 A. [10:17:42] No. I would say that I never witnessed houses being set on fire or
8 destroyed.

9 Q. [10:18:01] Was there any fighting in the centre of Komanda? When you re-took
10 the centre was there any fighting there?

11 A. [10:18:26] Yes. I would say that there was a bend where there was intense
12 fighting and that there, there was combat. And that is my reply to your question.

13 Q. [10:18:43] And during this fighting, did you see whether any civilians were
14 involved in any way?

15 A. [10:19:17] I don't understand the sense of your question. What type of civilians
16 are you referring to?

17 Q. [10:19:28] When you arrived in Komanda, where were the inhabitants of
18 Komanda?

19 A. [10:19:51] As I've just said, when there were military operations, the civilians living
20 in the area where our enemies were left once the enemies had fled and been defeated.

21 Q. [10:20:23] So based on your reply when you were fighting with the enemy in
22 Komanda were the inhabitants still there or had they fled before that?

23 A. [10:20:41] I will repeat my answer. The civilians fled with the enemy who were
24 fighting us.

25 Q. [10:20:55] When you talked about the first operations, you talked about looting,

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1 did you see any such events during the second period of combat in Komanda?

2 A. [10:21:24] No. I would say that I did not witness any such thing.

3 Q. [10:21:35] During the combat or thereafter, Mr Witness, did you witness any events
4 where inhabitants or enemy were maltreated where you were present?

5 A. [10:22:06] Please, could you repeat your question so that I can be sure to have
6 understood it correctly?

7 Q. [10:22:14] So I'm trying to refresh your memory. You're in the middle of an
8 operation in Komanda. Did the soldiers in your group ever mistreat, maltreat or abuse
9 the civilians or the enemy during the operation?

10 A. [10:22:46] With regard to civilians, I did not witness any such thing. I believe I
11 was sufficiently clear in my previous reply because I said to you that the civilians fled
12 together with our enemy wherever we were carrying out operations.

13 Q. [10:23:11] Do you know the names of any other commanders who were present in
14 the operation in Komanda?

15 A. [10:23:33] Well, we're talking about something that happened very -- a very long
16 time ago and so I don't remember.

17 Q. [10:23:44] So let's move on beyond the operation in Komanda. (Redacted)
18 (Redacted) and that Safari was wounded. Where did you go after the operation
19 in Komanda?

20 A. [10:24:06] I remember that we returned to Bunia.

21 Q. [10:24:12] And where in Bunia did you go?

22 A. [10:24:21] We went to Mr Bosco's residence.

23 Q. [10:24:29] (Redacted)

24 (Redacted)

25 A. [10:24:55] Well, when we went to Bunia, all of the escorts were there, but some of

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1 them did not go to Bosco's residence. They went somewhere higher up, to a different
2 location.

3 Q. [10:25:19] (Redacted)

4 A. [10:25:46] (Redacted)

5 Q. [10:25:53] (Redacted)

6 A. [10:26:09] (Redacted)

7 Q. [10:26:26] (Redacted)

8 (Redacted)

9 A. [10:26:41] (Redacted)

10 Q. [10:26:50] (Redacted)

11 (Redacted)

12 A. [10:27:17] (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [10:27:45] I would like to show you a photo, and I would like to know whether you
17 recognise what is on the photo.

18 Mr President, I would like to have DRC-D18-0001-5352 displayed, please. It's number 48
19 on the Defence list and it has not yet been admitted into evidence.

20 PRESIDING JUDGE FREMR: [10:28:31] We are still in private session, but the level of
21 the confidentiality for this picture, is it confidential or not?

22 MR BOURGON: [10:28:40] Mr President, I believe we need to remain in private session.
23 However, the photograph itself is not confidential.

24 PRESIDING JUDGE FREMR: [10:28:50] Understood. All right.

25 MR BOURGON: [10:28:57] (Interpretation)

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1 Q. [10:28:58] Mr Witness, you should have a photo now on your screen. Do you
2 recognise this and if so what is it?

3 A. [10:29:16] I do, indeed, recognise this. It is a picture of Bosco Ntaganda's old
4 residence when he returned to Bunia.

5 Q. [10:29:32] (Redacted)
6 (Redacted)

7 A. [10:29:45] (Redacted)

8 Q. [10:29:55] Could you describe perhaps the -- what it looks like inside,
9 Bosco Ntaganda's compound?

10 A. [10:30:18] I will try and describe it as I remember it. When you go in through the
11 main door -- in fact, there are three doors on the front, or three entrances on the front, and
12 on the left by the entrance there's a small house. And on the -- with a balcony and a
13 verandah. And then there is a door which leads to the living room. And from there
14 you can -- there is access to the various rooms of the house.

15 Q. [10:31:07] So if you look at this photo, the house you're talking about with the
16 various rooms inside, could you tell us which of the buildings on the photo you are
17 referring to? Is it the one on the left or the one on the right?

18 A. [10:31:45] The house on the left of this entrance was his residence and there, there
19 were also a number of rooms.

20 Q. [10:31:59] Were there other buildings on Bosco Ntaganda's compound apart from
21 this house?

22 A. [10:32:17] Yes. As I was -- as I said earlier, there was an annex which had three
23 doors.

24 Q. [10:32:37] And the rooms behind these three doors, do you know what was in
25 these rooms?

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1 A. [10:33:02] There was a room which was the communications room. There was a
2 phonie there. And then in the room next to it, the person in charge of the guards was
3 using it to ensure the -- that someone was always on duty. And the third --

4 THE INTERPRETER: [10:33:35] Question from the Swahili booth. Please, could the
5 witness be asked to repeat the final part of his reply.

6 PRESIDING JUDGE FREMR: [10:33:45] Mr Witness, could you kindly repeat the final
7 part of your response because it hasn't been captured by the interpreters. At the moment
8 we have your answer:

9 "There was a room which was the communications room. There was a phonie there.
10 And then in the room next to it, the person in charge of the guards was using it to ensure
11 that someone was always on duty. And the third" -- and after "the third" your response
12 hasn't been captured, so if you just can add the rest.

13 THE WITNESS: [10:34:47] (Interpretation) The second room was a restroom for the
14 guards, and the third room was used for ammunition storage.

15 PRESIDING JUDGE FREMR: [10:35:14] Thank you, Mr Witness.

16 MR BOURGON: [10:35:20] (Interpretation)

17 Q. [10:35:22] When you arrived at Bosco Ntaganda's compound, did you meet any
18 other people there?

19 A. [10:35:31] Yes, yes, there were people there.

20 Q. [10:35:46] Could you tell us who you met, to the best of your knowledge, and what
21 these people were doing?

22 A. [10:35:55] As I said, there was a room with the phonie and there was the operator
23 of this equipment. That was Moïse, and he was in this room. There was somebody
24 with him whom we called Moïse, other Moïse, and he was learning how to operate the
25 radio.

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1 Q. [10:36:44] I remember not quite sure I've fully understood your replies. Was there
2 one person or two -- one or two people in this room? You mentioned Moïse, but I'm not
3 sure.

4 A. [10:37:07] I just said that as well as Moïse there was somebody who was learning to
5 operate the radio. We called him Doctor; that was the nickname we used.

6 Q. [10:37:25] Did you meet anyone else in Bosco Ntaganda's compound?

7 A. [10:37:38] Yes. There was also someone who was monitoring the support
8 weapons which were stored undercover in an adjoining room.

9 Q. [10:38:06] Do you remember how many people and what they were called, if you
10 can remember that?

11 A. [10:38:13] I think there were other people enabling them to keep an eye on these
12 weapons, but I don't remember their names. I do remember Didier and Nduru.

13 Q. [10:38:43] And earlier you said the weapons which were under a tarpaulin, how
14 many weapons were there, do you remember, under this tarpaulin?

15 A. [10:39:15] I believe that there were two support weapons there, a B10 and a 12.

16 Q. [10:39:27] Is that what you think or is that what you know? As the Presiding
17 Judge said, if you don't remember, just say so.

18 How many weapons do you know were there or did you see were there under this
19 tarpaulin?

20 A. [10:39:54] That's what I'm telling you. If I recall correctly there were two weapons,
21 a 12 and a B10.

22 Q. [10:40:06] And were there any other people present in the compound, anyone else
23 that you met?

24 A. [10:40:25] Yes. I said that there were people helping those who were keeping an
25 eye on those weapons, but I don't recall their names.

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1 Q. [10:40:49] Was Bosco Ntaganda present on the compound?

2 A. [10:41:10] Yes, I would say that he was there.

3 Q. [10:41:15] And were there people who were with Bosco Ntaganda?

4 A. [10:41:36] Quite frankly, I can't remember.

5 Q. [10:41:39] Earlier you mentioned -- or where were the escorts, Bosco Ntaganda's
6 escorts, as far as you can recall?

7 A. [10:42:04] As I said, apart from those carrying out surveillance in his residence,
8 there were some slightly higher up from the first residence of Kisembo, compared with
9 what was shown on my screen.

10 Q. [10:42:28] So those who were carrying out surveillance at Bosco Ntaganda's
11 compound, did you meet any of them?

12 A. [10:42:51] Yes. I saw those who were living there. Yes, I saw them. We spent
13 time together.

14 Q. [10:43:01] Can you give us any of the names of these escorts who were there?

15 A. [10:43:18] Yes.

16 Q. [10:43:19] Could you give us some names, please, Mr Witness?

17 A. [10:43:26] (Redacted)

18 (Redacted)

19 Q. [10:43:51] To the best of your knowledge, where was Mr Bosco Ntaganda's wife
20 living at that time?

21 A. [10:44:07] She was also in this residence.

22 Q. [10:44:12] And, again, to the best of your knowledge, were there other PMFs there
23 who you met at the compound or the residence, or was Lotsove the only one?

24 A. [10:44:35] There were others, but they were not living there. They live -- they
25 were living in the general staff which was a bit higher up than --

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1 Q. [10:44:50] And finally, to conclude this morning's first session, I would like to
2 show you a photo, DRC-D18-0001-5242. If I could have that displayed on the screen,
3 please. This is not a confidential photo. It's public, however, we do need to remain in
4 private session.

5 PRESIDING JUDGE FREMR: [10:45:17] Ms Luping.

6 MS LUPING: Yes, if we could just have an item number.

7 PRESIDING JUDGE FREMR: [10:45:28] Mr Bourgon, as regards the previous photo, so
8 you didn't want to tender that?

9 MR BOURGON: [10:45:39] (Interpretation) This is the second one, but the only one I
10 haven't put is the last, and I'm going to ask for the two to be admitted together because
11 they're in the same place. This is 52 on our list, item 52.

12 PRESIDING JUDGE FREMR: [10:45:55] All right.

13 MR BOURGON: [10:46:08] (Interpretation)

14 Q. [10:46:09] Mr Witness, you can see a photo here. Can you recognise what's on
15 this photo, and if so can you tell us what it is?

16 A. [10:46:31] This is the annex I spoke of earlier. When you go into the compound,
17 you come to this annex by going through the side door.

18 Q. [10:46:53] You said that there was one door which led to a room with radios. Can
19 you tell us which of the doors on the photo it is, if it is one of them?

20 A. [10:47:17] I would say that it's the first one. And next to this door there is an open
21 window with curtains.

22 Q. [10:47:33] Mr Witness, you mentioned two people who were using the radio.
23 What did you call these people? Did they have a name? Was there a name that was
24 used to designate these people?

25 A. [10:48:01] Do you want to know the names that we called them?

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1 Q. [10:48:09] Was there a common term for people who worked with the radio?

2 A. [10:48:32] We called them signaller.

3 MR BOURGON: [10:48:36] (Interpretation) Mr President, I would like to have the
4 two photos admitted as evidence. Sorry, there were three. I do apologise. No, no, it
5 was 48, which is 5352, and 52 which is 5242, as Defence items. Thank you, your Honour.

6 PRESIDING JUDGE FREMR: [10:49:10] Prosecution, your position?

7 MS LUPING: [10:49:12] No objection to the admission of these two photographs.

8 PRESIDING JUDGE FREMR: [10:49:16] All right then. So these two photographs,
9 numbers specified by Mr Bourgon earlier, are admitted into evidence as further Defence
10 exhibits.

11 Now we will have to break because we started quarter past so we have to finish quarter
12 to. We should finish quarter to.

13 Mr Bourgon, just to get update on timing, because at the moment you, as I was informed,
14 you used four hours and five minutes roughly, so you still have at your disposal almost
15 two hours. And my question is whether you really will need all those two hours or
16 whether you would be able to complete your examination by the next session. In such a
17 case, we, the Chamber, would be even open to prolong a bit this session, so just to get -- I
18 am not pushing on you. I would just like to get update.

19 MR BOURGON: [10:50:26] Thank you, Mr President. I believe that I will need the
20 time remaining, and whether I do it in one or two sessions, really up to the Chamber,
21 Mr President.

22 PRESIDING JUDGE FREMR: [10:50:37] All right. So, yeah, but anyway I'm afraid
23 that even if we would prolong our session to two hours, it probably will not be enough for
24 you to exhaust your one hour 55 minutes of natural time because normally there are
25 some -- all right, so no problem. We will sit in our regular time schedule, and we will,

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- 1 because we now prolonged this session, so we will reconvene at 11.20.
- 2 THE COURT OFFICER: [10:51:13] All rise.
- 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.

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1 (Private session at 11.24 a.m.) *(Reclassified partially in public)

2 THE COURT OFFICER: [11:24:58] We are in private session, Mr President.

3 PRESIDING JUDGE FREMR: [11:25:10] Thank you, court officer.

4 Mr Bourgon, please proceed.

5 MR BOURGON: [11:25:17] (Interpretation) Thank you, your Honour.

6 Q. [11:25:19] Witness, we are in private session. Now you've testified earlier this
7 morning that (Redacted) joined the group of bodyguards, Safari's bodyguards, and
8 my question is as follows: Was (Redacted) present when you participated in the
9 second operation in Komanda?

10 A. [11:25:59] I don't remember very well.

11 Q. [11:26:04] Just before the break we were speaking about Bosco Ntaganda's
12 residence where you went. Did (Redacted) go to that residence or to another place?

13 A. [11:26:42] If I remember well, when Safari left and I stayed at the residence of
14 Bosco Ntaganda, a lot of people fled in different places.

15 Q. [11:27:05] Are you talking about the time when you became an escort for
16 somebody else?

17 A. [11:27:15] Yes, I think so.

18 Q. [11:27:23] (Redacted)

19 (Redacted) Now, do you know at that time where
20 (Redacted) went?

21 A. [11:27:45] Before my colleagues left in a group, when we were at Bosco's residence,
22 there were some who were there who came back, but I don't know if they came back there
23 or if they went elsewhere. I don't remember very well.

24 Q. [11:28:27] Now, you mentioned somewhat earlier in your testimony that you had
25 seen Bosco Ntaganda in his compound in Bunia. What information did you have about

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1 Bosco Ntaganda's movements? Did you know where he was going, where he was
2 coming from?

3 A. [11:28:52] When I was there, one of the trips had been organised, he had to go to
4 Goma. I was in the group that had to go there. Afterwards I went there, I
5 left -- afterwards I left and they departed without me.

6 Q. [11:29:28] Now, you've said that a group had to go to Goma. Do you know what
7 that aim to Goma was, this visit that you speak about?

8 A. [11:30:01] As I didn't leave in the group, I think that it's when they went to meet
9 the chief of RCD-Goma, on Onusumba.

10 Q. [11:30:24] When you say "they went", who should have gone to see on Onusumba,
11 if you remember?

12 A. [11:30:51] Well, as Bosco had just left, perhaps he was going to meet Mr Onusumba,
13 accompanied by other persons.

14 Q. [11:31:06] Do you know Thomas Lubanga?

15 A. [11:31:14] Yes.

16 Q. [11:31:16] To the best of your memory, was Thomas Lubanga involved in that trip?

17 A. [11:31:39] As I didn't go, I don't know very well, but I think that he must have been
18 a member of the group.

19 Q. [11:31:51] Due to the fact that you didn't go, did anything happen to you by way of
20 consequence?

21 A. [11:32:12] Yes, I remember. The fact that I didn't leave or that I didn't go, the
22 person who was the chief of (Redacted). That was
23 Uniform Zulu.

24 Q. [11:32:37] (Redacted)

25 A. [11:32:57] (Redacted) is situated in the compound where there was a garage, and in

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1 that garage there was an armoured vehicle, and (Redacted).

2 Q. [11:33:16] So I'm coming back to the period where you were (Redacted) escort, so we
3 are on the same page there. So you're (Redacted) escort. Did you know a place called Aru?

4 A. [11:33:42] No.

5 Q. [11:33:44] When you were (Redacted) escort and you were staying at
6 Bosco Ntaganda's residence, do you remember having travelled with (Redacted) at that time?

7 A. [11:34:25] These movements that you're speaking about, when do you mean?
8 Could you explain that better to me?

9 Q. [11:34:32] Well, you spoke about having followed training in Mandro. Did you
10 go with (Redacted) to Mandro? Here, I'm speaking about the time when you were residing in
11 Bosco Ntaganda's residence.

12 A. [11:35:02] Yes, there was a time when we left and we went to go to Mandro.

13 Q. [11:35:13] Do you remember what happened in that place or what you saw there?

14 A. [11:35:31] Yes, I could say that when we went for a walk there that was to meet a
15 group from the brigade that had come from Aru to Jérôme's and they had arrived there.

16 Q. [11:35:53] Well, earlier, I don't know if you understood my question earlier, but
17 earlier I asked you if you knew a place called Aru, and there I can see in your answer you
18 mention a brigade in Aru. Did you understand my question? Did you know a place
19 called Aru?

20 A. [11:36:20] I don't know Aru because I've never been there. But I've heard people
21 speak of the name of Aru.

22 Q. [11:36:29] Thank you for that clarification.

23 Do you know if while you were (Redacted) escort, do you know if Bosco Ntaganda went to
24 Aru?

25 A. [11:36:49] It's possible that he went.

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1 Q. [11:36:59] And what is your source to say that it's possible? Is it just a possibility
2 or do you have a particular memory in that regard?

3 A. [11:37:32] The reason why I say that is because when we arrived in Mandro it was
4 at that time that we met the group from the brigade that had come from Aru. We were
5 told that it was a group that had come from Jérôme's residence. And when we arrived in
6 Mandro we went to see him -- we went to see them, and that's the reason why we wanted
7 to meet that group that did come from Mandro -- that had come to Mandro.

8 Q. [11:38:12] Do you remember the person who was responsible for the group that
9 had come from Aru?

10 A. [11:38:27] Yes. I had met him. He was the commander called Salumu.

11 Q. [11:38:39] And to the best of your memory, were there meetings or conversations
12 between Safari and any other persons in Mandro?

13 A. [11:39:07] I don't remember at all.

14 Q. [11:39:09] Now, the Aru brigade that had come to Mandro, what was the reason as
15 to why it was there, if you know?

16 A. [11:39:35] I found out that the group that had come was the group that was meant
17 to go to Mongbwalu to be involved in clashes there.

18 Q. [11:39:51] Do you know at what time or when that group went to Mongbwalu?

19 A. [11:40:21] I don't remember very well because the events took place a very long
20 time ago.

21 Q. [11:40:31] So at that time, when you visited Mandro accompanied by (Redacted), was
22 Bosco Ntaganda present?

23 A. [11:41:14] I don't remember very well. I don't remember that either.

24 Q. [11:41:19] And when you went back to the residence, having gone to Mandro, do
25 you remember having seen Bosco Ntaganda at the residence at that time?

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- 1 A. [11:41:47] I don't remember at all.
- 2 Q. [11:41:49] (Redacted)
- 3 (Redacted)
- 4 A. [11:42:22] (Redacted)
- 5 (Redacted)
- 6 Q. [11:42:39] (Redacted)
- 7 A. [11:42:55] (Redacted)
- 8 Q. [11:42:58] Do you know what means of transport (Redacted) used in order to get
- 9 treatment?
- 10 A. [11:43:22] He went by plane.
- 11 Q. [11:43:26] So during this period, Witness, did you personally participate in any
- 12 operation in Mongbwalu?
- 13 A. [11:43:52] Yes. When I was with (Redacted), I participated in the Mongbwalu
- 14 operation.
- 15 Q. [11:44:04] Who did you take orders from to participate in the Mongbwalu
- 16 operation?
- 17 A. [11:44:32] There was just (Redacted) who could give me the order to participate in that
- 18 operation.
- 19 Q. [11:44:40] How many days after receiving the orders from (Redacted) did you
- 20 leave for Mongbwalu?
- 21 A. [11:44:52] I don't remember that.
- 22 Q. [11:45:13] When you participated in the Mongbwalu operation, who was part of
- 23 the group with whom you left from Bunia?
- 24 A. [11:45:39] In the group, amongst the people who came from Bunia, I would say
- 25 that it was a group of escorts. Tiger One commander was also part of the group.

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1 Q. [11:46:00] Were there other people who were part of the group apart from Tiger
2 One's escorts, to the best of your knowledge?

3 A. [11:46:11] Yes, there were other people. There were a group of other people we
4 met, but we did not leave from Bunia together.

5 Q. [11:46:46] You talked about Tiger One and his escorts. When you left from Bunia,
6 do you remember anyone else who was part of the group?

7 A. [11:47:02] Yes. Apart from Tiger One's escorts and Bosco's escorts, there was --

8 THE INTERPRETER: [11:47:29] The Swahili booth is requesting for the witness to
9 repeat his answer.

10 MR BOURGON: [11:47:40] (Interpretation)

11 Q. [11:47:41] Could you please repeat the answer, Witness.

12 A. [11:47:47] Yes, I was saying that the other group with whom we left, apart from the
13 escorts, was the group that went to receive -- that received a training in using support
14 weapons.

15 Q. [11:48:14] When you say "group" and the "support weapons", who was part of this
16 group of people who received training in using support weapons?

17 A. [11:48:45] I was saying that amongst the people with whom we went to do the
18 Mongbwalu battle, apart from the escorts there were also people who were supposed to
19 get training in using firearms.

20 Q. [11:49:03] And who were these people?

21 A. [11:49:11] If my memory does not fail me, I have Nduru and Murefu, and there
22 were also people there to help them but I don't remember their names.

23 Q. [11:49:26] Amongst the escort were there female escorts as well?

24 A. [11:49:46] Yes, there were female escorts as well.

25 Q. [11:49:55] Can you drop a few names of the people who were there when you left

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1 for Mongbwalu?

2 A. [11:50:11] Yes, I can. There was (Redacted) as well. So

3 these are the few names that I can say. There was also (Redacted).

4 Q. [11:50:33] You just mentioned a name, (Redacted)

5 A. [11:50:52] (Redacted) is one of the PMFs or the female military staff. She comes from

6 the APC group in Mali who actually reached the headquarters. And this is how I met

7 her. And this is why I mentioned her.

8 Q. [11:51:12] When did you exactly get to know (Redacted), at what point of time?

9 A. [11:51:40] It was when we went to the Mongbwalu battle. It was the second time I
10 met (Redacted), and it was the second time that I was with her.

11 Q. [11:51:59] I just wanted to confirm something with you. So we were all leaving
12 for Mongbwalu and you mentioned the names of people who were there. It's on page 42.
13 You said (Redacted). So was (Redacted) there at that operation in
14 Mongbwalu or another operation?

15 PRESIDING JUDGE FREMR: [11:52:32] Hold on, Mr Witness.

16 Ms Luping.

17 MS LUPING: [11:52:33] Yes, objection, Mr President. I would ask that the witness be
18 asked to remove his headphones.

19 PRESIDING JUDGE FREMR: [11:52:44] Ms Luping, you may proceed.

20 MS LUPING: [11:52:48] Mr President, I'm just looking at the question and answer, and
21 the witness was asked who precisely went to this Mongbwalu battle. And when he's
22 asked specifically about the female escorts also present, he has already quite clearly
23 mentioned (Redacted).

24 Now, in terms of this line of questioning, Mr President, your Honours, I would say that
25 this is inappropriate. The witness has already provided a very clear response. It may

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1 not be the response that counsel wanted to hear, but to ask the witness to go back on a
2 very clear response is simply asking him to correct information that he has spontaneously
3 provided. A very clear question, a very clear answer. So in these circumstances,
4 your Honour, we would very strongly object to the question being put again and
5 especially in the way it's being asked.

6 PRESIDING JUDGE FREMR: [11:54:00] Mr Bourgon, even before listening to you, I
7 have to say I have the same feeling as expressed now by Ms Luping.

8 MR BOURGON: [11:54:12] Well, Mr President, I disagree respectfully with my
9 colleague. The question was put to the witness and it was -- he did mention the name
10 (Redacted) in the group of people. And then when I asked him, "When did you exactly get to
11 know (Redacted), at what point of time?" And this is page 43, lines 2 and 3. And he says, "It
12 was when we went to the Mongbwalu battle; it was the second time I met (Redacted), and it
13 was the second time that I was with her."

14 That answer, Mr President, is what I want to clarify, whether he's talking about the first
15 Mongbwalu or the second Mongbwalu. The Chamber knows very well that in his
16 statement he explained which Mongbwalu it was when he saw (Redacted) for the first time.
17 So we can either allow this question or I will try to refresh his memory with his statement
18 to be sure that he is -- he knows which Mongbwalu he's talking about.

19 PRESIDING JUDGE FREMR: [11:55:15] Well, Mr Bourgon, my problem is the last part
20 of your question saying, so was (Redacted) there at that operation in Mongbwalu or in another
21 operation, but I think as Ms Luping rightly stressed, she made clear that she was at that
22 operation and possibly the second one, so you can then ask what was the second one.
23 But as concerns her involvement in this operation in Mongbwalu, there are no doubts, you
24 know, from -- if you read his previous answer. So you may rephrase. You may
25 rephrase your question, but not to put it as it was put.

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1 MR BOURGON: [11:56:01] Thank you, Mr President. What I will proceed to do is to
2 refresh the witness's memory with his statement. Of course, I will do the normal
3 procedure and request from the Chamber permission to do so.

4 PRESIDING JUDGE FREMR: [11:56:16] If you would quote his previous statement, I
5 don't, at the moment, but I also hear to Ms Luping. Ms Luping.

6 MS LUPING: [11:56:25] Mr President, we would object to this procedure being used.
7 The witness has not said he has forgotten, and it is not appropriate to seek to refresh a
8 witness's memory when there is no indication whatsoever that he is failing in his memory.
9 He's not said, and he's been very clear previously when he has said "I do not recall". In
10 this instance, he has very clearly articulated the individuals that he recalls were present.
11 So in these circumstances, your Honours, we would object to the procedure of refreshing a
12 witness's memory being used in these circumstances.

13 PRESIDING JUDGE FREMR: [11:56:57] Mr Bourgon.

14 MR BOURGON: [11:56:58] This is wholly premature. I said I will go to through the
15 procedure. I understand that my colleagues from the Prosecution don't know the
16 procedure. I've seen that many times. But I would go through the proper procedure,
17 and, Mr President, you can decide whether it is appropriate or not, but that's premature.

18 PRESIDING JUDGE FREMR: [11:57:13] Please, please, proceed. Anyway, if
19 hypothetically Mr Bourgon may make some step which would be inappropriate, we
20 would then, the Chamber, as I said many times, we are professional Judges, so we would
21 in such a case adjudicate the potential answer in light of that. At the moment, please
22 proceed, and I will be on alert just to try to prevent any inappropriate questions.

23 MR BOURGON: [11:57:43] Thank you, Mr President. Maybe we can ask the witness
24 to put back his earphones.

25 PRESIDING JUDGE FREMR: [11:57:52] One question before that.

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1 Mr Witness, do you understand at least a bit English?

2 THE WITNESS: [11:58:06] Hapana.

3 PRESIDING JUDGE FREMR: [11:58:14] Are you sure?

4 THE WITNESS: [11:58:20] (Interpretation) No, your Honour.

5 PRESIDING JUDGE FREMR: [11:58:24] All right.

6 Mr Bourgon, please proceed.

7 MR BOURGON: [11:58:35] (Interpretation)

8 Q. [11:58:38] Witness, we are talking about (Redacted). You answered a few questions.

9 I -- my question is, did you provide any information about (Redacted) in your witness
10 statement?

11 PRESIDING JUDGE FREMR: [11:58:57] Hold on, Mr Witness. Don't answer.

12 Ms Luping.

13 MS LUPING: [11:59:01] Objection, Mr President. I'm sorry, I will have to ask that the
14 witness removes his headphone.

15 PRESIDING JUDGE FREMR: [11:59:07] Mr Witness, again, yeah, please.

16 Please proceed, Ms Luping.

17 MS LUPING: [11:59:13] Mr President, as Defence counsel is fully aware of, the step in
18 the question he's asking now relating to his recollection about giving a prior witness
19 statement, even putting forward a prior witness statement can only be done when the
20 testimony actually given gives any indication that there is any failure in his memory, that
21 he cannot remember, and that's just simply not the case, your Honours.

22 Now Defence counsel said he was going to follow the steps in the procedure. He's not
23 asking any further substantive questions. He's going immediately to the statement,
24 your Honours. And that is what we're objecting to. Procedurally, it is not appropriate
25 for him to seek to refresh the memory at this point when there is no failure in memory.

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1 Now, if he was to ask any questions relating to the second time that this witness has met
2 with the -- in person, it might be the case, but to go launching into the statement is not a
3 correct use of a memory-refreshing exercise, your Honours.

4 PRESIDING JUDGE FREMR: [12:00:13] Ms Luping, I find this objection premature. It
5 is overruled.

6 Mr Bourgon, please proceed.

7 MR BOURGON: [12:00:18] Thank you, Mr President.

8 Q. [12:01:07] (Interpretation) Witness, I'd like to come back to the question about
9 (Redacted). I'm asking you if you remember having given any information on (Redacted) in your
10 witness statement.

11 A. [12:01:34] Yes, there is something I said in my witness statement about her.

12 Q. [12:01:38] Do you remember what you said when you met her?

13 A. [12:02:08] Yes.

14 Q. [12:02:09] To the best of your knowledge, when did you meet (Redacted) for the first
15 time?

16 A. [12:02:31] There was a group of soldiers who were coming from Mali -- Mahagi,
17 and (Redacted) was part of this group coming from Mahagi, and it's at that point of time that I
18 met (Redacted). The group was called (Redacted).

19 Q. [12:03:21] And when did you meet (Redacted) the first time during an operation?

20 A. [12:03:30] The operation when I met (Redacted) was during the second operation in
21 Mabanga when we were going to Mongbwalu.

22 Q. [12:03:55] So the second operation that you're talking about, does it have a name?

23 A. [12:04:14] Yes, the second operation was called la guerre de 48 heures, the war of
24 48 years -- the war of 48 hours, la guerre de 48 heures.

25 Q. [12:04:31] So let's come back to the time when you were leaving for the

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1 Mongbwalu -- when you were leaving for Mongbwalu for the first time. Was there a
2 Signora in your group?

3 A. [12:04:48] Yes, there was Signora Moïse who was part of the group.

4 Q. [12:04:56] And did the vieux papa, or the old daddy, did he come along?

5 A. [12:05:13] I don't think Vieux Papa came along.

6 Q. [12:05:20] What path did you take to go to Mongbwalu?

7 A. [12:05:34] We left Bunia; we reached Iga Barrière; we left Barrière, and we reached
8 Nizi, and we crossed Lalu, and we also crossed Dalu (phon) before entering Mongbwalu.

9 THE INTERPRETER: [12:05:54] The interpreter corrects himself: It's Dala.

10 MR BOURGON: [12:05:59] (Interpretation)

11 Q. [12:05:59] Do you know a place called Mabanga?

12 A. [12:06:08] Yes, I know Mabanga.

13 Q. [12:06:13] The road you mentioned that you took, did you cross Mabanga?

14 A. [12:06:32] During the first time we did not cross Mabanga.

15 Q. [12:06:38] How many days did it take for you to get to Mongbwalu?

16 A. [12:07:01] When we left Bunia, we *got to Barrière where we spent the night, then
17 we left Barrière to go to Nizi, and we spent the night at Lalu, where we left our vehicles,
18 and then we continued. It took us two hours -- two days. *And when we woke up, we
19 left again. I think it was about three days.

20 Q. [12:07:45] Do you remember the description you gave of the road you took, in your
21 witness statement?

22 A. [12:08:07] Yes, I think it's the itinerary I just mentioned shortly.

23 Q. [12:08:14] When you arrived in Mongbwalu, what was the situation like?

24 A. [12:08:31] If I can recall well, when we reached Mongbwalu we met the group that
25 came before us. There was Salumu Itawari (phon) who was at the centre of Mongbwalu.

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1 Q. [12:08:57] Was there any fighting in Mongbwalu when you reached there?

2 A. [12:09:04] No, there was no fighting because the first group was already there.

3 Q. [12:09:20] And from Mongbwalu where did you go?

4 A. [12:09:31] We went to the airport. From the airport we went to Kagaman (phon)
5 and then we reached the place where Salumu was there, a bit upstream. And the
6 military camp was actually there in the valley.

7 Q. [12:10:03] Did you participate in combats or fights in Mongbwalu or around that
8 region?

9 A. [12:10:23] Yes, the battle -- I participated in a battle myself. We left the apartment
10 and we went towards Sayo.

11 Q. [12:10:43] The Sayo operation -- in the Sayo operation, which weapons were used
12 to chase off the enemies from Sayo?

13 A. [12:11:00] I know the weapons that we used.

14 Q. [12:11:09] Can you tell me the weapons?

15 A. [12:11:15] With regards to heavy weapons, there was B10 and 12. B10 and 12.

16 Q. [12:11:28] What is B10?

17 A. [12:11:47] B10, if I can describe the weapon, it's a heavy weapon with a tube kind
18 of structure and it's a heavy weapon and it's a shell.

19 Q. [12:12:10] Did Ntaganda participate in this operation -- in the Sayo operation that
20 you just spoke about?

21 A. [12:12:26] Yes, he was there.

22 Q. [12:12:28] Were you with Bosco Ntaganda or with another group during this
23 operation?

24 THE INTERPRETER: [12:12:34] The interpreter would like to add that the B10 fires
25 shells. Thank you.

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1 THE WITNESS: [12:12:48] (Interpretation) I was with himself during this operation.

2 MR BOURGON: [12:12:53] (Interpretation)

3 Q. [12:12:55] At some point of time, were you in Sayo with Bosco Ntaganda?

4 A. [12:13:15] Yes, the first group left and when we came we also left with them.

5 Q. [12:13:30] When you entered Sayo, were there enemies around?

6 A. [12:13:45] As I said earlier, there was the first group that was already there, so we
7 just followed them. The enemies had fled because the first group was already there, so
8 we -- when we arrived there were no enemies.

9 Q. [12:14:13] Do you remember till where you went in Sayo with Bosco Ntaganda?

10 A. [12:14:36] I remember that in Sayo there were villages -- there were houses, sorry.
11 There was also a hospital. We went along, and there was a plaine and then there was a
12 church.

13 Q. [12:15:03] In the road to the church, did you see the dead bodies of either friends or
14 foes?

15 A. [12:15:22] No, I did not see anything.

16 Q. [12:15:27] Did you enter the church that was at the end of the village?

17 A. [12:15:36] No, I did not enter the church.

18 Q. [12:15:40] Did you know if Bosco Ntaganda entered the church?

19 A. [12:15:51] No, I don't remember. I don't remember having seen him enter the
20 church.

21 Q. [12:16:00] Do you have any information to the best of your knowledge as to
22 whether there were any people in the church, and if so, who was it?

23 A. [12:16:26] No, I don't have any information about that.

24 Q. [12:16:32] How long did you stay in Sayo with Bosco Ntaganda?

25 A. [12:16:55] I cannot tell you the duration or the time we spent there, but I do

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1 remember that we left that location and we went back to Appartements.

2 Q. [12:17:07] Well, do you remember the temperature on that day?

3 A. [12:17:32] You asked a question about the temperature? I didn't understand the
4 question well.

5 Q. [12:17:36] Yes. When you were in Sayo with Bosco Ntaganda and you were
6 walking towards the church and afterwards you returned to the Appartements, now,
7 during this period do you remember the amount of time that it took?

8 A. [12:18:14] I don't remember that either.

9 THE INTERPRETER: [12:18:16] The interpreter makes a correction: Do you
10 remember the weather?

11 MR BOURGON: [12:18:24] (Interpretation)

12 Q. [12:18:25] When you returned to the apartment, how much time did you stay there
13 for?

14 A. [12:18:45] You know, a lot of time passed, has passed since then, and I no longer
15 remember if it was two or three days. I could estimate it, but I couldn't give you the
16 exact duration.

17 Q. [12:19:06] And during these two or three days, were you still at the apartments?

18 A. [12:19:21] Yes, we stayed there in the place called Appartements.

19 Q. [12:19:29] And during the period you were at Appartements, did you have any
20 prisoners there?

21 A. [12:19:38] No, I didn't see any.

22 Q. [12:19:52] At the time when you are at the apartments, did you see any religious
23 persons or persons of a religious order there?

24 A. [12:20:15] Religious staff? What do you mean by that?

25 Q. [12:20:21] People who are involved in religion, any type of people, any such people

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1 who could have been at the apartments?

2 A. [12:20:38] No, I didn't see such people there.

3 Q. [12:20:49] How did you leave from the apartments?

4 A. [12:21:09] We left the apartments to go to the airport where we took the plane to
5 Bunia.

6 Q. [12:21:18] And who were you with at that time?

7 A. [12:21:36] It wasn't all the bodyguards who took the flight, just a few of them were
8 able to travel.

9 Q. [12:21:46] Who did you return with to Bunia? Just a few names of people who
10 were in the plane with you?

11 A. [12:22:07] On the plane there was Kiza, Byarufu,, Bataga, Souci, Lotsove. Those
12 were the people with whom we were in the plane.

13 Q. [12:22:26] Bosco Ntaganda, was he in the plane?

14 A. [12:22:33] Yes, he was also one of the people in the group.

15 Q. [12:22:39] Well, how many passengers were there in the plane to the best of your
16 memory, to the best of your recollection?

17 A. [12:22:48] Well, I didn't count the number of people who were aboard the plane.

18 Q. [12:23:03] Well, according to the size of the plane, would you be able to give an
19 estimate, 10s, 20s, approximately how many people could enter such a plane?

20 A. [12:23:21] The plane had no seats. That's the reason why it's difficult for me to tell
21 you the number of people who -- the number of people that such a plane could hold.

22 Q. [12:23:47] So from the time that you left Bosco Ntaganda's residence, in order to
23 participate in that operation in Mongbwalu until the moment that you returned to Bunia,
24 during the entire operation from the start to the finish, did you see Gustave Aboki in your
25 group or even in another group?

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1 A. [12:24:13] No, I did not see him again.

2 Q. [12:24:30] When you were in Mongbwalu, you told us you arrived, there was no
3 fighting and you spoke about fighting in Sayo. Now, during the entire period in which
4 you were in Mongbwalu and Sayo, did you see any cases of pillaging by your forces?

5 PRESIDING JUDGE FREMR: [12:24:53] Hold on, Mr Witness.

6 Ms Luping.

7 MS LUPING: [12:24:56] Mr President, your Honours, I --

8 PRESIDING JUDGE FREMR: [12:24:58] (Microphone not activated) I think it will be
9 necessary to, not --

10 MS LUPING: [12:25:02] Not necessary. I apologise for interrupting. There just
11 didn't seem to be a good moment, to be honest. But at this stage we've all some
12 discussion about at least two battles in Mwanga, two battles in Mongbwalu, and now
13 we're getting into the details relating to, very specific details of an attack, but with
14 absolutely no indication of time period whatsoever.

15 Could we please, if Defence counsel could be asked to get some information from this
16 witness as to timing so that we can situate ourselves a bit better, and it may provide a
17 better understanding for the context of these additional and specific details being obtained
18 now.

19 PRESIDING JUDGE FREMR: [12:25:47] Mr Bourgon, I know this is obviously not the
20 best moment, but probably it would be good for making things completely clear, just
21 maybe some brief inquiry about timing.

22 MR BOURGON: [12:26:04] I will do so, Mr President. Thank you.

23 Q. [12:26:18] (Interpretation) Witness, I asked you a question concerning cases of
24 pillaging. There I'm referring to the first operation when you left Bosco Ntaganda's
25 residence in order to go to Mongbwalu. Afterwards you went to Sayo, and you spent

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1 two or three days in the apartments and you went to Bunia. So I'm talking about the first
2 operation.

3 During that operation, did you know of cases of pillaging by your forces?

4 A. [12:27:09] I can answer you briefly saying that there was a group that had gone
5 before us. And whenever there was an attack, generally there's pillaging. But when we
6 arrived in the town centre, personally, I didn't see any pillaging that had been carried out.

7 Q. [12:27:41] When you returned to Bunia, do you remember how many times you
8 returned to Mongbwalu afterwards within the framework of your functions as an escort?

9 A. [12:28:00] Yes. After the first time, the second, I would call that a simple visit.

10 Q. [12:28:24] Was there another after the second or is there just a second?

11 A. [12:28:43] I'm trying to remember a third time or a third operation that I would call
12 48 hours.

13 Q. [12:28:59] So you returned to Mongbwalu for a visit. In what context were you in
14 Mongbwalu? Could you explain how that visit took place to the best of your memory?

15 A. [12:29:14] The exact objective of this visit I don't remember, but I do remember
16 when we left Bunia we went through Nyangarai, and from there we continued to Kilo and
17 we finally arrived in Mongbwalu.

18 Q. [12:30:01] What means of transport did you use?

19 A. [12:30:12] We left on vehicles.

20 Q. [12:30:17] Do you remember who was present with you during this visit?

21 A. [12:30:22] Yes. Yes, I remember.

22 Q. [12:30:35] And who was with you?

23 A. [12:30:49] Apart from the escorts, who were in the same vehicle as me, there was
24 also Safari.

25 THE INTERPRETER: [12:31:02] The interpreter corrects: There was also Rafiki.

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1 MR BOURGON: [12:31:12] (Interpretation)

2 Q. [12:31:13] Do you remember the colour of the vehicle you were in?

3 A. [12:31:18] Yes, the car was red. It was the vehicle that Rafiki often used.

4 Q. [12:31:39] And who is Rafiki?

5 A. [12:31:48] Rafiki was a close collaborator with Thomas Lubanga. But I don't
6 know his exact function.

7 Q. [12:32:09] And on the road between Bunia and Mongbwalu, were there soldiers on
8 the road?

9 A. [12:32:16] I would say that from Bunia our troops had to stop in Nizi firstly.
10 That's the reason why we went via Nyangarai to get to Kilo. From Kilo we had to
11 continue to Mongbwalu.

12 Q. [12:32:55] And where does Nizi come into this? You mentioned Bunia, Nyangarai,
13 Kilo and Nizi. Where does Nizi fit into that? I don't -- I don't understand your answer
14 well.

15 A. [12:33:22] Well, if I'm speaking about Nizi, the reason why is because in order to
16 get to Kilo, you have to go through Bambu, Kilo and Nizi. Our troops stopped in Nizi,
17 and I say that because in Kobu our troops weren't there.

18 Q. [12:33:57] So on the road that goes to Mongbwalu, the route that you took, were
19 there forces present on the road, the road going to Mongbwalu? Do you remember
20 having seen troops on the way?

21 A. [12:34:20] Yes, our troops were there. We found them on the main road when we
22 were going to Kilo.

23 Q. [12:34:38] So what did you do when you arrived in Mongbwalu with Rafiki and
24 Bosco Ntaganda?

25 A. [12:35:01] I remember that we went to the apartments. There we found the chief

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1 of general staff, Kisembo. He was there.

2 Q. [12:35:14] How did you come back to Bunia having been at the apartments in
3 Mongbwalu?

4 A. [12:35:26] Well, we went by the same route in order to go to Bunia.

5 Q. [12:35:46] Bosco Ntaganda and Rafiki, were they with you on the return journey?

6 A. [12:35:56] I think at the time that we returned to Bunia on those vehicles he wasn't
7 with us.

8 Q. [12:36:17] Well, do you know where he was? You speak about "he." We're just
9 speaking about one person. Do you know where he was when you came back to Bunia?

10 A. [12:36:30] No, I didn't know that.

11 Q. [12:36:36] Did you get any information concerning what Bosco Ntaganda did in
12 Mongbwalu?

13 A. [12:36:52] No.

14 Q. [12:37:02] And when you came back to Bunia -- well, I'm going to ask a different
15 question.

16 When you left from Mongbwalu to return to Bunia, did you ask anyone where
17 Bosco Ntaganda was?

18 A. [12:37:39] No, I didn't ask anyone that question.

19 Q. [12:37:42] Do you know when and how Bosco Ntaganda went back to Bunia?

20 A. [12:38:05] I don't remember.

21 Q. [12:38:12] After this visit you spoke about the 48-hour attack, that's something
22 we'll go back to, but for the moment do you know a place called Libi?

23 A. [12:38:33] Yes, I know that place. I was there once.

24 Q. [12:38:42] Did you go there within the framework of your functions?

25 A. [12:39:05] We went there on a vehicle that we were escorting to that place.

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1 Q. [12:39:16] Could you explain to us to the best of your recollection how that
2 happened? Where were you going? What were you doing? Could you explain what
3 you were doing in Libi?

4 A. [12:39:36] Well, quite briefly, I would say that these vehicles were holding
5 weapons and ammunition. Now, we arrived in Libi at night, and from there an order
6 was given to us to go away from those vehicles, this vehicle. Later these vehicles were
7 unloaded, and once they'd been unloaded, if my memory serves me well, we went to
8 sleep at Fataki.

9 Q. [12:40:34] Was Bosco Ntaganda involved in that operation?

10 A. [12:40:45] Yes.

11 Q. [12:40:47] Do you have information concerning who the weapons were unloaded
12 for and delivered to during the operation?

13 A. [12:41:07] No, I know nothing about that.

14 Q. [12:41:12] Now, you just mentioned having slept in Fataki. Did all the escorts
15 come back to Fataki?

16 A. [12:41:44] I remember when we arrived in Fataki we deployed two different places,
17 and among us one of our troops was stopped and found by a trader or businessman there
18 and took him. That was the next morning in Fataki. One of our troops got lost and he
19 was found by a businessman there.

20 Q. [12:42:14] In Fataki, where did you go? From Fataki, where did you go?

21 A. [12:42:42] We went back to where we had come from.

22 Q. [12:42:49] And what location was that? Where did you return to, so that it's clear
23 in the court record?

24 A. [12:43:14] We returned to Bunia.

25 Q. [12:43:22] Witness, do you have any information about events which occurred in

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1 Bunia during this period?

2 A. [12:43:49] No, I don't remember.

3 Q. [12:43:55] How long were the UPC in Bunia for?

4 A. [12:44:16] Could you repeat your question, please, in order to understand it better?

5 Q. [12:44:27] Well, we've been speaking, when you're talking about an operation in

6 Libi, you come back to Bunia, what happened to the UPC when you returned to Bunia?

7 What happened to the UPC?

8 A. [12:45:04] I was wondering if you wanted to ask me a question about the clashes

9 said to have taken place between the UPC and the Ugandans, is that what you're asking

10 me about?

11 Q. [12:45:21] Well, my question is probably too general. So were you aware of

12 clashes between the UPC and the UPDF in Bunia?

13 A. [12:45:53] Yes, there were clashes in Bunia between the UPC and the elements of

14 UPDF.

15 Q. [12:46:06] And my last question before lunch, did you -- were you involved in

16 these clashes personally?

17 A. [12:46:28] I did not participate in these clashes. If I remember well, I was staying

18 in Bosco Ntaganda's residence to guard it.

19 MR BOURGON: Merci, Monsieur le Témoin.

20 Mr President, I believe it's the proper time for the lunch break.

21 PRESIDING JUDGE FREMR: [12:46:57] Exactly. So we will break now. Just for

22 information of Defence, according information I have been provided, you, Mr Bourgon, so

23 far have used 5 hours and 17 minutes, so you still have at your disposal 40, 43 minutes.

24 So, Ms Luping, please be ready to hand over the floor roughly in the middle of the

25 afternoon session.

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1 So now we break and we will reconvene at quarter past 2.

2 THE COURT USHER: [12:47:32] All rise.

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.) *(Reclassified partially in public)

18 THE COURT OFFICER: [14:18:55] We are in private session, Mr President.

19 PRESIDING JUDGE FREMR: [14:19:06] Thank you.

20 And one request for court officer, one request for court officer. Court officer, please, 10

21 minutes before the expiration of Mr Bourgon's time, please announce it publicly just to

22 give him a clear signal how much time remains till the end of his examination.

23 Mr Bourgon, you have the floor.

24 MR BOURGON: [14:19:45] (Interpretation) Thank you, your Honour.

25 Q. [14:19:49] Good afternoon, Witness.

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1 A. [14:19:53] Good afternoon to you as well.

2 Q. [14:19:59] You said that there were clashes between the UPDF and the UPC at
3 Bunia, but you did not participate because you were guarding the residence. Do you
4 remember this answer?

5 A. [14:20:19] Yes, I do remember this.

6 Q. [14:20:24] Did you have any other tasks during this clash in the residence?

7 A. [14:20:42] Yes. I can tell you what I was doing there. I was in charge of ensuring
8 the security. We actually installed the B10 and there were also bombs behind the third
9 door. And I was supposed to open this door so that we could take -- where the shells
10 were there.

11 Q. [14:21:23] During these clashes, except the UPC and the UPDF, were there any
12 other parties to the clash, to the best of your knowledge?

13 A. [14:21:44] Now, before the fighting, we know that we would be fighting against the
14 UPDF.

15 Q. [14:22:09] Were there any other parties than the UPDF that was involved in the
16 fightings?

17 A. [14:22:24] Yes. It's only later on that we came to know that we were fighting two
18 different groups.

19 Q. [14:22:40] Who were the other -- who was the other group?

20 A. [14:22:50] The other group was a Lendu group that hailed from two different
21 regions, and they had just come to fight.

22 Q. [14:23:08] Witness, let's start off with the day the clashes begin. Within the first
23 two periods, first two days, just before the clashes, where were you and what were you
24 doing?

25 A. [14:23:40] I was in the residence.

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1 Q. [14:23:49] What were you doing during this period?

2 A. [14:23:53] When I was in the residence, I was only guarding the residence, I wasn't
3 doing anything else.

4 Q. [14:24:15] Witness, I'm talking about the one to two days before the clashes. Were
5 you only guarding the residence, or were you doing other things as well?

6 A. [14:24:37] I said I wasn't doing anything else.

7 Q. [14:24:48] What measures did you plan out for against the fightings with the
8 UPDF?

9 A. [14:25:00] It's really hard for me to answer this question.

10 Q. [14:25:24] Was Bosco Ntaganda with you one to two days before the onset of the
11 clashes?

12 A. [14:25:41] He was there. These were the days when the clashes started. And he
13 left with the other group and left me behind in the residence.

14 Q. [14:26:06] On the day before the clashes, did you see Bosco Ntaganda in the
15 residence?

16 A. [14:26:28] I don't remember.

17 Q. [14:26:34] If I go back 10 days, Witness, 10 days before the onset of the clashes,
18 where were you during these 10 days before the onset of the clashes?

19 A. [14:27:12] I don't remember. I don't remember where I was.

20 Q. [14:27:22] Did you leave Bosco Ntaganda's residence during the 10 days before the
21 clashes with the UPDF?

22 A. [14:27:37] I don't think I left the residence.

23 Q. [14:27:54] During this 10-day period, did you have any contact with
24 Bosco Ntaganda to the best of your memories?

25 A. [14:28:10] I really don't remember because it really dates back.

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1 Q. [14:28:31] Do you have any information on where Bosco Ntaganda was during the
2 period prior to the clashes with the UPDF?

3 A. [14:28:58] No, I do not remember.

4 Q. [14:29:05] What was the result of the clashes between the UPDF and the UPC with
5 the participation of the Lendu fighters?

6 A. [14:29:26] Before the clashes, I think we won. They were intense attacks. And,
7 in fact, we lost and we had to leave the city.

8 Q. [14:30:05] Do you know where did Thomas Lubanga go after you left the city?

9 A. [14:30:15] Thomas Lubanga went to Bule.

10 Q. [14:30:38] Did Thomas Lubanga leave Ituri and, if so, where did he go? Did
11 Thomas Lubanga leave Ituri at any point of time and, if so, where did he go?

12 A. [14:31:06] There was a point where he left, he took the plane, but I don't know
13 where he went. I'm unaware of the destination.

14 Q. [14:31:17] When Thomas Lubanga left, where was Bosco Ntaganda?

15 A. [14:31:31] Bosco, he was in the airport as well.

16 Q. [14:31:46] Did Bosco Ntaganda go with Thomas Lubanga? If not, where did he
17 go?

18 A. [14:32:07] They took the plane together, they took the flight together. They took
19 off together, but I don't know what the destination was. I do not know where they went.

20 Q. [14:32:20] This morning you said that you participated in the 48-hour war in
21 Mongbwalu. Did you see Bosco Ntaganda at that time, if so, where?

22 A. [14:32:39] During the 48-hour war, we left together until we reached Mongbwalu.

23 Q. [14:33:04] So I'm just going back in time so we can have a better idea of what
24 happened. When did you see Bosco Ntaganda for the first time after he left with Thomas
25 Lubanga in the plane and where?

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1 A. [14:33:34] To give you a precise answer, I must say that there was a point where I
2 was part of the group of the general army chief of staff Kisembo, and we, in fact, regained
3 control of Bunia. And I met him at Kisembo's residence.

4 Q. [14:34:07] So when you met Bosco Ntaganda at the residence of Kisembo, what
5 happened? Did you go somewhere with him?

6 A. [14:34:22] I think we spoke and he asked me to go to a residence before this
7 48-hour war in Bunia.

8 Q. [14:34:50] With whom did you go to this residence?

9 A. [14:35:01] When I reached this residence, I found Kiza, Souci and other women,
10 and I also met a new female soldier called Jeannine.

11 Q. [14:35:35] You are talking about this residence, who does this residence belong to?

12 A. [14:35:40] If I can recall properly, Katekpa was living in this residence and he
13 hosted us when we arrived.

14 Q. [14:36:04] You mentioned that Kiza, Souci and other women soldiers were there.
15 Whom did you get to this residence with? Who was with you when you came to this
16 residence?

17 A. [14:36:29] I mentioned a few names. These -- I found escorts there. And I found
18 these escorts in the residence when I reached there.

19 Q. [14:36:50] And who was there with you when you reached the residence? Whom
20 did you travel with when you say you travelled together?

21 A. [14:37:02] If I remember, when he arrived he was already in the residence. He
22 already found this group of escorts. And this is how we went together and we found
23 other women soldiers, female soldiers. Kiza and Souci were already there.

24 Q. [14:37:33] Witness, when you say "we went there together", with whom did you
25 go?

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1 A. [14:37:47] That's exactly what I'm saying. I went with escorts Kiza, Souci. We
2 went to, we travelled together to the residence.

3 Q. [14:38:04] Where was Bosco Ntaganda at that time?

4 A. [14:38:17] What do you mean where was he? What do you exactly mean by that?

5 Q. [14:38:26] You're talking of a residence that belonged to someone. You're saying
6 his residence. Whose residence was that?

7 A. [14:38:43] This residence was the residence of Katekpa, he lived there, he was
8 living there.

9 Q. [14:38:59] Right. This is the residence of Katekpa, and you're saying there were
10 escorts there. Whose escorts were they?

11 A. [14:39:19] Again, I must say that he came to visit Kisembo, and I think he was
12 already hosted in Katekpa's residence. And the group of escorts were also there. And
13 this is how we travelled to the residence where we were hosted.

14 Q. [14:39:51] Witness, I'm asking you who is "he"? Whose escorts? Who picked
15 you up? Whose residence? Who was with you?

16 A. [14:40:04] There you go, Bosco, it was Bosco. Mr Bosco.

17 Q. [14:40:12] This residence you're talking about, where is it with respect to the
18 previous residence you spoke about, that is to say with respect to Bosco Ntaganda's
19 residence?

20 A. [14:40:35] I can try and locate this residence for you. This residence was in the
21 second road of the valley.

22 Q. [14:40:51] Was it near to the former residence?

23 A. [14:41:02] It wasn't very far away. It was actually on the slope side, but it was the
24 second road.

25 Q. [14:41:19] So let's talk about the 48-hour war. Whom did you go there with?

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1 A. [14:41:41] The group with whom I left for this 48-hour war was the group of
2 escorts I met, and there were also new escorts I met like Jeannine and another one.

3 Q. [14:42:06] Please tell us briefly about the 48-hour war, how did it happen and
4 where did it happen?

5 A. [14:42:20] When we reached there where the groups split, one group went to Dala
6 and the other group went with Mr Bosco, we went through the Mbidjo road. When we
7 reached the Mbidjo barracks, and the war started. We tried to fight and recover the
8 barracks, and then we continued fighting. There was an ambush. And then when we
9 reached Mongbwalu the enemies were no longer there and they had already left.

10 Q. [14:43:15] Do you have any recollections of prisoners being taken during the events
11 you spoke about?

12 A. [14:43:29] Yes, there were prisoners in the ambush and we disarmed them, except
13 the commanders.

14 Q. [14:43:52] Do you know what happened to the prisoners?

15 A. [14:44:05] I know that the prisoners were used to show us the map and the places
16 where people were there.

17 Q. [14:44:20] To the best of your knowledge, were the prisoners badly treated?

18 A. [14:44:38] We used these prisoners to get information and we did -- and we went
19 forward together and they weren't badly treated at all.

20 Q. [14:44:55] How many days did you stay, for how many days did you stay in
21 Mongbwalu?

22 A. [14:45:07] If I can recall well, when we reached Mongbwalu, we went to the airport
23 and that's where we spent a night. So I think it's just one day.

24 Q. [14:45:23] Do you know why you stayed only for one day in Mongbwalu?

25 A. [14:45:28] Yes, we only stayed one day because we had very little ammunition, we

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1 had to wait for ammunition. And the enemy was not in Mongbwalu; the enemy was in
2 the mountains. They had come to attack us. Our group was in Camp Goli and so we
3 retreated and took the road to Dala.

4 Q. [14:46:18] To the best of your knowledge, during the 48-hour attack, was there any
5 looting committed by your forces?

6 A. [14:46:45] Of course there were some who looted, but we didn't loot, we had
7 already gone. I mean, in such circumstances there is always looting.

8 Q. [14:47:09] If you didn't carry out the looting, who did, who carried it out?

9 A. [14:47:17] In our group there were some soldiers who looted, although it was some
10 of the population who looted. They were helping us; they were helping us with
11 transport. And these people also looted.

12 Q. [14:47:50] So where did you then go when you left the airport?

13 A. [14:48:05] We took the Dala road.

14 Q. [14:48:09] And where did that take you?

15 A. [14:48:14] We also went to Centrale.

16 Q. [14:48:39] Mr Witness, are you familiar with a training camp called Rwampara?

17 A. [14:48:53] Yes, I know the Rwampara training centre.

18 Q. [14:48:57] Have you ever been to Rwampara?

19 A. [14:49:04] Yes. I recall that at a certain time the president went to visit the recruits,
20 and I also was there at that time with Mr Bosco.

21 Q. [14:49:25] Mr Witness, I'd like to show you a short video clip without sound, and I
22 would like to know whether you're able to recognise this. It's item 32, and I would like
23 to have permission to show this, Mr President. It's DRC-D18-0001-0463. And I would
24 just like to play from 04.09 to 04.49, 40 seconds but without the sound, please.

25 THE COURT OFFICER: [14:50:05] The Defence has the floor, and, your Honours, the

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1 time allotted to the Defence will expire in 10 minutes. For the video it's evidence
2 channel 2.

3 PRESIDING JUDGE FREMR: [14:50:14] Prosecution, any objection to the use?

4 MS LUPING: [14:50:18] No, Mr President.

5 PRESIDING JUDGE FREMR: [14:50:19] All right then.

6 MR BOURGON: [14:50:33] (Interpretation)

7 Q. [14:50:34] Mr Witness, please pay attention to the video clip that will be played to
8 you and let me know afterwards whether you recognise what you see. We will start at
9 04.09.

10 (Viewing of the video excerpt)

11 MR BOURGON: [14:51:17] (Interpretation) The video has been stopped at 04.36.

12 Q. [14:51:23] Do you recognise the scene that has just been played to you,
13 Mr Witness?

14 A. [14:51:29] Yes, I recognise them.

15 Q. [14:51:39] What can we see here? What is happening in this clip?

16 A. [14:51:57] I will start from -- do you want me to start from the beginning of the
17 video, or do you want me to talk about the place where the picture stopped?

18 Q. [14:52:13] Just tell me about the events you saw and just tell me what is taking
19 place there overall. Is there any link to -- between these images and the visit to
20 Rwampara that you just mentioned to us?

21 A. [14:52:51] Yes, because from the beginning to the end of the clip where the image is
22 stopped, that was the day of the visit where -- visit made by Thomas Lubanga to the
23 recruits.

24 Q. [14:53:13] In this short extract, did you recognise yourself?

25 A. [14:53:19] It's maybe because I didn't see it clearly, but there was perhaps one place

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1 where I think I might have seen a head which was mine.

2 Q. [14:54:00] I don't know if you can still see the same picture at 04.36. Do you still
3 have a picture in front of you from the video?

4 A. [14:54:19] As I replied, there is one picture where I thought it might be me, but
5 there is part of the head that I can't see properly, but it looks like the uniform I wore and I
6 was carrying a briefcase that day.

7 Q. [14:54:43] I will show you a still taken from this video.

8 Please, could I see DRC-D18-0001-6400.

9 Mr Witness, I would like to know whether you recognise yourself on the image that
10 you're about to be shown.

11 Do you see the picture?

12 A. [14:55:22] Yes, I do.

13 Q. [14:55:27] Can you recognise yourself on this picture?

14 A. [14:55:31] Yes, I do recognise myself.

15 Q. [14:55:41] And can you tell us something so that we can see where you are on this
16 picture?

17 A. [14:55:48] I recognise myself because of the beret I'm wearing and the khaki
18 uniform, with a document folder that I was carrying.

19 Q. [14:56:11] Thank you.

20 I would like to show you another photo from the same video, DRC-D18-0001-6422, which
21 is item 26 on our list. If we could have this on the screen, please.

22 Do you see this photo, Mr Witness?

23 A. [14:56:36] Yes, I see this photo.

24 Q. [14:56:41] Are you able to identify the people in this photo?

25 A. [14:56:47] It's a very dark photo. I don't recognise the person in the middle, but I

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1 recognise the other two.

2 Q. [14:57:16] And who are these people?

3 A. [14:57:20] In front of me on the left is Six One Sierra, and on the other side it's PMF
4 Lotsove.

5 Q. [14:57:46] Mr Witness, I would like to show you another short extract from the
6 video and then I'll have my final question to you.

7 Mr President, if I may, I would like to have part of this video played, from 29.03 to 30.58,
8 so one minute one second, and then I will have one final question for the witness.

9 PRESIDING JUDGE FREMR: [14:58:22] Court usher, please assist.

10 It is under the control of Ms Martineau.

11 MR BOURGON: [14:58:45] (No interpretation)

12 PRESIDING JUDGE FREMR: [14:58:47] Then it's fine.

13 MR BOURGON: [14:58:49] (Interpretation)

14 Q. [14:58:51] Mr Witness, would you please pay attention to this one minute of film,
15 and then I will have one or two questions afterwards.

16 (Viewing of the video excerpt)

17 MR BOURGON: [15:00:05] (Interpretation) The video has been stopped at 30.04.

18 Q. [15:00:21] There you see people on the video filmed in Rwampara. I have a
19 question: During all your training in Mandro, did you see anybody who looked as
20 young as this undertaking military training at Mandro?

21 A. [15:00:53] On this photo I never saw -- I'll start again. As I said much earlier, I
22 never saw any young people undergoing training.

23 Q. [15:01:34] Earlier, you mentioned meeting Jeannine at Mr Ntaganda's residence.
24 (Redacted)

25 A. [15:01:48] (Redacted)

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1 Q. [15:02:22] (Redacted)

2 (Redacted)

3 A. [15:02:49] In brief, he was not happy, but it had happened and there was no way to
4 turn time back.

5 Q. [15:03:08] To your knowledge, has Bosco Ntaganda ever raped any of his escorts?

6 A. [15:03:17] I never saw that.

7 Q. [15:03:33] Thank you, Mr Witness.

8 MR BOURGON: [15:03:35] (Interpretation) Mr President, I have no further questions
9 for the witness.

10 PRESIDING JUDGE FREMR: [15:03:39] All right. So now we can move to
11 cross-examination.

12 Ms Luping, please take your time to prepare everything.

13 MS LUPING: [15:03:48] Thank you, Mr President. I do just need to have the stand
14 returned as well.

15 PRESIDING JUDGE FREMR: [15:03:54] Yes, that was my point.

16 And in the meantime, I would like to take advantage of having this while to guide
17 Mr Witness.

18 Mr Witness, please pay your attention to me. Now you will be cross-examined by
19 counsel representing Prosecution, Ms Luping. And it's my duty to inform you that this
20 Court is governed by the principle of equal treatment of both parties, which also has
21 something to do with you because you are now expected, even if you have been called as
22 a Defence witness, a witness for Defence, but you are expected to testify in the same way
23 now when you will be cross-examined by Prosecution. Do you understand that?

24 THE WITNESS: [15:05:19] (Interpretation) Yes, I have understood.

25 PRESIDING JUDGE FREMR: [15:05:25] All right, then.

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1 And again my usual reminder, you have to speak truth and nothing but the truth.

2 And now I will give floor to Ms Luping.

3 Ms Luping, you have the floor, and we are in open session -- no, we are in private session,
4 so it's up to you whether you want to continue in private or whether you want to move
5 into open.

6 MS LUPING: [15:05:57] Thank you, Mr President. I believe for the first questions we
7 can be in open session.

8 PRESIDING JUDGE FREMR: [15:06:03] Very well.

9 Court officer, let's return back into open session.

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.

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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?

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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.

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- 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

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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

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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.

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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 PRESIDING JUDGE FREMR: [15:25:34] And last question from my part. And then
7 you also have been a member of this stable part of Mr Ntaganda's escorts. Between this
8 group, did you each other inform about your age; for example, that (Redacted) would say, I'm
9 using it as an example, (Redacted) would say "Today I am 17" or "I'm 19", or you didn't discuss
10 those issues, your age, between your group of escorts?

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 (Redacted) 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.

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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

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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

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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

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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

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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

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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

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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

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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

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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:

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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

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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.) *(Reclassified partially in public)

17 THE COURT OFFICER: [15:59:28] We are in private session, Mr President.

18 PRESIDING JUDGE FREMR: [15:59:39] Thank you. We can proceed please,

19 Ms Luping.

20 MS LUPING: [15:59:50] (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 PRESIDING JUDGE FREMR: [16:00:25] (Redacted)

25 (Viewing of the video excerpt)

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1 MS LUPING: [16:01:28]

2 Q. [16:01:28] (Redacted)

3 (Redacted)

4 A. [16:01:41] (Redacted)

5 Q. [16:01:44] And could you confirm that this is still the same video excerpt in

6 Rwampara -- this is still in Rwampara, rather?

7 A. [16:01:58] Yes.

8 Q. [16:02:09] I'm now going to ask my colleague to re-play the segment but from 00.04

9 again to 04.15, just 15 seconds. I want you to focus on the individual to your right.

10 There is a short-looking person to -- immediately to the right of you and I'll be asking you

11 to estimate their age.

12 (Viewing of the video excerpt)

13 MS LUPING: [16:03:05]

14 Q. [16:03:06] And the individual to the right of you, sir, can you estimate that person's

15 age? It's an individual wearing a white shirt and shorts.

16 A. [16:03:41] This person is wearing a shirt or a T-shirt?

17 Q. [16:03:46] It looks like a T-shirt. Immediately to the right of you in the image, sir.

18 It's the shortest person in this group that we can see in this shot.

19 PRESIDING JUDGE FREMR: [16:04:03] Would it be possible in some way maybe for

20 one to put a cursor or something just to identify the person, because "the right" could be,

21 you know, maybe a bit -- yeah.

22 Can you see now the sign targeting this person?

23 THE WITNESS: [16:04:21] (No interpretation)

24 PRESIDING JUDGE FREMR: [16:04:21] Okay.

25 THE WITNESS: [16:04:35] I see that on my screen the image is not clear. You're

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1 asking me to estimate the age of this person. The image on the screen is not clear, so it's
2 difficult for me to give you an estimate of this person's age.

3 MS LUPING: [16:04:53]

4 Q. [16:04:53] All right. I'm going to change topics now and the video will be
5 removed from your screen.

6 So, Mr Witness, again I'm going to refer to your testimony from yesterday, and that's at
7 transcript 252, page 69, at lines 1 to 4. You testified that, and I quote:

8 "Before we left our homes to go to the training centre, we knew that one had to be 18 to
9 undertake the training."

10 My question is this, sir: How did you know even before you left your home that you had
11 to be 18?

12 A. [16:06:13] The UPC was not the first group to organise military training in the
13 Congo. There were people who went before us. It was these people who told us that
14 one had to be an adult in order to undergo military training because people who are not
15 capable or who are under age for such training would not be able to go. That is what we
16 learned. And in my group we all knew what age we were before we went to military
17 training.

18 Q. [16:06:59] Now, you had stated, "It was these people who told us that one had to
19 be an adult in order to undergo military training."

20 Could you explain who "these people" are? Who are these people who told you, you
21 personally, sir, that you had to be 18?

22 A. [16:07:38] I will come back to what I just said. I think that I gave the name of
23 someone in our group who had gone before us, who had already followed military
24 training, and he gave us the information. This person knew what happened within an
25 army and he gave us the information before we left.

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1 Q. [16:08:09] Can you give us the name of that person?

2 A. [16:08:22] Yes. I mentioned his name during the interviews I gave before coming
3 here. And this person's name was Souci.

4 Q. [16:08:42] And what was Souci's full name?

5 A. [16:08:57] I don't know his other names. In our group that was the only name we
6 called him by. I'm talking there of the group who went off to training together.

7 Q. [16:09:12] And how old is Souci? Was he older, same age or younger than you?

8 A. [16:09:33] I would say, first of all, before the war (Redacted).

9 (Redacted)

10 Q. [16:09:50] (Redacted)

11 A. [16:10:11] (Redacted)

12 (Redacted)

13 Q. [16:10:32] And your aunt, what is her family name, sir? What is your aunt's
14 name?

15 A. [16:10:49] My aunt was called (Redacted).

16 Q. [16:10:56] And is Souci still alive, sir, and is he still in Mongbwalu?

17 A. [16:11:20] When I met the representatives of the Defence, I said that Souci died in
18 Bunia. He fled when we were caught on our route to training. We were taken hostage
19 and he was able to flee.

20 Q. [16:11:52] And when did you give that information?

21 A. [16:12:18] I said that we met our group, as you know, I mentioned the name of
22 someone who was guiding us because we were arrested, we were stopped. He was able
23 to flee because he had military experience. That's the same Souci I'm talking about.

24 Q. [16:12:49] Souci, is he Hema? What's his ethnicity?

25 A. [16:13:03] Yes, he's Hema Nord Gegere.

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1 Q. [16:13:08] And your aunt, (Redacted), what is her family name, please, sir?

2 A. [16:13:24] I don't know her other name. I know the name of her husband. He
3 was called (Redacted), but -- and my aunt herself has -- is also dead.

4 Q. [16:13:44] And what is the family name of (Redacted)?

5 A. [16:14:01] No, I don't have any other names.

6 Q. [16:14:03] And you say, sir, that Souci had undergone military training. That's
7 your testimony. According to your testimony where had he undergone military training
8 before the training in Mandro?

9 A. [16:14:26] When we left Mongbwalu he said that he was part of the group and he'd
10 been to Tchankwanzi to undergo military training.

11 Q. [16:14:42] And did Souci join your group in Mandro for military training?

12 A. [16:14:52] I don't know whether you're following me. We're coming -- going back
13 over things I've already said. I said when we arrived in Bahimani, where we were taken
14 hostage by UPC, he was able to flee and he didn't go to Mandro. He fled, he escaped
15 before he got to Mandro.

16 Q. [16:15:28] And, sir, you say Souci told you what age you have to be to be lawfully
17 recruited. Since then, more recently, has anybody told you what age you need to be to be
18 lawfully recruited?

19 A. [16:16:16] No. This was a comment which related only to us before we joined up
20 with the group when we left this place.

21 Q. [16:16:34] Mr President, your Honours, I apologise about the time. I can resume
22 tomorrow.

23 PRESIDING JUDGE FREMR: [16:16:40] It was not so bad, just one minute.

24 So, Mr Witness, I would like to thank you. It was a long day, but you patiently
25 responded all questions put to you.

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1 Usual caveat, I have to guide you that you must not discuss your testimony in the
2 meantime till tomorrow with anybody else.

3 And we will proceed tomorrow quarter past 9.

4 Now, court usher, please escort Mr Witness out of the courtroom.

5 And then very brief inquiry concerning our future timing.

6 (The witness stands down)

7 PRESIDING JUDGE FREMR: [16:17:29] So far, Ms Luping, you have used one hour
8 and maybe one or two minutes, so roughly you still have five hours. Do you think there
9 is any chance, but again, I'm not pushing, but is there any chance that you would
10 complete your cross by tomorrow, because you will have five hours, but five hours of
11 brutal time, which is not, you know, it's maybe 4 hours or 4.15 of time, so do you think
12 there is any chance that you would complete?

13 MS LUPING: [16:17:58] To be very honest with you, Mr President, it is very hard for
14 me to gauge that right now. I'd certainly hope that I would be able to complete it in less
15 than six hours, but it's a little bit tricky.

16 PRESIDING JUDGE FREMR: [16:18:10] Understandable.

17 And, Mr Bourgon, as concerns your next witness, 243, am I correct saying that he or she is
18 anyway not able to testify before Monday?

19 MR BOURGON: [16:18:26] Mr President, the witness has arrived. We are seeing him
20 tonight for a courtesy meeting. And if we push, we could probably start on Friday, but
21 then it might not be possible due to preparation session. So pushing it, we might be able
22 to start on Friday, but the current schedule is for Monday.

23 PRESIDING JUDGE FREMR: [16:18:49] So we will see.

24 Okay, thank you very much for this update.

25 See you tomorrow at quarter past 9.

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- 1 MR BOURGON: [16:18:59] Mr President, I do have two transcript corrections, please.
- 2 PRESIDING JUDGE FREMR: [16:19:02] Go ahead, Mr Bourgon.
- 3 MR BOURGON: [16:19:04] The first one is that we would like the audio to be listened
- 4 once again in French page 58, lines 16 to 17, and in the English page 64, lines 10 to 11.
- 5 Now, since the witness is not there, I can say exactly what the issue is. Because in
- 6 English it reads that there is a Sergeant Peter. But in French, which is what we believe is
- 7 the correct version, there was no mention of a Sergeant Peter. There was a mention of a
- 8 certain Peter, but I'm sure my colleague can verify that.
- 9 PRESIDING JUDGE FREMR: Ms Luping.
- 10 MS LUPING: [16:19:44] Perhaps it was my pronunciation. I was stating Sergeant
- 11 Peter, not a certain Peter but sergeant. So the English is the correct version.
- 12 PRESIDING JUDGE FREMR: [16:19:52] It is the New Zealand accent.
- 13 MR BOURGON: [16:19:55] No, Mr President, we -- when the witness testified, because
- 14 this was a quote, there was no sergeant mentioned. He mentioned when he testified
- 15 "certain". That's why we want the audio to be listened again.
- 16 PRESIDING JUDGE FREMR: [16:20:06] Noted.
- 17 MR BOURGON: [16:20:09] The second one is, today at one point, my colleague put a
- 18 question to the witness and I heard twice the age 15 used exactly as my colleague put it,
- 19 but in Swahili the witness apparently was told 14 in the first question and 15 in the second
- 20 question. So we would not like this to be taken as a disadvantage to the witness. This is
- 21 on page 92 in French, lines 2 to 6 and on page 93 in English, lines 4 to 8. So we believe
- 22 that by listening to the audio we will see that there were what he was mentioned in
- 23 Swahili, he heard one time 14 and one time 15, whereas my colleague, indeed, I heard it,
- 24 said twice 15 years old.
- 25 PRESIDING JUDGE FREMR: [16:21:03] It's really quite material, so the Chamber fully

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- 1 supports verification.
- 2 Now we adjourn and see you tomorrow quarter past 9.
- 3 THE COURT USHER: [16:21:14] All rise.
- 4 (The hearing ends in private session at 4.21 p.m.)
- 5 RECLASSIFICATION REPORT
- 6 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
- 7 the public reclassified and lesser redacted version of this transcript is filed in the case.