

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 International Criminal Court  
2 Trial Chamber VI - Courtroom 2  
3 Situation: Democratic Republic of the Congo  
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06  
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung  
6 Trial Hearing  
7 Wednesday, 13 April 2016  
8 (The hearing starts in open session at 9.30 a.m.)  
9 THE COURT USHER: All rise.  
10 The International Criminal Court is now in session.  
11 Please be seated.  
12 PRESIDING JUDGE FREMR: Good morning, everybody.  
13 Court officer, please call the case.  
14 THE COURT OFFICER: 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 And for the record, we are in open session.  
18 PRESIDING JUDGE FREMR: Thank you, court officer.  
19 Now appearances starting with Prosecution.  
20 MS SOLANO: Good morning, your Honours. For the Prosecution this morning  
21 appear Ms Marion Rabanit, associate trial lawyer sitting next to me; behind her  
22 Ms Kristy Sim, assistant trial lawyer; and Ms Dianne Luping, trial lawyer; on the back  
23 bench, Ms Selam Yirgou, case manager; and I am Julieta Solano, trial lawyer.  
24 PRESIDING JUDGE FREMR: Thank you, Ms Solano.  
25 Defence please.

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

- 1 MR BOURGON: (Interpretation) Good morning, Mr President. Good morning,  
2 your Honours. And good morning to all those present in the courtroom.  
3 Representing Bosco Ntaganda, who is present this morning with us, we have Madam  
4 Sandrine De Sena, Maître Dignité Bwiza, Isabelle Martineau, and myself,  
5 Stéphane Bourgon. I thank you, Mr President.
- 6 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.  
7 Legal Representative of Victims, please.
- 8 MS PELLET: (Interpretation) Thank you, Mr President. The former child soldiers  
9 are represented by myself, Sarah Pellet, counsel for the OPCV.
- 10 MR SUPRUN: (Interpretation) Good morning, Mr President. Good morning,  
11 your Honours. The victims of the attacks are represented by the OPCV, Anne  
12 Grabowski, associate jurist, and myself, Dmytro Suprun.
- 13 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun.  
14 And at the end duty counsel, please.
- 15 MS CLÉMENT: (Interpretation) Good morning, Mr President, your Honours.  
16 Hélène Clément, legal adviser, duty counsel for the witness.
- 17 PRESIDING JUDGE FREMR: Thank you, Ms Clément.
- 18 Before we approach to the rest of the examination-in-chief of our witness, the  
19 Chamber would like to deliver its oral ruling and its oral ruling has to be delivered in  
20 private session.
- 21 So, court officer, please for this delivery let's move into private session, please.
- 22 (Private session at 9.33 a.m.) \* Reclassified partially into public
- 23 THE COURT OFFICER: We're in private session, Mr President.
- 24 PRESIDING JUDGE FREMR: Mr Bourgon.
- 25 MR BOURGON: Thank you, Mr President. Of course, it is our understanding that

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 the ruling you are about to deliver has to do with the audio recordings. We  
2 respectfully submit that it would be better if this decision was rendered in the absence  
3 of the witness to avoid influencing him in any way as to what will happen. Of  
4 course we don't know what the ruling is, but it may be better to do it in the absence of  
5 the witness. Thank you, Mr President.

6 PRESIDING JUDGE FREMR: Prosecution?

7 MS SOLANO: No objection, your Honour.

8 PRESIDING JUDGE FREMR: I also agree.

9 So, court officer, please escort Mr Witness.

10 Mr Witness, we will just ask you to leave the courtroom because of this request for a  
11 while.

12 (The witness stands down)

13 PRESIDING JUDGE FREMR: So for the record, Mr Witness has left the courtroom  
14 and I will pronounce our ruling.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Open session at 9.37 a.m.)

9 THE COURT OFFICER: We are back in open session, Mr President.

10 PRESIDING JUDGE FREMR: Thank you very much, court officer.

11 Mr Witness, once more, good morning. Is everything okay today?

12 WITNESS: DRC-OTP-P-0963 (On former oath)

13 (The witness speaks French)

14 THE WITNESS: (Interpretation) Good morning. Yes, everything is fine.

15 PRESIDING JUDGE FREMR: Very well then. So today in the morning Ms Solano

16 will continue in her examination-in-chief.

17 Ms Solano, I would like to reiterate that from 10 hours the Prosecution had been

18 allotted for examination-in-chief, you still have 2 hours and 25 minutes at your

19 disposal. So you may start. Do you want to start in open session or in private

20 session?

21 MS SOLANO: Private session, your Honour, please.

22 PRESIDING JUDGE FREMR: All right. Just for the information of public, this

23 witness is protected, so he was given guarantee that his identity will not be revealed

24 to the public. That is why if the questioning could reveal his identity, such part of

25 proceedings is conducted in private session. It is pretty possible that vast majority of

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 this testimony will be or the rest of this testimony will be conducted in private  
2 session.

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

4 (Private session at 9.39 a.m.) \* Reclassified partially into public

5 THE COURT OFFICER: We're in private session, Mr President.

6 PRESIDING JUDGE FREMR: Thank you.

7 Ms Solano, you may proceed.

8 MS SOLANO: Thank you, your Honour.

9 QUESTIONED BY MS SOLANO: (Continuing)

10 Q. Good morning, sir. Can you hear me well?

11 A. Yes.

12 Q. I'd like to remind you of the need to make pauses in between my questions and  
13 your answers.

14 Sir, on Monday you told us that after Mongbwalu was taken, some friends were sent  
15 to recover Kilo. Did the UPC recover Kilo?

16 A. Yes.

17 Q. When?

18 A. Just after Mongbwalu. I believe a week or two later there was the attack on  
19 Kilo. It worked and we recovered Kilo.

20 Q. How did you learn that?

21 A. We were in Mongbwalu and our soldiers went there. They didn't all remain  
22 there. Some of them returned to Mongbwalu and they reported back to us that they  
23 had completed the Kilo operation and they left other troops behind. (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 A. (Redacted). They were

3 in Kilo. And when they had finished there, some individuals looted goods or

4 possessions in Kilo, and those friends who had looted those things brought them back

5 to Mongbwalu.

6 Q. What goods or possessions had they pillaged?

7 A. Material goods such as a motorbike. (Redacted)

8 (Redacted).

9 Q. Did you see the moto?

10 A. (Redacted)

11 (Redacted)

12 Q. Who did the possessions -- who did they pillage these possessions from?

13 A. From the members of the population that they found in Kilo because it was still

14 piga na kuchaji and they looted, as was the norm.

15 PRESIDING JUDGE FREMR: Mr Bourgon.

16 MR BOURGON: Thank you, Mr President. Of course, the previous question made

17 reference to (Redacted) of a witness, which might identify him, but these questions what

18 happened in Kilo and what happened about the force in general I think could be

19 elicited in open session, Mr President. Thank you.

20 PRESIDING JUDGE FREMR: Ms Solano, only you have the precise view what will

21 be your further questions, what will be the topic you would like to touch.

22 MS SOLANO: Your Honour, we can go momentarily into open session.

23 PRESIDING JUDGE FREMR: I know that it's a little bit demanding to jump from

24 one session to another, but still, if possible, please try to do it in this way.

25 So let's move into open session.

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 (Open session at 9.45 a.m.)

2 THE COURT OFFICER: We are back in open session, Mr President.

3 PRESIDING JUDGE FREMR: Thank you, court officer.

4 You may proceed, Ms Solano.

5 MS SOLANO: Thank you, your Honour.

6 Q. Sir, what ethnic group or ethnic groups did the population in Kilo belong to?

7 A. There were a number of ethnic groups in Kilo. Most of them were Nyali.

8 There were also Lendu. In fact, it was a mixture of Nyali, Lendu and others, most of  
9 whom were Nyali.

10 Q. What was the UPC's position with respect to the Nyali ethnic group?

11 A. They were not enemies. We were only due to attack Kilo and leave the  
12 population in place, especially the Nyali. The objective was to drive out the Lendu.

13 Q. Were the Lendu driven out of Kilo?

14 A. Yes.

15 Q. Do you know how this was accomplished?

16 A. No. I did not take part in the fighting in Kilo, but it was war.

17 Q. Do you know whether anyone was killed at Kilo?

18 A. I did not take part in the fighting in Kilo. I do not know how they went about  
19 it.

20 Q. Very well. Sir, I'm going to ask you for some clarifications on the evidence that  
21 you gave yesterday.

22 MS SOLANO: And, your Honour, for this we need to return to private session,  
23 please.

24 PRESIDING JUDGE FREMR: All right. Let's move into private session now,  
25 please.

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Private session at 9.48 a.m.) \* Reclassified partially into public

2 THE COURT OFFICER: We're in private session, Mr President.

3 PRESIDING JUDGE FREMR: Thank you.

4 Ms Solano, you may proceed.

5 MS SOLANO: Thank you, your Honour.

6 Q. Sir, for the benefit of the Defence I'm going to read out some references to the  
7 transcript before I ask you the question.

8 So I am going to refer to the English realtime transcript, that's transcript 79, at page 66,  
9 line 13, as well as to the French version of yesterday's transcript, page 67, line 3.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

26



Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Open session at 9.52 a.m.)
- 12 THE COURT OFFICER: We're back in open session, Mr President.
- 13 PRESIDING JUDGE FREMR: Thank you.
- 14 Ms Solano, you may proceed.
- 15 MS SOLANO: Thank you, your Honour.
- 16 Q. Sir, was there a particular word that was used in the UPC to refer to children in
- 17 the ranks of the UPC?
- 18 A. They were kadogos.
- 19 Q. And how was that word used in the UPC?
- 20 A. I didn't quite understand. Could you put your question again?
- 21 Q. What did the term mean?
- 22 A. "Kadogo" means child soldier.
- 23 Q. Were girl child soldiers also called kadogo?
- 24 A. They were kadogo PMF.
- 25 Q. And what does PMF mean?

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 A. PMF meant military -- feminine or female military personnel or military police.  
2 They were female soldiers or girls. All of the girls or women were called PMF,  
3 women soldiers that is.

4 Q. What was the age range of the kadogos and PMFs, how old were they?

5 A. I'm talking about the PMF. For us the PMF was all military girls. It didn't  
6 depend on their age.

7 Q. How about kadogos, what ages were they?

8 A. Less than 15 years of age.

9 MS SOLANO: Your Honour, private session, please.

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

12 (Private session at 9.56 a.m.) \* Reclassified partially into public

13 THE COURT OFFICER: We're in private session, Mr President.

14 PRESIDING JUDGE FREMR: Thank you.

15 Ms Solano, please proceed.

16 MS SOLANO:

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. Sir, I will come back to this information in a moment, but I want to return to the  
12 question I had asked you. Can you please tell the Chamber, give the Chamber an  
13 example of these military songs?

14 A. An example?

15 Q. Yes. What -- what were the words to such songs?

16 A. Singe chomoa, for example.

17 PRESIDING JUDGE FREMR: Mr Witness, I think what we all probably would know  
18 not just the exact lyrics but whether it was songs about love, about nature, about fight.  
19 If you would just even briefly describe topics of those songs, whether they -- I don't  
20 know, it's up to you, to have better idea.

21 MS SOLANO:

22 Q. Sir, if you would like to sing a portion of one such song, please feel free to do so.

23 A. I don't have a good voice to sing, you know.

24 Q. Sir, I'm sure the Chamber will not take that into consideration in their  
25 assessment of your evidence.



Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 A. I don't even know how to start, but let me offer a few lines.

2 THE INTERPRETER: The witness sings.

3 THE WITNESS: (Interpretation) That's as much as I can offer. I don't know how  
4 to sing. I enjoy listening to music, however.

5 So in that excerpt, singe chomoa, the message is the following: If you are a soldier,  
6 the army is a place of happiness and joy for you. You will have women for free,  
7 houses for free and everything is free when you are a soldier. That is what that  
8 excerpt means. You will travel for free, everything is free when you are a soldier.

9 PRESIDING JUDGE FREMR: Mr Bourgon, do you want to --

10 MR BOURGON: I just thought we could have these -- the song in -- and the  
11 explanation in public session, unless there is this overlap that my colleague is talking  
12 about.

13 PRESIDING JUDGE FREMR: Ms Solano?

14 MS SOLANO: Your Honour, I'm going to ask him some follow-up questions, we  
15 could do those in open session.

16 PRESIDING JUDGE FREMR: Now? Okay.

17 So let's move into open session, court officer, please.

18 (Open session at 10.22 a.m.)

19 THE COURT OFFICER: We are back in open session, Mr President.

20 PRESIDING JUDGE FREMR: Thank you.

21 Please proceed, Ms Solano.

22 MS SOLANO: Thank you, your Honour.

23 Q. Sir, you mentioned in that song that if you have a soldier the army is a place of  
24 happiness and joy, you will have women for free. Can you explain what that meant  
25 in the UPC, sir?

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: Mr Bourgon.

2 MR BOURGON: I think the question should be more complete. There wasn't only  
3 one part to the song, there was many parts, and focus just on this one part, it should  
4 be seen as a context and ask the complete sentence.

5 PRESIDING JUDGE FREMR: I think that's up to the calling party to focus on any  
6 part of the song, so objection overruled.

7 MS SOLANO:

8 Q. Sir, can you please answer my question. This reference to "women for free" in  
9 this song that was taught to the recruits, what did it mean?

10 A. Soldiers do not pay dowry, that's what it meant. It's free, I think. You get a  
11 free woman. I don't know what to say. That is how it was in the UPC. I don't  
12 know whether soldiers who got married had to pay any dowry. Everything was free.  
13 You would get a free house. I had a free house in Mongbwalu. That was their joy,  
14 that was the joy of being a soldier.

15 Q. And in this context, sir, what -- your Honour, I'm just waiting for the French  
16 transcript.

17 Thank you, sir. Can you describe the military uniforms worn by the UPC between  
18 September 2002 and February 2003?

19 A. September? Let me correct. In September there was no uniform in the UPC.  
20 When we went there were no uniforms. We only received uniforms later when we  
21 were in (Redacted).

22 Q. What colour were the uniforms, sir?

23 A. However -- well, you interrupted me. Let me continue. After us, we -- other  
24 persons received the camouflage and they were green with yellowish bright spots and  
25 these tache-tache or camouflages were given along with other -- \*boots known as

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 gumbooti which were dark green in colour. They were produced in Uganda.  
2 Underneath was written "Made in Uganda". The distinguishing factor between us  
3 and those who were in Congo is that we had the gumboots which were green -- olive  
4 green, rather, and they were made in Rwanda. So that was a distinguishing colour  
5 between those trained in Uganda and those trained in the DRC. That's the  
6 difference.

7 MS SOLANO: Your Honour, may we return to private session, please.

8 PRESIDING JUDGE FREMR: All right.

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

10 (Private session at 10.28 a.m.) \* Reclassified partially into public

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 MS SOLANO: Thank you, your Honour.

7 Q. Sir, earlier you referred to the police militaire and to offences committed by  
8 soldiers who disturbed the population of Mongbwalu. Can you please explain to the  
9 Chamber what you mean by that?

10 A. Yes, there were soldiers who were taking excessive amounts of beer in the town  
11 and they could indulge in acts of extortion, notably retrieving certain amounts of  
12 money in the shops of the tradespeople. Those were the acts. These were not acts  
13 of looting as such. Everything was calm. All the businesses were working well.  
14 So there were some soldiers, as is the norm, who wanted always to make the most of  
15 the situation with their weapons in hand and \*wreak havoc. And there was even  
16 one soldier who killed a tradesperson, a tradesman in a bar, and this soldier was also  
17 killed, I believe.

18 We used the word "target" at the time and \*since that incident Commander Salumu  
19 ordered that all soldiers in the camps obey orders and that nobody come out of the  
20 camp without following orders \*or especially without wearing a uniform or having a  
21 weapon. So we needed an authorisation to come out of the camp and that is \*after this  
22 tradesperson was killed by a soldier. Some people said it was a mistake, others said it  
23 was because he had refused to give the soldier some money. So that was an incident.  
24 And after this, the commander instructed the military police to go and patrol  
25 everywhere and to bring back the person or any person who would find themselves

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 in the town without following orders.

2 Q. What ethnic group did this trader belong to?

3 A. He was a Hema.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session.

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session.

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 MS SOLANO:

2 Q. Did you say that it was Commander (Redacted) who delivered \*the training?

3 A. He would train the weapons in the afternoon, but he had an entire team and  
4 there were a number of trainers. He was the person in charge. He was taking part  
5 of training in weapons \*and the other trainers would give the other training courses  
6 in the morning, before midday, the afternoon. The trainers always had --

7 THE INTERPRETER: Inaudible.

8 MS SOLANO:

9 Q. Sir, did children under the age of 15 at Mandro receive this training or did they  
10 receive a different training?

11 A. It was the same training.

12 Q. Was it the same training both for boys and girls under the age of 15?

13 A. Yes.

14 Q. Were these children under the age of 15 always able to complete the exercises?

15 A. They would force themselves. They had to be in a position to be capable of  
16 doing it. They did not have a choice. On occasion it was difficult for us too. Jeshi  
17 ni order as we say.

18 Q. Did the recruits at Mandro train with real weapons?

19 A. No, no.

20 They didn't have any weapons. There were no weapons. There was just the  
21 weapon of Commander (Redacted), and there were soldiers who had weapons, but the  
22 recruits didn't have any weapons. We would use pieces of wood to represent the  
23 weapon itself. And this was a stage in the training we called it muti, which means  
24 pieces of wood that we had to go and look for in the bush. And if you are in this  
25 muti period you had to transport these pieces of wood until the day when you would



Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 take possession of a weapon.

2 Without differentiating between us, between those who were at the last stage and  
3 those who had just started, so that was a way of differentiating between those  
4 individuals. If you were told to go and pick up a piece of wood and transport it like  
5 a weapon, that was -- that meant that you were close to those who were about to  
6 receive a weapon.

7 Q. Thank you, sir. There was a word you said which was not captured by  
8 the -- by the transcript. It sounded like fouti (phon) or mouti (phon). Could you  
9 please spell that word on that same paper next to you?

10 A. I'm sorry, what did you say?

11 THE INTERPRETER: Overlapping speakers.

12 MS SOLANO:

13 Q. It was a term that you used to refer to the pieces of wood.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 I just wonder, your Honour, whether it would work, whether it would be possible for  
25 the court reporters to take note of the spelling which is visible on the screen right now

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 instead of me spelling the terms out. It might save some time.

2 PRESIDING JUDGE FREMR: Frankly, I don't know.

3 Court officer, do court reporters have a chance to watch it?

4 MS SOLANO: Okay. Then I will spell it. I will spell those terms.

5 PRESIDING JUDGE FREMR: I'm sorry for that but --

6 MS SOLANO: That's okay, your Honour.

7 PRESIDING JUDGE FREMR: -- maybe we should think about improving that.

8 MS SOLANO: Could the paper please be displayed again. Thank you.

9 The first term has been captured already on the transcript, pinga uone. Also papa te,  
10 mama te. The next one is also captured in the transcript, jeshi ni order. Thank you  
11 to the court reporters.

12 Q. Sir, were the recruits at Mandro camp free to leave whenever they please?

13 A. No. Between them they said that it was easy to enter but difficult to leave. So  
14 once you have entered Mandro if you return home you are a deserter and you would  
15 be sought after and brought back to Mandro.

16 Q. What would happen if you deserted and you were caught?

17 A. You were to go back to Mandro, to go back to the centre. You were obliged to  
18 return; however, you did not have a choice.

19 Q. Sir, was there a system of punishment in the training camp?

20 A. Yes.

21 Q. Please explain.

22 A. It was whipping.

23 Q. And on what occasions would this punishment be delivered?

24 A. It was if you refuse, then you would see what would happen. You were given  
25 an order and you can't refuse it, pinga uone. As we would say, jeshi ni order, an

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 army is paramount to receiving orders so you execute first and then complain

2 afterwards, jeshi ni order. So execute first and foremost and complain later.

3 Q. Was this type of punishment, whipping, was it also applied to children under  
4 the age of 15?

5 A. It was for everybody.

6 Q. Do you remember any particular examples, any cases in which a child under the  
7 age of 15 was given this punishment?

8 A. I do not have any details to give you in that regard, but the whipping was  
9 applied to everybody. If you did not execute an order, you were whipped.

10 Q. Sir, where did the children under the age of 15 sleep in the training camp of  
11 Mandro? Did they sleep in a different place from the recruits who were older than  
12 15?

13 A. No. We were all there and what is more, you had to be a strong man to sleep  
14 there. After 2200 hours they counted to three - one, two, three - and at three, two  
15 and a half thousand people had to find a spot to sleep and if you missed it, then you  
16 would sleep outside under the stars.

17 Q. Did girls under the age of 15 sleep in the same place as the other soldiers?

18 A. No, the PMF did not sleep there. Well, the girls were less numerous so they  
19 had their place to sleep. And we, well, especially for us you had to be the strong one  
20 in order to find a spot to sleep. You know, you would count to three - one, two - you  
21 stop at two and then you would be in position to run and at three it was each to his  
22 own. And, you know, we would push each other aside like cattle.

23 Q. Sir, was there any sexual violence that occurred at the training camp of  
24 Mandro?

25 A. There were girls who were punished because according to Commander

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted) -- well, we saw that girls are punished. All the girls were assembled one  
2 day and he said to them "Where did you go to sleep?" And they said that they were  
3 taken by the trainers. And he said \*"Where did they take you, to their houses?"  
4 And they said -- because the trainers had the houses. And they said, "You girls  
5 spend all the nights with the trainers, so today I am going to occupy you in the  
6 morning with training, and they were punished for the entire day. (Redacted)  
7 (Redacted)

8 (Redacted). That was their punishments.

9 MS SOLANO: Your Honour, I'm mindful of the time. I would like to ask one  
10 follow-up question, but as your Honours please, I can do it also after the break.

11 PRESIDING JUDGE FREMR: One question is no problem. Please proceed.

12 MS SOLANO:

13 Q. Had these girls been taken by the trainers? Had the girls consented to being  
14 taken by the trainers?

15 PRESIDING JUDGE FREMR: Mr Bourgon.

16 MR BOURGON: Speculation, Mr President. He's not in a position to say that.  
17 They're talking about a group of girls.

18 PRESIDING JUDGE FREMR: Ms Solano.

19 MS SOLANO: Your Honour, I can ask him what the basis of his knowledge is when  
20 he answers the question.

21 PRESIDING JUDGE FREMR: Maybe rephrase also the question in this direction.

22 MS SOLANO:

23 Q. Sir, you said that according to Nembe the girls had been taken by the trainers  
24 and spent all the nights with the trainers. Can you explain what this -- what this  
25 meant? What were they doing?

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 A. They were making love.

2 Q. And as far as you know, if you know, were the girl recruits willing participants?

3 Had they gone to faire l'amour because they wanted to?

4 A. I do not have any details to provide, but I can say that they did not have a  
5 choice, jeshi ni order. And it was pinga uone. So I can just say that they did not  
6 have a choice. It might have been that some consented and some did not. But in  
7 the context that we were in it was pinga uone, jeshi ni order. So those were the  
8 terms often used by the trainers and I could say that those girls did not have a choice.  
9 Well, if some had feelings, I'm not in a position to say what happened, but I'm talking  
10 in general terms here. To my mind they did not have a choice.

11 MS SOLANO: Your Honour, that was the question I wanted to ask. Thank you.

12 PRESIDING JUDGE FREMR: All right. So we will break now for 30 minutes.

13 And, Ms Solano, according to my information you have just one hour for the rest of  
14 your examination.

15 Mr Bourgon.

16 MR BOURGON: Mr President, my colleague has one hour left. Of course we don't  
17 know, one hour could extend a bit more, but does the Trial Chamber intend to have  
18 the cross-examination commence immediately or what -- we're perfectly -- whatever  
19 the Chamber prefers. I'd just like to know in advance.

20 PRESIDING JUDGE FREMR: Would it make any inconvenience to you? Because  
21 otherwise we would like to continue immediately after because I guess there would  
22 be no questions from Legal Representatives. Yes. So I don't see any reason why  
23 not continue.

24 MR BOURGON: We'll be ready to proceed, Mr President. Thank you.

25 PRESIDING JUDGE FREMR: Very well.

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 So it's now 11.05 so we will resume at 11.35.

2 THE COURT USHER: All rise.

3 (Recess taken at 11.05 a.m.)

4 (Upon resuming in open session at 11.36 a.m.)

5 THE COURT USHER: All rise.

6 Please be seated.

7 PRESIDING JUDGE FREMR: So we will finish in this session examination of  
8 witness.

9 I can just add to the record that as to the appearances Ms Samson joined us.

10 Otherwise, Ms Solano, you may proceed. And subject to your prospective questions,  
11 do you want to remain in open session or move into private one?

12 MS SOLANO: Private session, your Honour, please.

13 PRESIDING JUDGE FREMR: All right.

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

15 (Private session at 11.38 a.m.) \* Reclassified partially into public

16 THE COURT OFFICER: We're in private session, Mr President.

17 PRESIDING JUDGE FREMR: Thank you.

18 Ms Solano, please proceed.

19 MS SOLANO: Thank you, your Honour.

20 Q. Sir, as part of the training that children received in the UPC, including children  
21 under the age of 15, were they taught how to treat the civilian population in combat  
22 when they went to the battlefield?

23 A. I don't know what treatment you're referring to, but these were war times, the  
24 war against the Lendu. We had to shoot and to conquer, capture the village. That  
25 was the training, how to fight at the battlefield. That was the nature of the training.

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 Q. Sir, you said during the first day of your testimony that bodyguards attached to  
2 UPC commanders included children under the age of 15. Do you remember which  
3 commanders had children under the age of 15 as part of their bodyguards?

4 A. Many of them, if not most of them. Many, many commanders had bodyguards,  
5 kadogos with them. Do you want me to mention their names? Well, if so, I do not  
6 remember the names. No, I don't remember any names right now. I can see their  
7 faces, but I don't remember the names. Maybe I will. The point is that most  
8 commanders had kadogos following them or with them.

9 Q. Did the members -- did any of the members of the UPC état-major have child  
10 soldiers under the age of 15 in their escorts?

11 A. Well, I don't know how to answer your question. But I don't know whether  
12 they were bodyguards. You see, (Redacted) in Mamedì, General  
13 Kisembo had at least 36 children who were known as the 36 children who were less  
14 than 15 and who were part of the same platoon called the children's platoon. These  
15 children guarded his residence. But there were other bodyguards who were older.  
16 These children were at his residence. He had brought them from Mamedì to Bunia.  
17 And General Kisembo handed them over to the UNICEF.

18 Q. Do you know whether Thomas Lubanga or Bosco Ntaganda had children under  
19 the age of 15 in their escorts?

20 A. I have no details regarding Thomas Lubanga. I don't know, but among the  
21 officers maybe Bosco Ntaganda. One of the officers who -- had a bodyguard or  
22 aide-de-camp, or -- his name was (Redacted), I think, a young boy who was about -- who  
23 was less than 15 years old maybe.

24 Q. Did you see this child in the company of Mr Bosco Ntaganda and his officers,  
25 and if so, can you explain when and where?

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 A. I cannot be specific as to whether he was his bodyguard, \*but Bosco didn't walk;  
2 it was... he had his officers, and his officers had bodyguards, and so I don't know  
3 whether those young people were Bosco's bodyguards or his officers' bodyguards.  
4 They were part of his entourage. And this happened in Bunia.

5 Q. When and what was the context? What were you doing in Bunia?

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. You said most commanders in the UPC had children under the age of 15 in their  
12 escorts. Was there a reason for this?

13 A. I think that the preference was for the kadogos because they were wicked, more  
14 wicked, and they were more compliant of orders, they respected the orders, they were  
15 stable, they did not need to have a woman and they did not need many material  
16 goods. I think that was part of the reason for their choosing to have children. And  
17 this is only my opinion. I don't know what the others may have thought.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Sir, to your knowledge, what were the duties of the kadogos attached to UPC  
23 commanders, including Bosco Ntaganda or his officers?

24 A. To carry their weapons, their AK47s, that is it, and their ammunition.

25 Q. Did the girls have the same duties or did they have any different or additional



Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 duties?

2 A. Prepare food, that was their job, take care of the clothes, wash the chief's clothes  
3 and cook food. They were like house girls, so to speak, under military orders.

4 Q. To your knowledge, did these girls have sexual relations with the commanders?

5 A. I believe so, yes, but this is only my opinion. I think so. I don't know whether  
6 this was because of their personal feelings because, you know, you cannot prohibit  
7 someone from expressing their feelings.

8 However, I think at times they had no choice, they were bodyguards, and I  
9 think -- my answer would be that it is both either they committed themselves with the  
10 leader, the man, \*because some of the female military personnel had children with  
11 these leaders, or they were obliged to.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. Did you fight -- did you participate alongside kadogos in any other battles with  
20 the UPC?

21 A. Yes, there were kadogos in all the wars I participated in. There were kadogos  
22 everywhere. Everywhere. In all companies, in all platoons and sections. Even in  
23 the brigades there were kadogos who participated in the fighting like everyone else.  
24 There was no privilege extended to the kadogo such as being exempted from fighting.

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session.

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. Sir, you've used the term "kadogo" to include children of what ages, please?

7 A. When I talk about kadogo, I'm referring to people or children who are less than  
8 15, 15, 14, 13.

9 Q. Sir --

10 A. There was Liéven, Liéven who had a kadogo, had some kadogos, maybe 10, 11,  
11 12, and these were the youngest of all the kadogos.

12 Q. Where did you meet this kadogo called Liéven?

13 A. In Bunia. (Redacted)

14 (Redacted).

15 Q. And what was this kadogo's role at the time?

16 A. He was Liéven's bodyguard. What we knew was that Liéven was Thomas  
17 Lubanga's junior brother.

18 Q. Do you remember the name of the kadogo?

19 A. No, I did not know his name.

20 Q. Sir, on the UPC side, who led the battle of 6 March in Bunia?

21 A. The two generals were present, Kisembo, chief of general staff, quite naturally.

22 (Redacted). Then there was

23 also Bosco Ntaganda, who was at the general hospital in Bunia. He was leading the  
24 operations on the airport (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1 (Redacted). So he was leading the war effort from that end, from the airport, (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 A. Well, if I could set the record straight? I don't know if you put your question  
6 right. There was no training centre just for the kadogos. There was no such thing.  
7 The training centres were for everyone. There was no training centre specifically for  
8 the kadogos. I just want to correct you. \*There was a Mandro training centre in  
9 Mongbwalu, there was Kpandroma (phon.) in Bunia, as usual, and then there was  
10 Buli – Bule. The Bule centre was quite large. There even was an airport there, a  
11 landing strip in actual fact.

12 Q. When you say a great centre at Bule, do you mean a large training centre?

13 A. Yes, a training centre, the Bule training centre. And the chief there (Redacted)  
14 (Redacted), Christian De Gaulle. Bule training centre.

15 Q. Sir, could Mr Ntaganda as a senior leader in the UPC, could he take disciplinary  
16 measures against UPC soldiers?

17 A. Yes.

18 Q. Do you know any cases in which he did?

19 A. Camp Mandro, he ordered -- I don't know if it was him or Chief Kahwa, \*but  
20 there was an order for, the term we used: the target -- soldiers are tied to a tree and  
21 then you are shot -- (Redacted) at Mandro centre there, so in the village, not  
22 at the training centre. They were supposed to whip. (Redacted)  
23 (Redacted) because -- well, there was a group (Redacted), the general was somewhere  
24 there, and by mistake -- well, you see, when he was cleaning his weapon, he didn't do  
25 it right, and a bullet was shot and that startled everyone.

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 He was taken. He was whipped by Bosco himself. And everyone knew about that  
2 because such a thing was not to happen again. Everyone knew about it, everyone  
3 actually saw it.

4 Q. Sir, did you ever know Mr Ntaganda to punish any of the UPC soldiers or  
5 commanders who killed or raped Lendu civilians?

6 A. I have no idea. (Redacted). A young soldier was  
7 whipped by General Bosco because he had shot his gun off by mistake. Well, I don't  
8 know if it was by mistake or on purpose. But that was the disciplinary decision taken.  
9 And one soldier was shot in Mandro as well. The order was given and he was shot.  
10 "Target," that was the word that was used, "target."

11 Those were the two cases I saw, two examples of military discipline --

12 THE INTERPRETER: Correction, disciplinary measures.

13 MS SOLANO:

14 Q. Why was this soldier -- one moment, please.

15 Why was this soldier executed?

16 A. Apparently he had gone to the village in Mandro. And I'm trying to give you  
17 details. Apparently he went to the village and caused trouble. He stole some  
18 things from the Hema people living around that place. And the -- well, I don't have  
19 the entire story. I don't have all the details. That was in 2002, near 14 years ago.  
20 But he was, he was shot.

21 Q. Who shot him?

22 A. Other soldiers.

23 Q. Was this execution known to Mr Ntaganda?

24 A. Well, he was there. He gave an order, an order to shoot.

25 Q. And how do you know this, sir?

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 A. The man was executed in public.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. Sir, you said that rape was not a punishable offence in the UPC and that

9 members of the UPC raped women in Mongbwalu and Kobu. You also said that

10 kadogo girls, that in your opinion they had sexual relations with their commanders

11 against their will.

12 Do you know, sir, whether the members of the UPC's état-major including Mr

13 Ntaganda were aware that the UPC committed rape against civilians and against the

14 kadogos?

15 PRESIDING JUDGE FREMR: Mr Bourgon.

16 MR BOURGON: At the point where we are, Mr President, any questions can be

17 permitted, but for the record there must be a better way to put a question like this.

18 This is a yes or no question, which is very long. The Prosecution is testifying. The

19 witness will say yes. But there might be a better way to do this, these things,

20 Mr President. Thank you.

21 PRESIDING JUDGE FREMR: Ms Solano.

22 MS SOLANO: Your Honour, I can rephrase the question.

23 PRESIDING JUDGE FREMR: Please.

24 MS SOLANO:

25 Q. Sir, do you know whether the members of the état-major général were aware of

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 the fact that the UPC raped women in Mongbwalu and in Kobu?

2 PRESIDING JUDGE FREMR: Mr Bourgon.

3 MR BOURGON: This was asked and answered, Mr President, but I'll let it go.

4 PRESIDING JUDGE FREMR: Then please proceed.

5 MS SOLANO: I don't believe my question was answered.

6 PRESIDING JUDGE FREMR: Yes, yes, I meant just that Mr Witness should proceed  
7 and respond to your question.

8 THE WITNESS: (Interpretation) Could you put the question again?

9 MS SOLANO:

10 Q. Do you know whether members of the UPC état-major général were aware that  
11 the UPC raped women in Mongbwalu and in Kobu?

12 A. Well, I don't know if I can give you a yes or a no. I said that in general it was  
13 do whatever you wanted, do as you will.

14 PRESIDING JUDGE FREMR: But the question, Mr Witness, was whether main  
15 commanders knew about it.

16 THE WITNESS: (Interpretation) I don't have details that I can give you. I can't  
17 really answer directly, your Honour, but --

18 PRESIDING JUDGE FREMR: It's absolutely, it's absolutely fair. If you don't know,  
19 please do not speculate. If you think it's something you know, then you should then  
20 explain how did you get knowledge of such information. But if you don't know,  
21 please do not speculate. Don't make things up. So please proceed.

22 Mr Bourgon.

23 MR BOURGON: Thank you, Mr President. For the record, I would like to point  
24 out to the Court the question that was put previously to the witness, and this is on  
25 page 45, and it is at line 24 -- never mind, Mr President. Thank you, I'll withdraw it.



Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: Okay. So probably, Ms Solano, please repeat the  
2 question.

3 MS SOLANO: Thank you, your Honour. I think the transcript may have caught  
4 that Mr Bourgon withdrew his objection. Thank you to my friend from the Defence.  
5 Q. Sir, do you know whether the members of the UPC état-major général including Mr  
6 Ntaganda were aware that UPC commanders had sexual relations with their kadogos?

7 A. I think so.

8 Q. Why do you think so?

9 A. Well, within their teams, they, they -- there were commanders who did have girl  
10 kadogos, yes. So that's why I think they knew that \*there were these kadogo girls,  
11 and these kadogo girls were exploited by their staff... like cleaning ladies sometimes,  
12 and they were there.

13 MS SOLANO: Mr President, I believe I have some 15 minutes left. I have only one  
14 more line of questioning, and I would like to also show the witness the image of  
15 Mongbwalu that I couldn't show him yesterday. But if I do both things, it is possible  
16 that I will go somewhat beyond those 15 minutes. So I seek your guidance as to  
17 whether I could be authorised to have up to an additional 15 minutes if necessary, it  
18 might be less than that, so that I can make a choice.

19 PRESIDING JUDGE FREMR: Ms Solano, you know, this Chamber would like to be  
20 very strict on keeping any time limits. I was now informed that you still have 20  
21 minutes. So I think we can give you 10 minutes more, but really I will be very strict.  
22 You have just exactly 30 minutes. It's up to you how you will organise the rest of  
23 your questioning.

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (The witness stands down)

13 PRESIDING JUDGE FREMR: So I would like to hear first Ms Solano what are the

14 reasons to issue or to touch this topic and then I will listen to Mr Bourgon.

15 Ms Solano.

16 MS SOLANO: Thank you, your Honour. I am not certain that the Defence is going

17 to explore this in their cross-examination, but I believe that they might. And I

18 believe that if the Defence attempt to introduce any doubt about the credibility of this

19 witness, it is my duty to give him an opportunity to explain to your Honours the facts

20 that are relevant to your assessment of his credibility.

21 PRESIDING JUDGE FREMR: Mr Bourgon.

22 MR BOURGON: Thank you, Mr President. I have not decided yet whether I will

23 or will not touch upon this topic. However, the role of the Prosecution is quite clear,

24 it is to elicit evidence that is relevant to the charges laid against the accused. To elicit

25 evidence related to the credibility of its own witness is not part of

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 examination-in-chief.

2 Should I elect to touch upon the topic in my cross-examination, then the rules are  
3 clear, then it will be open to my colleague to address that in re-examination. But as  
4 part of examination-in-chief, this simply is not something that can be done. Thank  
5 you, Mr President.

6 PRESIDING JUDGE FREMR: Give us a second.

7 (Trial Chamber confers)

8 PRESIDING JUDGE FREMR: So our unanimous decision is that this could be of  
9 relevance, but only if the Defence will focus on this issue during cross-examination.

10 If not -- if yes, then we will give space to, room to Prosecution to deal with this in  
11 re-examination-in-chief. So at the moment we don't see any need to deal with this  
12 issue.

13 So now Mr Witness may be escorted again into the courtroom.

14 (The witness enters the courtroom)

15 PRESIDING JUDGE FREMR: So, Ms Solano, if you want, you still have roughly  
16 something around 15 minutes at your disposal. It's up to you whether you want to  
17 utilise those 15 minutes.

18 MS SOLANO: Thank you, your Honour. That completes my examination.

19 PRESIDING JUDGE FREMR: Okay.

20 Mr Bourgon.

21 MR BOURGON: I would just like to clarify one point before the Prosecution rests  
22 with this witness, and it has to do with the previous exhibit. So while the witness is  
23 there, I did not object to tendering in evidence the exhibit which was offered by the  
24 Prosecution. Well, for me it is important that all what is in the legend and is  
25 indicated is confirmed by the witness, and I'm not sure he did this thoroughly.

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 And looking back at the transcript, he mentioned -- it was asked to him: What is the  
2 legend about? And then the answer of the witness was: "It shows the various  
3 military camps that were in Mongbwalu \*and then also the position of the minefields  
4 and also... the holes." Lastly, we asked him "gold mines too?"

5 "Can you take a look at the annotations ... and tell us whether to the best of your  
6 knowledge they're accurate?"

7 The answer is "Yes."

8 I just want to make sure that when the answer says yes -- when the witness says yes  
9 to this question he is confirming all annotations, or at least which one he's confirming  
10 and then I have no problems. But I think it is important to know, to have it clear on  
11 the record before I begin cross-examination. Thank you.

12 PRESIDING JUDGE FREMR: Mr Witness, have you heard what just Mr Bourgon  
13 said?

14 THE WITNESS: (Interpretation) Yes.

15 PRESIDING JUDGE FREMR: He wanted to know whether your "yes" mentioned  
16 previously really covered all annotations you made either before or today.

17 THE WITNESS: (Interpretation) Yes.

18 PRESIDING JUDGE FREMR: Okay. It is satisfactory to you, Mr Bourgon?

19 MR BOURGON: Yes, Mr President. I want to make sure that question and answer  
20 were on the same page.

21 PRESIDING JUDGE FREMR: All right.

22 MR BOURGON: Thank you.

23 PRESIDING JUDGE FREMR: So I think we still have 25 minutes. I think it still  
24 makes sense to start with cross-examination.

25 So, Mr Witness, now we are approaching the second part of your testimony. Now

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 you will be cross-examined, (redacted), just normal

2 part of the proceedings.

3 I would like just to remind you that this Court is governed by principle of fair trial,

4 which also means that both parties are treated equally. And for you it means that

5 you should respond to all the questions that will be put to you by Mr Bourgon in the

6 same way like you responded to Ms Solano. And as I said, you are doing very well.

7 So please proceed in the same style, and you will be asked questions by Mr Bourgon.

8 Now let's move into -- we are in private; am I right? So let's move into open session.

9 (Open session at 12.36 p.m.)

10 THE COURT OFFICER: We're in open session, Mr President.

11 PRESIDING JUDGE FREMR: Thank you, court officer.

12 So now we have still 25 minutes before we will break. So we will now continue with

13 cross-examination of witness.

14 Defence, and concretely Mr Bourgon will do it, so Mr Bourgon, you have the floor.

15 QUESTIONED BY MR BOURGON: (Interpretation)

16 Q. Good afternoon, Witness.

17 A. Good afternoon.

18 Q. Let me introduce myself. My name is Stéphane Bourgon. I'm a Canadian

19 lawyer. I have with me here a team which represents the accused person in this case,

20 namely Bosco Ntaganda.

21 Mr Witness, you do remember that we met each other briefly a few days ago, don't

22 you?

23 A. Yes.

24 Q. I have several questions to put to you relating to the testimony you have just

25 given and the information you have provided to the Prosecutor. The rules are the



Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 same. If you do not understand a question, please do not hesitate to ask me to repeat  
2 the question. Do you understand that?

3 A. Yes.

4 Q. Similarly, several of the questions that I will put to you might only call for a yes  
5 or no answer, and I urge you to do so whenever possible, to say yes or no, and that  
6 will enable us to save a lot of time. Do you understand that?

7 A. Yes.

8 Q. Now, having said that, if you have any comments to make, please do not  
9 hesitate to do so because we are here to listen to you. Do you understand that as  
10 well?

11 A. Yes, indeed.

12 Q. Let me start by addressing some general issues. On several occasions over the  
13 last few days, you were asked to provide precisions on a number of names. Do you  
14 remember those questions?

15 A. Yes, I do.

16 Q. A number of times you answered that you were not able to recall the names.  
17 Do you remember those answers?

18 A. Yes.

19 Q. You mentioned as well that this was in part due to the fact that these events  
20 which you have been talking about happened some 13 or more years ago; is that  
21 correct?

22 A. Yes.

23 Q. But on some instances you mentioned a number of names. Do you remember  
24 that?

25 A. Yes.

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 Q. Would you agree with me then that the names that one remembers are names  
2 that relate to a specific striking event relating to the name; is that correct?

3 A. Yes.

4 Q. Let's take an example. Let's take an example. Earlier on today you testified  
5 about a member of your brigade who returned from Kilo with a stolen motorbike.  
6 Do you remember that?

7 A. Yes, a looted bike, motorbike.

8 Q. Do you make a distinction between steal and loot?

9 A. Yes.

10 Q. And what is that distinction?

11 A. To steal means as you know, is defined, at least the way I understand it, is in a  
12 war context is case where you live with the owner of the property in the same place  
13 and then you undertake to take away that property without his knowledge, that is  
14 without the knowledge of the owner. That is my understanding of stealing in the  
15 context of fighting.

16 But to loot means to drive out the owner and then take possession forcibly of the  
17 property.

18 Q. So that is your distinction between stealing and looting?

19 A. Yes.

20 Q. Now let me repeat my question. I believe your answer was yes, but let us  
21 make sure that we have your right answer. Do you remember that this morning you  
22 talked about a member who came back with a motorbike that had been looted; is that  
23 correct?

24 A. Yes.

25 Q. You said and if I understood you properly, you said that this person was a

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 friend; is that correct?

2 A. Yes, a friend, someone with whom we were at the training centre together.

3 Q. (Redacted)

4 A. I think we are in open session, aren't we?

5 Q. Yes. I wanted to avoid that. Maybe we should (Speaks English) I will avoid  
6 mentioning any time any --

7 PRESIDING JUDGE FREMR: Okay.

8 MR BOURGON: -- because I would like to stay into public session.

9 PRESIDING JUDGE FREMR: All right.

10 MR BOURGON: (Interpretation)

11 Q. So do not hesitate --

12 PRESIDING JUDGE FREMR: Mr Bourgon, you have Ms Solano, Ms Solano on her  
13 feet.

14 Ms Solano.

15 MS SOLANO: I'm sorry to interrupt, your Honour, it was just to propose that the  
16 Defence, if the Defence is going to ask the witness to go back to topics on which he's  
17 testified, that they bear in mind whether the question was originally asked and  
18 answered in private session.

19 PRESIDING JUDGE FREMR: You know, because, Mr Bourgon, in case of this  
20 witness, there is not only issue of information which could directly identify or reveal  
21 his identity, but also questions of some overlapping, you know, you know what I  
22 mean. So it's up to you, I will be also very cautious and alert, but it's up to you really  
23 to put questions in a way that would really avoid both those concerns.

24 MR BOURGON: Mr President, am I to take it as a ruling that if it was elicited in  
25 private session, now I can only cross-examine in private session; or if there is no risk,

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 do you leave it up to me, Mr President?

2 PRESIDING JUDGE FREMR: I think it depends. I think it should be necessarily  
3 the same regime. But it depends on the character of your question. As I said, you  
4 should be careful not to put in danger both those concerns.

5 MR BOURGON: Then we better move into private session, Mr President.

6 PRESIDING JUDGE FREMR: I also think that is safer.

7 So let's move into private session now.

8 (Private session at 12.44 p.m.) \* Reclassified partially into public

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 Does that help you somehow with your memory?

2 (Redacted)

3 (Redacted)

4 Q. Very well. Now let us move on -- no, no. Let me finish up this point. So  
5 you do not know that S2 David Pigwa was arrested and imprisoned in Kilo?

6 A. I do not know.

7 Q. You do not know either that Kitembo is the one who imprisoned him?

8 A. No.

9 Q. And you also do not know that he was imprisoned because he was involved in  
10 \*corrupt practices involving the civilian population?

11 A. I don't know and I don't know your source of information.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. (Redacted), you yourself also received training in  
21 Mandro; is that correct?

22 A. Yes.

23 Q. That training lasted some two to three weeks -- or, rather, three weeks to one  
24 month; is that correct?

25 A. Yes.



Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 Q. And the content of the training, if I understood well, included military training  
2 how to salute officers; is that correct?

3 A. Yes.

4 Q. Now if I use the word "drill," do you understand that?

5 A. Drill?

6 Q. Drill, do you understand?

7 A. Yes.

8 Q. What is it?

9 A. Left, right, turn.

10 Q. So you received a lot of that during that month of training?

11 A. Yes.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. Last question before the break, the lunch break, and I'm trying here to situate in  
7 time your training going by your testimony of what training you received in Mandro.  
8 Now, according to your testimony, this is what I suggest to you, I put it to you that  
9 this happened in April 2002; is that correct?

10 A. Since Monday I have not mentioned April during my examination.

11 Q. So I would like to clarify with you, what -- at what time did you receive the  
12 three-weeks to one-month training in 2002 in Mandro, which month was it?

13 A. From the month of July, but I don't have a specific date whether it was 1st, 2nd,  
14 3rd or 4th. I know that it was in July. The time I spent in Mandro was between July  
15 and September.

16 Q. Now, my question to you now is the time you spent in Mandro was between  
17 July and September; is that correct?

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)  
2 (Redacted)  
3 (Redacted)  
4 (Redacted)  
5 (Redacted)  
6 (Redacted)  
7 (Redacted)  
8 (Redacted)  
9 (Redacted)  
10 MR BOURGON: Thank you, Mr President.  
11 PRESIDING JUDGE FREMR: Very well. So we break now and we will reconvene  
12 half past 2.  
13 THE COURT USHER: All rise.  
14 (Recess taken at 1.01 p.m.)  
15 (Upon resuming in open session at 2.32 p.m.)  
16 THE COURT USHER: All rise.  
17 Please be seated.  
18 PRESIDING JUDGE FREMR: Good afternoon, everybody. We will continue this  
19 afternoon in cross-examination of Witness 963 by the Defence.  
20 But before doing that, the Chamber would like to deliver another ruling orally and it's  
21 a ruling on the Prosecution's request regarding the need to record preparation  
22 sessions with expert witnesses.  
23 In light of the imminently scheduled testimony of Dr John Yuille, the Chamber will  
24 address the parties' submissions regarding the applicability of certain aspects of the  
25 witness preparation protocol, which is contained in annex A to our decision 652, to

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 expert witnesses. Those submissions are contained in filings number 1214 and  
2 number 1229.

3 The Chamber recalls that it has already provided some guidance on the extent to  
4 which various protocols apply to expert witnesses. \*I am referring here to the  
5 transcript page 56, at page 45, 46. The Chamber indicated then that, first, the witness  
6 preparation protocol is applicable to a calling party's contacts with its own expert  
7 witnesses; second, the familiarization protocol is applicable to expert witnesses, save  
8 where it explicitly indicates otherwise; and three, the contact protocol is applicable to  
9 an opposing party's contacts with expert witnesses of the other party.

10 The Chamber notes that both the Prosecution and Defence have now submitted that  
11 the requirement for recording of witness preparation sessions, as provided for in the  
12 witness preparation protocol, should not apply to expert witnesses. \*The Chamber  
13 further submits that both parties should have the right to meet independently with  
14 expert witnesses ahead of their testimony, and without the presence of the other  
15 party. Although the Chamber recognizes that concerns regarding rehearsal of  
16 testimony may be significantly lessened in the case of expert witnesses, the Chamber  
17 is not persuaded that the need for recording of preparation sessions is entirely  
18 obviated.

19 In respect of the upcoming witness, the Chamber notes that Mr Yuille is scheduled to  
20 testify by video link and, in these specific circumstances, considers that an audio  
21 recording of any preparation session may be made in place of a video recording.

22 The Chamber does not, however, see any reason to amend the witness preparation  
23 protocol with respect to expert witnesses at this stage.

24 Similarly, the Chamber does not see any reason to amend the contact protocol with  
25 respect to expert witnesses. The Chamber considers it appropriate to maintain the

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 regime whereby the consent of a witness is required to a meeting with an opposing  
2 party.

3 That concludes the Chamber's ruling.

4 And now, as I already indicated, we can continue with cross-examination of the  
5 witness by Defence.

6 Mr Bourgon, do you want to remain in open session or the character of your  
7 questions will require to move into private?

8 MR BOURGON: (Microphone not activated)

9 THE INTERPRETER: Microphone, please.

10 PRESIDING JUDGE FREMR: Mr Bourgon, just for the record you said that you  
11 require to go into private. Because you haven't switched --

12 MR BOURGON: Yes, the microphone was not on. We do require to move into  
13 private session, please.

14 PRESIDING JUDGE FREMR: Very well.

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

16 (Private session at 2.38 p.m.) \* Reclassified partially into public

17 THE COURT OFFICER: We are in private session, Mr President.

18 PRESIDING JUDGE FREMR: Thank you, court officer.

19 Mr Bourgon, you may proceed.

20 MR BOURGON: Thank you, Mr President.

21 Q. (Interpretation) Good afternoon, Mr Witness.

22 A. Thank you. Same to you.

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. Thus, the training that you had in Mandro was when?

6 A. July. July and early August.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)  
2 (Redacted)  
3 (Redacted)  
4 (Redacted)  
5 (Redacted)  
6 (Redacted)  
7 (Redacted)  
8 (Redacted)  
9 (Redacted)  
10 (Redacted)  
11 (Redacted)  
12 (Redacted)  
13 (Redacted)  
14 (Redacted)  
15 (Redacted)  
16 (Redacted)  
17 (Redacted)  
18 (Redacted)  
19 (Redacted)  
20 (Redacted)

21 Q. Let's go one step at a time. When were you in Katoto for the training that you  
22 just mentioned?

23 A. I don't have any specific dates for Katoto. I don't have days and months, but it  
24 was in 2002. So early -- so the first period I would say between April, May, that's  
25 when it started, three weeks, two weeks, that entire period. Those were -- that's



Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 when the various events -- well, I didn't take part in all those events, but those events  
2 occurred during that month.

3 Q. And the training, was the training given by whom?

4 A. Well, it was already the early days of the UPC and it was the officers, the Hema  
5 associates who were soldiers at the time. Others had come from the APC, others  
6 were former soldiers under Mobutu, and so you see the Hema people were in the  
7 process of creating the UPC and they were organising everything. The coming  
8 together of the various forces, the bringing together of people, Chief Kahwa was part  
9 of that.

10 Q. And from Katoto, if I've understand your testimony correctly, (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25



Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1

2

3

4

5

6

7

8

9

10

11

12

13 Page redacted – Private session

14

15

16

17

18

19

20

21

22

23

24

25



Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. Just to refresh your memory, I would put it to you, Mr Witness, that there's  
21 never more than 800 recruits at any one time at the Mandro training camp. Does  
22 that refresh your memory?

23 A. I don't know. I have my figures. I'm not challenging your figures.

24 PRESIDING JUDGE FREMR: Ms Solano.

25 MS SOLANO: Could the question please be limited to the period of time that the

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 witness has said he has knowledge of the Mandro training camp.

2 PRESIDING JUDGE FREMR: Mr Bourgon.

3 MR BOURGON: I thought it was the case, but I can make that clear.

4 PRESIDING JUDGE FREMR: Please.

5 MR BOURGON: I was about to go back on the answer provided by the witness.

6 Q. (Interpretation) Witness, let me be specific. I'm referring to the period of time  
7 during which you were there. Did you see?

8 A. Yes.

9 Q. Are we in agreement?

10 A. Yes.

11 Q. Secondly, you answered my question and you said that you didn't challenge the  
12 suggestion that I made to you that there was no more than 800 recruits at the training.  
13 So which one is it? There is a big, very big difference between 2500 and 800. What  
14 you saw is what is of interest to me. How many recruits were there there?

15 PRESIDING JUDGE FREMR: Mr Bourgon, I will not permit this question. He said  
16 clearly, "I have my own figures, you have your own figures. It is my estimation."  
17 So please move on.

18 MR BOURGON: Well, Mr President, I appreciate. It is just he said "I don't contest  
19 what you said." So he's not contesting there is only 800. So I just wanted to give  
20 him an opportunity to clarify. So it was to his benefit, not mine.

21 PRESIDING JUDGE FREMR: But I think to me it was fully, according to him, it is  
22 2500, according to you it might be 800. He also didn't oppose your estimation,  
23 so -- which is fair because, in fact, at the beginning I also instructed him, "If you don't  
24 know, if you estimate, just don't make things up," so what is he's now currently doing  
25 in my view. He's just said according to his estimation 2500. He is not opposing

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 your estimation, so why to go further?

2 MR BOURGON: Mr President, because we have to go further. We cannot just

3 leave an answer like this. The witness cannot say, "I say 3000. You say 800. Well,

4 I agree with you." We can't live with an answer like this, Mr President.

5 PRESIDING JUDGE FREMR: He didn't say that he agreed with you.

6 MR BOURGON: I just want to clarify this, that's all I want to do. What does he say?

7 Does he say 3000 or 800? That's all I want to do.

8 PRESIDING JUDGE FREMR: Move on, Mr Bourgon.

9 MR BOURGON: (Interpretation)

10 Q. Witness, you mentioned that according to you the commander of the centre was  
11 (Redacted), someone by the name of (Redacted)?

12 A. Yes. When I was there, yes.

13 Q. According to my information, Mr Witness, this (Redacted) person never was the  
14 commander of the Mandro training camp. Does that refresh your memory?

15 A. Well, I would say I don't know. The person is -- well, I don't know your source.  
16 But when I was there the chief, the man in charge of all that, was (Redacted). That's all  
17 there is to it. End of story.

18 Q. Were there other instructors whom you remember? Do you remember any  
19 names?

20 A. I no longer recall their names.

21 Q. Were there other high-ranking officers at the camp?

22 A. Yes, there were some. (Redacted) was not all by himself. There were others.  
23 There was the doctor, he was an officer. There was a doctor, and there were other  
24 people. But I really don't remember the names. It was a very long time ago.

25 Q. And if I put it to you, Mr Witness, that the commander of the training camp was

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 Muleke, does that refresh your memory? Mugisa Muleke?

2 A. I have no idea of that gentleman being the commander there. I don't know  
3 where your information comes from. What I know is -- what I know is (Redacted).

4 Q. I would also put it to you, Mr Witness, that (Redacted)  
5 (Redacted)

6 A. I don't know the source of your information, Counsel. Please.

7 Q. Now, according to you, Mr Witness, the camp where you did your training was  
8 in \*Saikpa; is that correct?

9 A. Yes.

10 Q. \*And if I put it to you Saipwa instead of Saikpa, is that possible?

11 A. I haven't understood.

12 Q. You mentioned \*Saikpa with a K like Kilo.

13 A. Yes.

14 Q. \*And I suggest to you the possibility that it might be Saipwa with a P like papa, is that possible?

15 A. \*I wrote Saikwa. That is what I heard. I don't know whether -- you would have  
16 to check the names of villages in Ituri and determine how Saikpa is written, but what  
17 I wrote was with the spelling that I gave to those areas.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 My question is -- well, I want to ask you to confirm that in Saikwa where you had  
5 your training there were only manyatas; is that correct?

6 A. Yes.

7 Q. When you met with representatives of the OTP last week, you were shown an  
8 excerpt from a video. Do you remember that?

9 A. Yes.

10 MR BOURGON: (Interpretation) Your Honour, the reference is  
11 DRC-OTP-0082-0016.

12 Q. According to information at my disposal, Mr Witness, you did not recognize  
13 those locations; is that correct?

14 A. Yes.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 So I gather that you did watch the video?

2 A. Yes.

3 Q. Now, when the time came to have the questioning with the Prosecution you

4 were asked this question about the video. I will read out the question in English and

5 it will be translated for you.

6 (Speaks English) Mr President, this question is found on the last page of the

7 preparation session note or log. And it says here, "JS" for Juliette Sierra, "asks the

8 witness if he recognized the place or places shown and the people in the video

9 recording that was played for him earlier during his witness preparation. The

10 witness responds that he did not."

11 (Interpretation) Mr Witness, this was just for technical reasons to officialise what

12 you've said, notably that you did not recognize the location on the video. Can you

13 confirm that?

14 A. Yes.

15 Q. So I would like us to look together at part of this video.

16 MR BOURGON: Mr President, just at least for the showing of the video I think we

17 can go into -- into public session. I will not ask any question just so that we can

18 show a short extract of a video and then I will move to a question in private session.

19 PRESIDING JUDGE FREMR: Ms Solano.

20 MS SOLANO: No objection, your Honour.

21 PRESIDING JUDGE FREMR: Okay, let's proceed. So let's move into open session

22 for that part.

23 (Open session at 4.00 p.m.)

24 THE COURT OFFICER: We're in open session, Mr President.

25 PRESIDING JUDGE FREMR: What channel?

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 THE COURT OFFICER: The video will be displayed on the channel 2 evidence.

2 PRESIDING JUDGE FREMR: Thank you.

3 MR BOURGON: (Interpretation) Are we now in open session, Mr President?

4 PRESIDING JUDGE FREMR: I think so.

5 Am I right?

6 Yes, it has been confirmed by court officer.

7 MR BOURGON: (Interpretation)

8 Q. So, Mr Witness, please do not answer any questions. It's just that we wanted to  
9 go into open session for you to be able to watch this video. It is a brief excerpt  
10 drawn from what was shown to you during your preparatory session.

11 And the excerpt that I would like to show to the witness, Mr President, is from 34.00  
12 to 34.55. And without the sound, just the images.

13 MR BOURGON: I believe we can proceed, Mr President, with this 55-second extract.

14 PRESIDING JUDGE FREMR: All right.

15 (Viewing of the video excerpt)

16 MR BOURGON: Thank you.

17 PRESIDING JUDGE FREMR: Mr Bourgon, if you want to put questions, we  
18 probably have to move into private again, I guess.

19 MR BOURGON: I would like to ask just one question and then move to private  
20 session.

21 PRESIDING JUDGE FREMR: All right then.

22 MR BOURGON: (Interpretation)

23 Q. Mr Witness, I'm going to come back to the question that was put to you in  
24 English and it will be translated into French for you in addition to your answer.

25 (Speaks English) The witness was asked if he recognized the place or places shown

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

- 1 and the people in the video recording that was played for him earlier --
- 2 PRESIDING JUDGE FREMR: Sorry, Mr Bourgon. Ms Solano is on her feet.
- 3 Ms Solano, any problem with this question?
- 4 MS SOLANO: Your Honour, no. It's just that I don't have confirmation that we're
- 5 in private session.
- 6 MR BOURGON: We're not.
- 7 MS SOLANO: (Microphone not activated)
- 8 PRESIDING JUDGE FREMR: The idea was this question will be safe, it will be put
- 9 in open, and then we will move into private. Is it okay with you?
- 10 MS SOLANO: I apologise for the interruption. It's my mistake.
- 11 PRESIDING JUDGE FREMR: So, Mr Bourgon, probably start again.
- 12 MR BOURGON: Thank you, Mr President.
- 13 Q. (Interpretation) So I shall repeat the question in English, Mr Witness, that will
- 14 be translated for you. There are initials and then it was said: (Speaks English) "asks
- 15 the witness if he recognized the place or places shown and the people in the video
- 16 recording that was played for him earlier during his witness preparation. The
- 17 witness responds that he did not."
- 18 (Interpretation) So I'll stop here and we shall come back to public -- private session.
- 19 PRESIDING JUDGE FREMR: All right. Let's move into private session now.
- 20 (Private session at 4.06 p.m.) \* Reclassified partially into public
- 21 THE COURT OFFICER: We are back in private session, Mr President.
- 22 PRESIDING JUDGE FREMR: Thank you. Before we proceed, Mr Bourgon, I was
- 23 told that you would like to, at the end of this session, that you would like to make
- 24 some submission orally; am I right?
- 25 MR BOURGON: Indeed, Mr President. Two minutes.



Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: Two minutes? Okay, so please arrange your  
2 examination in a way that would allow you to break at 4.25, okay?

3 MR BOURGON: Thank you, Mr President.

4 PRESIDING JUDGE FREMR: Please proceed.

5 MR BOURGON: This submission is not related to the witness.

6 PRESIDING JUDGE FREMR: Please proceed.

7 MR BOURGON: (Interpretation)

8 Q. So, Mr Witness, you saw this video once again and you confirmed your  
9 response. And I would put it to you, Mr Witness, that the location that is seen on  
10 this video is Mandro training camp where all the recruits were trained within the  
11 FPLC, and this shows that you were never at that training centre; is that correct,  
12 Mr Witness?

13 A. Well, I'll answer you by saying that I am not sure about this video. I don't  
14 know where and how and when it was made, but I would say to you that this is not  
15 the Mandro training centre.

16 Q. That is your answer. And I shall move on to a new question.  
17 This morning a number of questions were put to you as to what happened according  
18 to your testimony in Mandro. You will recall the various questions that were put to  
19 you this morning?

20 A. Yes.

21 Q. And at a given moment in time, and I shall provide you with the specific  
22 reference, this is for the OTP, you talked about a target; do you remember that?

23 A. Yes.

24 Q. And you will agree with me, will you not, Mr Witness, that "target" can be  
25 used -- you can use another term which is the "firing squad." Does that remind you

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 of anything?

2 A. No, no idea about that.

3 Q. So the term "firing squad," you are not at all familiar with that term?

4 A. No.

5 Q. But you are, however, familiar with the term "target"?

6 A. Yes.

7 Q. And if I have understood your testimony correctly, target is the execution of an  
8 individual who has committed a violation of some sort?

9 A. Yes.

10 Q. So you say that (Redacted) a target in Mandro, (Redacted)  
11 (Redacted)?

12 A. Yes. \*It wasn't Mandro, I think Mongbwalu, I also talked about Mongbwalu.

13 Q. So to avoid any quid pro quo, you testified to the effect that (Redacted) a target in  
14 Mandro, did you not?

15 A. Yes.

16 Q. And you also provided details to the effect that it was Bosco Ntaganda who was  
17 present, did you not?

18 A. Yes.

19 MR BOURGON: (Interpretation) And for the OTP, I'm referring to transcript T-80,  
20 page 44, lines 18 to 20.

21 Q. You mentioned the fact that the target, and these are my words, you can correct,  
22 that this target was aimed at dissuading any soldiers from committing any violations;  
23 are you in agreement with that?

24 A. Yes.

25 Q. So the objective or the aim behind this target was a public form of punishment,

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 saying to soldiers that if they -- if they broke any rules this was what was going to  
2 happen to them; is this correct?

3 A. Yes.

4 Q. So I put it to you, Mr Witness, that there was never a target (Redacted)  
5 (Redacted) and that what you claimed is not the truth; does that refresh your memory  
6 in any way?

7 A. I did not talk about targets (Redacted), did I? I don't know whether  
8 that's what I said. I talked about targets at the camp, at the -- (Redacted). I  
9 think you have -- you didn't quite understand whether I was talking about (Redacted)  
10 (Redacted)  
11 (Redacted)  
12 (Redacted)  
13 (Redacted)  
14 (Redacted)  
15 (Redacted)  
16 (Redacted)  
17 (Redacted)  
18 (Redacted)  
19 (Redacted)  
20 (Redacted)  
21 (Redacted)

22 A. The HQ, (Redacted). It wasn't just one or two  
23 houses, the entire Mandro was occupied by Kahwa, he was the chief of the collectivity  
24 itself. \*(Redacted). There were very numerous soldiers  
25 present and there were many, many soldiers there. So it wasn't... The Foren was in --

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 I think it was either (Redacted).

2 That's where it was. So whenever we called for a military gathering, or convened  
3 one, everyone would come running.

4 Q. In view of the fact that this was a military gathering, there were a number of  
5 soldiers in attendance?

6 A. Yes.

7 Q. So I will put my question to you again: You say that there were never any  
8 targets or maybe I should add at the Mandro HQ as you described it and that this is  
9 not the truth what you said?

10 A. No, I said that there were targets in Mandro.

11 Q. And what is more I shall put it to you, Mr Witness, that were there to have been  
12 any targets -- well, I shall withdraw my question and I shall start again.

13 You talked about another target, did you not?

14 A. Yes.

15 Q. You talked about a target in Mongbwalu?

16 A. Yes.

17 Q. Was it the same type of target, notably dissuading soldiers from breaking any  
18 rules?

19 A. Yes.

20 Q. And you said that there was a tradesman who had been killed?

21 A. Yes.

22 Q. Do you have the name of that tradesman?

23 A. No. In fact, after so many years I no longer have the name of this tradesman.  
24 I do not have that information.

25 Q. And in response to the question put to you this morning, you responded that

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 the tradesman was of Hema ethnic origin; is that correct?

2 A. Yes.

3 Q. Mr Witness, on the basis of the information before this Trial Chamber, the  
4 person executed -- or, I apologise, the person who was killed, notably the victim, was  
5 not Hema. Does that refresh your memory?

6 A. No. I said that this person was Hema.

7 Q. And on what basis did you say that?

8 A. I was in Mongbwalu and the information circulated amongst us and we saw the  
9 target.

10 Q. So you will be in a position to confirm, Mr Witness, that in Mongbwalu, if you  
11 were there as you say you were, there was only one target?

12 A. Yes.

13 Q. And I would put it to you, in addition, that the victim was at least partially of  
14 Lendu ethnic origin; does that refresh your memory?

15 A. I have no idea about this piece of information that you are providing.

16 Q. And the person who was executed during this target, Mr Witness, was an FPLC  
17 soldier; is that not correct?

18 A. Yes.

19 Q. I will put it to you in addition that with the exception of the Mongbwalu target,  
20 I would say that in the year 2002 there was only one other target; would you be in  
21 agreement with that?

22 A. I do not know. I do not have information on all the targets that existed.

23 Q. To your knowledge, were there more than two in 2002?

24 A. No, in 2002 I do not have a number, a figure in mind, but I said that it -- when I  
25 was in the UPC there were more than two targets.

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: Ms Solano.

2 MS SOLANO: Your Honour, unless I have misunderstood Mr Bourgon, I believe he  
3 has put to the witness the following two propositions: First, he has put to the  
4 witness that in Mongbwalu that there was --

5 PRESIDING JUDGE FREMR: Only one target.

6 MS SOLANO: -- only one target and then he put it to the witness that there was only  
7 one other target. So I believe the two propositions are inconsistent and the Defence  
8 should not be allowed to put two inconsistent propositions to the witness for  
9 confirmation.

10 PRESIDING JUDGE FREMR: Mr Bourgon, your position?

11 MR BOURGON: I will clarify, Mr President.

12 PRESIDING JUDGE FREMR: Please do.

13 MR BOURGON: Especially in the light of the last answer.

14 Q. (Interpretation) Mr Witness, I put it to you that within the FPLC itself, in 2002,  
15 there were two targets only. Would you agree with that suggestion?

16 A. No. I do not have the information as to the number of targets that existed  
17 in 2002. I do not know who the targets were. I saw -- well, it's not up to me to talk  
18 about the others.

19 Q. And you personally are in a position to provide us with information with  
20 regard to two targets; is that correct?

21 A. Yes. But there were others. I didn't want to talk about them because I was  
22 (Redacted).

23 Q. I put it to you, Mr Witness, that the target that you talked about in Mandro is  
24 but a story that you heard about and you added to your testimony; is that not correct?

25 A. No. (Redacted).

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 PRESIDING JUDGE FREMR: Mr Bourgon, I will ask you at the moment, do you  
9 think that you will be able to cover this issue in the last two, three minutes that you  
10 have at your disposal? Because I'm afraid that it's a rather more extensive area, so  
11 maybe I would prefer to stop and to start with this again tomorrow because I don't  
12 believe that you will be able to cover it in two minutes.

13 MR BOURGON: Then it's better to stop here, Mr President, and to resume  
14 tomorrow morning.

15 PRESIDING JUDGE FREMR: Thank you.

16 Now, let's move into open session for the rest of this session.

17 (Open session at 4.24 p.m.)

18 THE COURT OFFICER: We're in open session, Mr President.

19 PRESIDING JUDGE FREMR: And, Mr Bourgon, I would like to excuse witness for  
20 the rest of day. I guess you will not need him for your submission? Okay.

21 So, Mr Witness, for this moment it is the end of your testimony for today. I thank  
22 you very much. I can imagine it was very tiring, but I appreciate that you remained  
23 focused and that you patiently answered all questions put to you. We will continue  
24 tomorrow and, as usually, it's my obligation to remind you that you must not discuss  
25 content of your testimony with anybody else. Is it clear to you?

Trial Hearing  
WITNESS: DRC-OTP-P-0963

(Open Session)

ICC-01/04-02/06

1 THE WITNESS: (Interpretation) Yes.

2 PRESIDING JUDGE FREMR: So have some rest and we will see you tomorrow 9.30.

3 So now the witness may be escorted out of the courtroom.

4 (The witness stands down)

5 PRESIDING JUDGE FREMR: Mr Bourgon, you have the floor.

6 MR BOURGON: Thank you, Mr President. Very briefly. I asked to speak to the

7 Chamber yesterday in reference to a filing that had not been communicated to the

8 Defence. We have now received this submission from the Prosecution.

9 Yesterday I requested the Chamber to delay the response time to Monday at a

10 minimum. We have now received the submission. It is quite detailed and it does

11 contain some allegations that need to be examined more carefully. So for this reason,

12 I kindly ask that we have a longer time to respond and I respectfully suggest

13 Thursday, 21 April. The Chamber will be able to -- basically to assess the issues

14 therein. And it is my understanding also that the Chamber must have received my

15 email in which we seek some -- we seek some information that was redacted in that

16 submission. That's all I wanted to say, Mr President.

17 PRESIDING JUDGE FREMR: Yes, you are right.

18 Ms Solano, your position.

19 MS SOLANO: No objection, your Honour. And I just wanted to inform the

20 Chamber that we will be lifting the redactions in that document that Mr Bourgon

21 requested. It was an oversight on our part.

22 PRESIDING JUDGE FREMR: All right. So we will not react immediately, but I

23 guess we will react in due course probably via email.

24 If there are no further requests for the floor, we will break now and we will continue

25 tomorrow in the same time regime like today, which means from 9.30 to 11, then from



Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0963

1 11.30 to 1, and then from 2.30 to 4.30.

2 Now Court is adjourned.

3 THE COURT USHER: All rise.

4 (The hearing ends in open session at 4.27 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.