

Trial Hearing

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
 2 Trial Chamber VI
 3 Situation: Democratic Republic of the Congo
 4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
 5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
 6 Judge Chang-ho Chung
 7 Trial Hearing - Courtroom 3
 8 Tuesday, 6 December 2016
 9 (The trial hearing starts in open session at 9.51 a.m.)
 10 THE COURT USHER: [9:52:03] All rise.
 11 The International Criminal Court is now in session.
 12 Please be seated.
 13 PRESIDING JUDGE FREMR: [9:52:27] Good morning, everybody.
 14 Court officer, please call the case.
 15 THE COURT OFFICER: [9:52:31] Thank you, Mr President. The situation in the
 16 Democratic Republic of the Congo, in the case The Prosecutor versus Bosco Ntaganda,
 17 case reference ICC-01/04-02/06. We are in open session.
 18 PRESIDING JUDGE FREMR: [9:52:46] Thank you, court officer. Appearances, if
 19 changed compared to yesterday.
 20 MR VAN DER WERF: [9:52:51] There are no changes, your Honour.
 21 PRESIDING JUDGE FREMR: [9:52:53] Thank you, Mr van der Werf. Defence.
 22 MR BOURGON: [9:52:56] No change for the Defence side, Mr President.
 23 PRESIDING JUDGE FREMR: [9:52:59] Thank you, Mr Bourgon. And Legal
 24 Representatives of Victims, please.
 25 MR ABDOU: [9:53:05] Good morning, Mr President. For the former child soldiers,

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Ms Sarah Pellet is not present today.

2 MR SUPRUN: [9:53:17] (Interpretation) Good morning, your Honour, your Honours.

3 No change for the victims of the attacks.

4 PRESIDING JUDGE FREMR: [9:53:21] Thank you, Mr Abdou. Thank you,

5 Mr Suprun.

6 We will continue with cross-examination of our witness, and as to the timing, I would
7 like to inform you that the Chamber intends to finish this testimony before the lunch
8 break, which means that we are even ready to extend a bit the second session in order
9 to make it.

10 Now, Mr Bourgon, you have the floor. I guess you will need to continue in private
11 session. Am I right?

12 MR BOURGON: [9:53:50] Indeed, Mr President.

13 PRESIDING JUDGE FREMR: [9:53:51] All right. So, court officer, let's move into
14 private session.

15 (Private session at 9.53 a.m.) *(Reclassified partially in public)

16 THE COURT OFFICER: [9:54:06] We are in private session, Mr President.

17 PRESIDING JUDGE FREMR: [9:54:08] Thank you, court officer. Mr Bourgon,
18 please proceed.

19 MR BOURGON: [9:54:13] Thank you, Mr President.

20 WITNESS: DRC-OTP-P-0002 (On former oath)

21 (The witness speaks Swahili)

22 QUESTIONED BY MR BOURGON: [9:54:26] (Continuing)

23 Q. [9:54:27] Good morning, Mr Witness.

24 A. [9:54:29] Good morning.

25 Q. [9:54:30] When we finished the session yesterday afternoon, we had begun

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 looking at the Mongbwalu video and I asked you one question. Before we return to
2 this, to the Mongbwalu video, I'd like to go back quickly to (Redacted), which
3 (Redacted). Yesterday you confirmed that you had not
4 discussed this video with the Prosecution. Do you recall saying this yesterday?

5 A. [9:55:04] I don't know if I've understood you well. I didn't discuss --

6 PRESIDING JUDGE FREMR: [9:55:31] Hold on. Hold on, Mr Witness.

7 Mr van der Werf.

8 MR VAN DER WERF: [9:55:33] Yes, if the Defence could perhaps be more specific as
9 to when the witness did not discuss this video with the Prosecution.

10 PRESIDING JUDGE FREMR: [9:55:46] Mr Bourgon.

11 MR BOURGON: [9:55:47] I'll move on, Mr President. This was done yesterday.

12 I'm just trying to introduce the video.

13 PRESIDING JUDGE FREMR: [9:55:54] All right, all right.

14 MR BOURGON: [9:55:55]

15 Q. [9:55:55] Sir, do you recall that (Redacted)

16 (Redacted)

17 (Redacted) Do

18 you recall talking about this video, sir?

19 A. [9:56:38] Yes, I remember that (Redacted)

20 (Redacted). Yes, I do remember that.

21 Q. [9:56:55] The next few questions have to do with this video. And on page 75, at

22 lines 10 to 13, you confirm, and this is what you said, "But there (Redacted)

23 (Redacted)

24 (Redacted)"

25 You confirm this, sir?

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 A. [9:57:37] Yes.

2 Q. [9:57:48] Talking about this video, this was on page 81 at lines 9 to 16, you

3 confirm that (Redacted)

4 (Redacted). Do you recall this, sir?

5 A. [9:58:30] (Redacted) I

6 was -- I was --

7 THE INTERPRETER: [9:58:39] Interpreter corrects: (Redacted)

8 (Redacted)

9 MR BOURGON: [9:58:48]

10 Q. [9:58:48] Sir, I'm not sure if you're listening to the -- my question directly or if

11 you are waiting for the interpretation. I just want you to confirm what you said on

12 page 81, at lines 9 to 16, where you said that, (Redacted)

13 (Redacted) Do you recall saying this, sir?

14 A. [9:59:34] Now I follow you.

15 Q. [9:59:38] And these are your words, so you confirm this?

16 A. [9:59:51] Yes. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. [10:00:23] That's what I wanted to confirm, sir. You said that as they -- (Redacted)

21 (Redacted). Do you recall

22 saying this?

23 A. [10:00:51] Yes.

24 Q. [10:00:52] Now, just so that we are exactly at the same moment, on page 78 of

25 the transcript, and that was at lines -- at lines -- page 76, sorry, at lines 22 to 25, you

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

- 1 said the following. The question was put to you, (Redacted)
- 2 (Redacted) And your answer was, (Redacted)
- 3 (Redacted)
- 4 Do you recall saying this, sir?
- 5 A. [10:01:55] Yes.
- 6 Q. [10:01:59] And my last question on this video is to confirm what you said on
- 7 page 78, at lines 19 to 23, and you said the following. The question was at line 17,
- 8 (Redacted) And your answer
- 9 was the following: (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 Do you remember saying this, sir?
- 13 A. [10:03:11] Yes.
- 14 Q. [10:03:13] And just so that we are on the same page as to (Redacted)
- 15 (Redacted), you said on page 78 -- 79, at lines 1 to 11, I will just quote part of this answer
- 16 where you say, (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 You recall saying this, sir?
- 23 A. [10:04:35] I remember.
- 24 Q. [10:04:39] Now, sir, do you have any idea (Redacted)?
- 25 A. [10:05:04] You're asking me (Redacted)? Well, first of all, it

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 was (Redacted). I don't know what happened. (Redacted)

2 (Redacted)

3 Q. [10:05:29] I'm just curious, sir, because we are (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. [10:06:06] (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [10:06:53] Thank you, sir. (Redacted) But

14 I'll move on to my next question. Let's go back to the Mongbwalu video (Redacted)

15 (Redacted) yesterday we -- I showed you a portion of the video.

16 Now I'm talking just for the record, to make it clear, of the video 2058-0251. The

17 transcript in total is found, the transcript number is 2062-2023. This is the first page

18 of the transcript. And the translation is found at 2062-1333. So that the record is

19 clear as to this is the first page of both the transcript and the translation.

20 For the interpreters, this can be found in tab 22 of the binder and you have the full

21 transcript and the full translation so you'll be able to follow as we go along.

22 Also for the record, I want to make clear that the questions I'll be asking you

23 (Redacted)

24 (Redacted)

25 Yesterday we -- I showed you the first part of this video and it went from 01.58 up

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 until 02.23, and I asked you a question about two planes which you mention in

2 paragraph 14 and I'd just like to confirm with you that (Redacted)

3 (Redacted) Do

4 you recall this, sir?

5 A. [10:09:02] (Redacted)

6 (Redacted) but I don't remember. Anyhow, (Redacted).

7 Q. [10:09:46] I'll try to make my question more clear, sir. We saw yesterday on the

8 video two planes that had been captured and you confirmed this; right?

9 A. [10:10:08] Yes.

10 Q. [10:10:09] All I'm saying is do you recall (Redacted)

11 (Redacted)?

12 A. [10:10:35] (Redacted)

13 Q. [10:10:43] For the record, we see on the video that (Redacted) but I'll

14 move on to my next question.

15 On page 107 of yesterday's transcript, at lines 22 to 24, I suggested to you -- and

16 maybe we can put on the screen (Redacted), which was on the

17 screen yesterday. So this will appear on your screen before you. And I suggested,

18 based on this picture, that this was not -- and I'm not sure if you have it in front of

19 you now. Oh, here we have it. I suggested to you, sir, that (Redacted)

20 (Redacted) well, I suggested to you that it

21 (Redacted)

22 Your answer was, (Redacted) This was at lines

23 22 to 24.

24 Now, sir, I want to confirm with you is this -- I suggest to you this is (Redacted)

25 (Redacted). Do you agree with me?

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 A. [10:12:45] Yes, (Redacted)

2 (Redacted)

3 Q. [10:13:08] Sir, please listen to my questions carefully. Look at the picture in
4 front of you. I'm simply saying is this, yes or no, (Redacted)?

5 A. [10:13:36] Yes.

6 Q. [10:13:39] And, sir, if I suggest to you that (Redacted)

7 (Redacted), does that refresh

8 your memory?

9 A. [10:14:06] We're both looking at this photo. (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [10:14:41] I'll move on to my next question. We'll go to the Mongbwalu video
14 and we will look together at (Redacted). I would like to -- the transcript reference
15 is found at page 2026, lines 41 to 47, and the translation is found at page 1337, lines 45
16 to 47.

17 Sir, we're going to look at this video.

18 I do not need the interpretation, as long as the witness can hear what is being said,

19 and I'll have a question put to him on this basis. So if we can play this part.

20 (Viewing of the video excerpt)

21 MR BOURGON: [10:16:08] The video was stopped after the timestamp (Redacted).

22 Q. [10:16:15] And sir, my question is the following: At paragraph 22 of your
23 statement, you say the following, "At (Redacted)

24 (Redacted) the APC and Lendu combatants were in control of that

25 area before the UPC came. The APC was the military wing of RCD/ML ..."

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Actually, in your statement it stays RDC/ML, "... of Mbusa Nyamwisi and they were
2 controlling Mongbwalu before. (Redacted)

3 (Redacted)

4 (Redacted)"

5 You confirm this part of your evidence, sir?

6 A. [10:17:46] Yes. Yes, that's a video where there's someone talking. When
7 someone's talking on a video, you have to accept what they say.

8 Q. [10:18:14] Sir, I wasn't talking about accepting anything. In paragraph 22 of
9 your statement you say that (Redacted) So that was
10 you, correct?

11 A. [10:18:45] Yes, (Redacted).

12 Q. [10:18:54] I move to a different part of the video.

13 MR BOURGON: [10:18:58] Mr President, of course, this video is already in evidence
14 so we don't need to have any segments admitted.

15 Q. [10:19:04] I'd like to show you, sir, from (Redacted). Again, I will not need the
16 interpretation but for the record, the exact reference is transcript page 2026, lines 55 to
17 65, and translation page 1337, lines 58 to 68.

18 Sir, please watch and listen carefully.

19 (Viewing of the video excerpt)

20 MR BOURGON:

21 Q. [10:21:01] Sir, were you able to hear the sound and what was being said?

22 A. [10:21:17] Yes.

23 Q. [10:21:21] Now, I would just like to come back shortly on this video and I would
24 like to come back to a part which is at 5 minutes. I would like to show you, sir, this
25 picture we just saw at 5.07. Can you confirm, sir -- or what is it that we see here?

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 A. [10:22:55] It's the countryside of Mongbwalu. There were different views, as
2 shown by the cameraman. There's a church, there are banana plantations. It's the
3 countryside close to the Catholic church, but this is the view that you have as seen
4 from the airport. You can see that the view is different.

5 Q. [10:23:38] Sir, which --

6 A. [10:23:40] And this is what was used in the introduction.

7 Q. [10:23:50] I'll put my question again. I thought that your answer was finished.
8 Which buildings do we see now on the video?

9 A. [10:24:19] First of all, we took the airport and these buildings here, I think it's a
10 school.

11 Q. [10:24:28] Sir, let me cut you off. *My question is more limited. What
12 buildings do we see on this picture?

13 A. [10:24:46] Houses and part of one end of the airport. I don't know if there are
14 buildings, three buildings, two large ones. There are also trees that are on the airport
15 side.

16 Q. [10:25:11] So my understanding is you are not able to identify these buildings,
17 are you?

18 A. [10:25:34] Please play the video so that I can see because what you show here is
19 not terribly clear. (Redacted)
20 (Redacted) But if you play the video, then I could give you a
21 far more detailed description. I see that there are buildings here. I don't know if it's
22 a school. Please show the video again so that I can take a look.

23 Q. [10:26:11] I'll move on, sir. I just wanted to know if you had an idea what these
24 buildings were. I'll move on to another part of the video which is from 7.08 seconds
25 until 8.10 seconds. The transcript reference, although I will not need interpretation,

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 is page 2028, lines 111 to 123, and the translation reference is page 1339, from lines 118

2 until 129. Sir, please watch and listen carefully.

3 (Viewing of the video excerpt)

4 MR BOURGON: [10:27:58] The video was stopped at timestamp 8.10.

5 Q. Sir, my question is, in this segment, you heard Bosco Ntaganda talk about the

6 inhabitants who had begun to come back and especially those who had fled

7 Mongbwalu. Did you hear Mr Ntaganda say this in this video?

8 A. Yes.

9 Q. [10:28:38] (Redacted)

10 (Redacted)

11 is that correct?

12 A. [10:29:07] (Redacted)

13 (Redacted)

14 Q. [10:29:23] I understand, sir. (Redacted)

15 (Redacted); is that

16 correct?

17 A. [10:29:53] Yes. (Redacted), the inhabitants were starting to come back.

18 You know, people had fled war, but according to the information that I had, they

19 were starting to come back.

20 Q. [10:30:10] Sir, at this point I'd like to show you a picture taken from this extract,

21 and this one comes from 7.41. Please take a look at this picture.

22 Do you see, sir, on this picture, behind -- first of all, who is the person that we see on

23 this video, on this picture?

24 A. [10:30:42] Afande Bosco.

25 Q. [10:30:45] And, sir, behind Afande Bosco you see two manyatta; is that correct?

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 A. [10:31:03] Yes.

2 Q. [10:31:03] Did you obtain information as to the fact that these manyatta were
3 used by the soldiers guarding the airport?

4 A. [10:31:23] Yes.

5 Q. [10:31:25] And I take it you are able to confirm that these manyatta were not
6 destroyed or burnt in any way; is that correct?

7 A. [10:31:51] Yes, that is correct, and that's what we see on the screen, counsel.

8 Q. [10:31:57] And, sir, I'd like you to confirm that (Redacted)

9 (Redacted)

10 (Redacted) Can you confirm this, sir?

11 A. [10:32:25] (Redacted)

12 (Redacted)

13 (Redacted) if we play the video on, we will hear people saying that

14 there were people who wanted to destroy houses, but Kisembo stopped him from

15 doing so, he asked him not to destroy the house because they were already breaking

16 down doors in order to enter the houses. But Commander Kisembo himself stopped

17 them from doing so. (Redacted)

18 Q. [10:33:10] Thank you, sir. Let's move to another extract of this video. We will

19 play from 9.45 until 10.16. Again, I will not need any interpretation, but for the

20 record, I note that the transcript reference is page 2029 at lines 150 to 155, and that the

21 translation reference is page 1340 at lines 162 to 165.

22 Sir, please watch and listen carefully.

23 (Viewing of the video excerpt)

24 MR BOURGON: [10:34:31] The video was stopped at timestamp 10.16.

25 Q. [10:34:38] Sir, my first question is, you can confirm that (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 is that correct?

3 A. [10:35:06] I didn't pay attention. Well, I wasn't concentrating on (Redacted).

4 (Redacted)

5 (Redacted)

6 I wasn't paying attention to that.

7 Q. [10:35:39] (Redacted)

8 (Redacted)

9 A. [10:36:06] (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [10:36:35] Thank you, sir. I'd like to show you now a picture taken from this
14 extract which is exactly at 9.58. The picture is on your screen now. And my
15 question is the following: Towards the left of the picture, we see two ladies
16 wearing -- one appears to be dressed in red and the other in white and appears to be
17 civilian clothes. Do you know who these people are?

18 A. [10:37:22] I do not know. Maybe some people's wives, I don't know. Maybe
19 the wives of those troops. (Redacted) I do not know anything more about
20 those people. (Redacted)
21 (Redacted)

22 Q. [10:37:47] And, sir, if I suggest to you that those two ladies, one is called La
23 Mama and the other is called Lotsove and that they are escorts of Bosco Ntaganda or
24 bodyguards of Bosco Ntaganda, does that refresh your memory, or you have no
25 information?

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 A. [10:38:24] No, (Redacted) I don't have any information to

2 provide you with in that connection. (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. [10:38:56] Thank you, sir. I will now show you another picture taken from this

8 extract. This one is at 9.55. (Redacted)

9 (Redacted)

10 A. [10:39:32] (Redacted)

11 (Redacted)

12 Q. [10:39:41] Please try to focus on my question. (Redacted)

13 (Redacted) It's a very

14 simple question.

15 A. [10:40:02] Counsel, what I have told you is that these things happened a very

16 long time ago. You want me to remember everything that happened, (Redacted)

17 (Redacted)

18 (Redacted) I don't remember. I'm a human being, I cannot

19 remember every single detail. All I know is that (Redacted)

20 (Redacted)

21 Q. [10:40:35] Thank you, sir. Can you confirm, sir, that (Redacted)

22 (Redacted)?

23 A. [10:40:54] (Redacted)

24 Q. [10:41:28] (Redacted)

25 A. [10:41:41] (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Q. [10:41:53] Sir, (Redacted)

2 (Redacted). Are you able to

3 confirm?

4 A. [10:42:18] Yes. (Redacted)

5 (Redacted)

6 Q. [10:42:32] And I also suggest to you, sir, that (Redacted)

7 (Redacted). Do you agree

8 with this, sir?

9 A. [10:42:59] Yes.

10 Q. [10:43:02] Sir, can you confirm that (Redacted)

11 (Redacted)?

12 A. [10:43:30] I know that (Redacted)

13 (Redacted).

14 Q. [10:43:44] We'll play another part of the video, from 10.44 until 11.21.

15 Transcript reference is page 2029, lines 165 to 173, and the translation reference is

16 page 1340, lines 176 to 185.

17 Please, sir, look and listen carefully.

18 (Viewing of the video excerpt)

19 MR BOURGON: [10:45:04] The video was stopped at 11.21.

20 Q. [10:45:10] Sir, in your statement on -- in paragraph 38, you say the following:

21 "At 10.20, Alerenge and Bosco Ntaganda are talking to BBC via Thuraya. (Redacted)

22 (Redacted) Bosco Ntaganda was asked about the population in

23 Mongbwalu and if they gave him a friendly welcome, which he confirmed. He

24 continues talking about the plane which was captured from RCD/ML. The Thuraya

25 they used for the interview belonged to the UPC. I think it was Rafiki's Thuraya, as

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 in the scene on the plane earlier, you could see that he was holding it in his hand.

2 Most of the officers had a Thuraya."

3 Sir, my question is the following: (Redacted)

4 (Redacted)

5 (Redacted)

6 A. [10:46:55] I think that all the commanders and figures of authority in the UPC
7 had Thurayas, not only Bosco and Rafiki. All the others had Thurayas, I think. It
8 was a tool that the commanders used to communicate among and between
9 themselves. I know that there were walkie-talkies which had very limited range, but
10 if someone were to be in Mongbwalu and needed to communicate, they would use
11 Thurayas, which are satellite telephones.

12 Q. [10:47:53] Sir, I suggest to you that the only people who had Thuraya were
13 Kisembo, Bosco Ntaganda, Tiger One, who received his the day before, and Rafiki,
14 and that there were no other Thuraya there. Is that possible, sir?

15 A. [10:48:26] Please kindly repeat your question.

16 Q. [10:48:29] Yes, sir. I'm suggesting to you that the only officers who had
17 Thuraya (Redacted) is Kisembo, Bosco Ntaganda, Tiger One
18 and Rafiki, and that (Redacted). Can
19 you confirm, sir?

20 A. [10:49:01] No, I cannot confirm that, as you put it, (Redacted)
21 (Redacted)

22 (Redacted) I can give you some information in relation to the
23 information tools or instruments that we used, but I cannot do more than that. I was
24 not a spy, was I?

25 Q. [10:49:47] Sir, are you able to provide me with the name (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 (Redacted)? And there's no

2 problem if you can't. I'm just asking you if you know.

3 A. [10:50:19] Counsel, I think I've been very clear. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted) It's difficult for me to answer that

7 question.

8 Q. [10:50:47] Thank you, sir. Sir, many of my questions can be answered by yes or

9 no, (Redacted) that's all. Okay?

10 So let's move on to another extract going from 13.00 to 13.40. Again, I will not need

11 interpretation but I would like to have the sound for the witness.

12 The transcript reference is page 2030, lines 198 to 203, and the translation reference is

13 page 1341, lines 215 until 222.

14 Sir, watch and listen carefully.

15 (Viewing of video extract)

16 MR BOURGON: [10:52:17] The video was stopped at timestamp 13.40.

17 Q. [10:52:25] Sir, in this video we see that the vehicle (Redacted) got

18 stuck in the mud on its way between the airport and Mongbwalu. Can you confirm

19 this?

20 A. [10:52:49] Yes.

21 Q. [10:52:50] And in this scene, and you've seen this video last week, (Redacted)

22 (Redacted).

23 Can you confirm this?

24 A. [10:53:26] (Redacted)

25 Q. [10:53:35] I would now like to show you a picture taken just two seconds later,

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 at 13.42.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 A. [10:54:32] (Redacted)

7 Q. [10:54:44] (Redacted)

8 (Redacted)

9 (Redacted)

10 A. [10:55:08] Counsel, I follow you clearly, but I am not able to tell (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. [10:55:57] Sir, we'll play a little more of this video and we'll play this time from

18 13.42 until 13.59. This is the same scene, sir. Please take a look at listen carefully.

19 (Viewing of the video excerpt)

20 MR BOURGON: [10:56:53]

21 Q. [10:56:54] Sir, we see here that all the people are being loaded on this same

22 vehicle. (Redacted)

23 A. [10:57:19] Yes, I can see that. Could you rewind the video a little bit? But

24 I don't know what question you want to ask. I don't know. But if we look at the

25 images, I should be able to answer all your questions.

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Q. Well, sir, we're going to look at it again from the top and we will start at 12.45
2 and we will go all the way to 13.59. Take a look at all of this scene and listen
3 carefully.

4 (Viewing of the video excerpt)

5 MR BOURGON: [10:59:32]

6 Q. [10:59:33] Sir, we see in this video -- actually, we will continue a little further
7 until 14.40.

8 (Viewing of the video excerpt)

9 MR BOURGON: [11:00:06]

10 Q. [11:00:06] Sir, you now saw all of the video there, and I'm looking at the
11 transcript and first I suggest to you, sir, that in all of this event we only see two
12 vehicles, right?

13 A. [11:00:30] Yes.

14 Q. [11:00:32] And, sir, we see that the vehicle which I referred to as being the
15 non-serviceable vehicle remained behind when the first vehicle was freed from the
16 mud. Did you see this?

17 A. [11:00:57] Yes.

18 Q. [11:01:00] And you heard on this video, and I refer here for the record, it's the
19 translation on page 1342 from lines 232 until 240, and you heard the people there
20 say - I will read it myself in French - it starts at line 229, in French, (Interpretation)
21 "Change of scene successive showing the vehicle having been dislodged and soldiers
22 advancing on a route and the surrounding villages."
23 (Speaks English) At line 232: (Interpretation) "All right, so can we go? We shall come
24 to fetch you. What? You, you can sit over there. Me? Are you afraid of mud?
25 Are you afraid of mud? Whereas you're working."

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 (Speaks English) You see, sir, that other than this vehicle, no one -- people had to
2 remain there because there were no other vehicles; would you agree with me?

3 A. [11:02:58] Yes, I'm taking a look. It's the same vehicle, whereas it had been
4 stuck in the mud.

5 Q. [11:03:08] I will now show you two pictures and that will be I think,
6 Mr President, we will stop for the break or --

7 PRESIDING JUDGE FREMR: [11:03:16] If there is a new issue, I would have the
8 break.

9 MR BOURGON: [11:03:21] Just two pictures and then --

10 PRESIDING JUDGE FREMR: [11:03:23] Okay, so let's continue.

11 MR BOURGON: [11:03:24] Thank you, Mr President.

12 Q. [11:03:26] I'd like to show you a picture at 13.10, taken from the same scene.

13 Sir, we see an individual in the forefront of this picture beside the vehicle. Are you
14 able to recognize the individual?

15 A. [11:04:10] Which person are you talking about? I can see behind a civilian,
16 Afande, Tiger One, and Salumu who is there.

17 THE INTERPRETER: [11:04:28] Salongo, the Swahili interpreter corrects himself,
18 Salongo.

19 MR BOURGON: [11:04:35]

20 Q. [11:04:35] Sir, my question was quite clear: In the forefront of this picture, the
21 first individual on this picture with the black beret, are you able to recognize this
22 person? Please say "yes" or "no."

23 A. [11:04:52] No, I don't recognize that person. I cannot identify everybody who
24 is on that photo. But I know that it's a soldier.

25 Q. [11:05:06] Thank you, sir. Now, if I suggest to you that this is Kiza, one of

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Bosco Ntaganda's bodyguards, in fact, he was the chief of the close protection

2 bodyguards, does that refresh your memory, or you still don't know?

3 A. [11:05:46] I do not remember everything. I cannot remember all of the people

4 who were close to Afande Bosco. I don't remember all of his bodyguards.

5 Q. [11:06:02] That's perfectly fine, sir. One last picture before the break, at 13.05.

6 Are you able to recognize this individual?

7 A. [11:06:35] Please play the video.

8 Q. Well, we can play from 14.55 until 13.10, just to give you a chance to recognize

9 the individual. So we'll go at 14.55 until 13.10.

10 (Viewing of the video excerpt)

11 MR BOURGON: [11:07:10] Sorry, it was 12.55 until 13.10, my mistake.

12 (Viewing of the video excerpt)

13 MR BOURGON: [11:07:39]

14 Q. [11:07:40] Do you recognize the individual, sir?

15 A. [11:08:02] I can't really make this footage out very clearly.

16 Q. [11:08:08] Sir, I suggest to you that this is in fact Manu. Does that refresh your

17 memory? Commander Manu.

18 A. [11:08:29] I can't see close up, (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted) But I would say

22 that as regards this video that's talking about Mongbwalu, I didn't know that it was

23 him, Manu. (Redacted) I think that my answer is clear.

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Q. [11:09:27] Sir, thank you very much. But, please, try to shorten your answer.

2 You can recognize, yes or no. I don't need anything else.

3 MR BOURGON: [11:09:39] Thank you, Mr President.

4 PRESIDING JUDGE FREMR: [11:09:40] Now let's move into open session.

5 (Open session at 11.09 a.m.)

6 THE COURT OFFICER: [11:09:53] We are in open session, Mr President.

7 PRESIDING JUDGE FREMR: [11:09:57] Thank you, court officer. May I be
8 provided with the update on time, on timing?

9 THE COURT OFFICER: [11:10:05] Yes, Mr President. The Defence has used so far
10 5 hours and 28 minutes.

11 PRESIDING JUDGE FREMR: [11:10:12] Twenty-eight, which means that you still
12 have roughly, well, 1 hour 31 minutes.

13 Mr van der Werf, do you at this moment envisage any need for redirect?

14 MR VAN DER WERF: [11:10:26] At this point a very short topic, yes.

15 PRESIDING JUDGE FREMR: [11:10:29] Which means how much time, do you
16 think?

17 MR VAN DER WERF: Five minutes.

18 PRESIDING JUDGE FREMR: [11:10:32] All right. But anyway, as I indicated, the
19 Chamber would like to complete this testimony before the lunch break, so in a case of
20 need, we will have to take a bit longer session in two, two hours maximum. So now
21 we break and we will reconvene 11.40.

22 THE COURT USHER: [11:10:59] All rise.

23 (Recess taken at 11.11 a.m.)

24 (Upon resuming in open session at 11.41 a.m.)

25 THE COURT USHER: [11:41:21] All rise.

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Please be seated.

2 PRESIDING JUDGE FREMR: [11:41:42] Defence will continue in

3 cross-examination of our witness. And for that purpose we have to move into

4 private session.

5 Court officer, please.

6 (Private session at 11.41 a.m.) *(Reclassified partially in public)

7 THE COURT OFFICER: [11:41:59] We are in private session, Mr President.

8 PRESIDING JUDGE FREMR: [11:42:04] Thank you, court officer.

9 Mr Bourgon, you have the floor.

10 MR BOURGON: [11:42:07] Thank you, Mr President.

11 Q. [11:42:13] Sir, we will continue with the Mongbwalu video and I will take you

12 now to a short extract starting at 45.07 until 45 -- sorry, 45.54 until 46.12. I do not

13 need the sound and I do not need any reference to the transcript, to try and save some

14 time.

15 So, sir, you will see this extract without any sound. I would like you to take a look

16 carefully at the scene that will appear before you.

17 (Viewing of the video excerpt)

18 MR BOURGON: [11:43:36]

19 Q. [11:43:36] Sir, you recognize this place as being the Appartements; is that

20 correct?

21 A. [11:43:51] Yes.

22 Q. [11:43:54] (Redacted)

23 (Redacted)

24 A. [11:44:10] Yes.

25 Q. [11:44:11] I would like to show you a picture taken from that excerpt, which is

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

- 1 at (Redacted). Here we go. (Redacted)
- 2 (Redacted)
- 3 (Redacted); is that correct?
- 4 A. [11:45:16] Yes, that's correct. That is the case.
- 5 Q. [11:45:21] And I suggest to you, sir, that (Redacted)
- 6 (Redacted)
- 7 A. [11:45:50] When you're talking about (Redacted)
- 8 (Redacted), what (Redacted) are you referring
- 9 to?
- 10 Q. [11:46:04] Sir, (Redacted)?
- 11 A. [11:46:34] (Redacted)
- 12 Q. [11:46:41] And, sir, (Redacted)
- 13 (Redacted)
- 14 Do you agree with me?
- 15 A. [11:47:10] It's difficult for me to confirm that because (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted) So it's difficult for me to say.
- 19 Q. [11:47:39] (Redacted)
- 20 (Redacted)
- 21 A. [11:48:13] Let me say the following: (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 Q. [11:49:07] Sir, according to our information (Redacted)

4 (Redacted)

5 (Redacted) Would you like to comment on this, sir?

6 A. [11:49:44] Let me explain. According to me I didn't pay attention to any

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. [11:50:26] Sir, we'll take a look at another extract from this video and we'll go

11 straight to 1 hour -- it's 1.31.07 until 1.33.13. We will play this part with sound. The

12 transcript reference is page 2061, line 1350 to *2063, line 1393. The translation

13 reference is page 1375, line 1461 to page 1376, line 1506.

14 Please take a look carefully and listen to what is being said.

15 (Viewing of the video excerpt)

16 MR BOURGON: [11:54:32] The video has been stopped at timestamp 1.33.13.

17 Q. [11:54:43] Sir, you (Redacted)

18 (Redacted)

19 A. [11:55:07] (Redacted)

20 (Redacted)

21 Q. [11:55:25] Well, sir, let me just read what we just listened to. I will look at the

22 translation on page 1375 and I will quote from line 1467 in French:

23 (Interpretation) "My name is Abner.

24 (Speaks English) Then it's MA for "Mike."

25 (Interpretation) "Yes, but -- for short I'm called Abi.

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

- 1 Abi?
- 2 Yes.
- 3 Where are you coming from?
- 4 Now, I've just come from Ariwara.
- 5 From Ariwara?
- 6 Yes.
- 7 You've been travelling slowly up until now. How many days did it take you?"
- 8 (Speaks English) And in line 147, Abner says:
- 9 (Interpretation) "Well, first of all, I did two runs. I arrived at Kandoyi, where I
- 10 dropped off some soldiers, and from there I went back to Ariwara."
- 11 And a little bit further on, Mike says: "And today you've arrived in Mongbwalu?"
- 12 (Speaks English) And Abner responds at line 1482:
- 13 (Interpretation) "Yes."
- 14 (Speaks English) Do you recall this scene, sir?
- 15 A. [11:57:22] Yes.
- 16 Q. [11:57:24] Sir, let's take a look at a short extract from 1.27.15 until 1.27.36, and
- 17 the transcript reference will be page -- for the translation, on page 1373, line 1384 until
- 18 line 1392.
- 19 (Viewing of the video excerpt)
- 20 MR BOURGON: [11:58:29] The video was stopped at timestamp 1.27.30.
- 21 Q. [11:58:35] And, sir, (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Speaks English) (Redacted)
- 25 A. [11:59:17] (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Q. [11:59:29] And sir, I suggest to you that (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted) Can you confirm, sir?

5 A. [12:00:17] (Redacted)

6 (Redacted)

7 Q. [12:00:35] We'll move to a different topic. Also on the Mongbwalu video we

8 will now move to another short extract, this one being at 45.07 until 45.51. I do not

9 need the sound. You can -- or no, I do need the sound, I apologise, so that the

10 witness can recognize the scene. And the reference is transcript page 2041, line 604

11 to 625, and translation, page 1353, line 642 to 664.

12 So we will play this part, sir. Please listen and watch carefully.

13 (Viewing of the video excerpt)

14 MR BOURGON: [12:01:51] We will stop here. The video has been stopped at

15 45 minutes *16 seconds.

16 Q. [12:02:06] (Redacted)

17 A. [12:02:19] (Redacted)

18 Q. [12:02:21] (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 A. [12:03:11] (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [12:03:36] (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 A. [12:04:00] (Redacted)

4 Q. [12:04:02] I move to a different extract from the video and this one is from

5 46.13 until 46.32. I do not need the sound for this extract.

6 Please take a look at the scene carefully.

7 (Viewing of the video excerpt)

8 MR BOURGON: [12:04:57] From this extract the video was stopped at 46.32.

9 From this extract I would like to show you a picture taken first at 46.17.

10 Sir, do you recall what this feature is?

11 A. [12:05:30] Yes, it is a camp for the Kanga workers, Kimin workers in Kanga.

12 That's their camp. It is located on the other side of Appartements.

13 Q. [12:05:52] And sir, just in relation to this picture I'd like you to confirm that

14 (Redacted)

15 (Redacted)

16 A. [12:06:11] (Redacted)

17 (Redacted)

18 Q. [12:06:23] I'd like now to show you a picture from this same extract taken at

19 46.28.

20 Sir, you recognize this feature as being the trenches that were dug around the

21 Appartements; is that correct?

22 A. [12:07:00] Yes.

23 Q. [12:07:02] (Redacted)

24 (Redacted)

25 A. [12:07:16] (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Q. [12:07:38] (Redacted)

2 (Redacted)

3 (Redacted)

4 A. [12:08:00] (Redacted)

5 Q. [12:08:03] (Redacted)

6 (Redacted)

7 A. [12:08:16] (Redacted)

8 Q. [12:08:18] Now, sir, in your statement you say, and I will quote from one of the

9 paragraphs in your statement where you say that -- I'm looking. I will find the

10 paragraph where you say that (Redacted)

11 (Redacted). Is that correct?

12 Just to be fair, sir, I will quote the exact paragraph.

13 On paragraph 32 of your statement you say the following: "He states that some of

14 (Redacted)

15 (Redacted)"

16 You confirm this paragraph, sir?

17 A. [12:09:47] (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. [12:10:17] Sir, at paragraph 60, six-zero of your statement, you say the

21 following. This is on page 0009 of your statement: (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

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12 Page redacted– Private session

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23 A. [12:13:38] Please kindly repeat your question.

24 Q. [12:13:41] Yes. When you were responding to my question, this is on page 36

25 where you say, (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 A. [12:14:17] (Redacted)
- 6 Q. [12:14:27] (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 A. [12:14:45] (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 Q. [12:15:05] (Redacted)
- 13 (Redacted); would that be a fair statement?
- 14 A. [12:15:21] Yes, (Redacted)
- 15 Q. [12:15:31] And according to paragraph 60 you say that (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 A. [12:15:59] Counsel, what I can tell you is that (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(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 Q. [12:17:37] And, sir, when you say in page 39 on the transcript, "It was said that

11 (Redacted)

12 (Redacted)

13 A. [12:18:00] (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-0002

(Private Session)

ICC-01/04-02/06

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13 Page redacted– Private session

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25 Q. [12:21:52] Thank you, sir. We'll move to a different area. I'd like to show

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

- 1 you another part of the -- of the Mongbwalu video and this time it has to do
- 2 with -- we'll go straight into (Redacted)
- 3 (Redacted).
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted); is that correct?
- 7 A. [12:22:58] Yes.
- 8 Q. [12:23:00] (Redacted)
- 9 A. [12:23:31] (Redacted)
- 10 (Redacted)
- 11 Q. [12:23:40] Now, sir, based on your own (Redacted)
- 12 (Redacted), this lady, I will -- I will quote
- 13 from what she said because during that interview, I'm on page 1351 of the translation,
- 14 and at line 596 Mike is asking her the following in French:
- 15 (Interpretation) "Now, what is the prevailing situation here at this time? We have
- 16 noticed that you have just about returned here and you went into hiding so you had
- 17 gone -- rather, so had you gone into hiding?"
- 18 Answer by Yvonne: "In the bush."
- 19 Then Yvonne: "We were told to flee."
- 20 Mike: "Who told you that, Mbusa's people?"
- 21 Yvonne: "The Lendus, they told us that if we were to stay here we would all be
- 22 killed indiscriminately."
- 23 (Speaks English) (Redacted)
- 24 A. [12:25:25] (Redacted)
- 25 Q. [12:25:29] Now, sir, you can confirm that in Mongbwalu at that specific time

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 there were no Hemas left there; is that correct?

2 A. [12:25:50] It's possible, but you want to know that a lot of Hema had left, so

3 I can say that there were no Hema, but it is always possible. There are people who

4 inter-marry and maybe a Lendu may have done so, but it is also said that some

5 Lendus got married to Hema as the case may be. But generally speaking, the Hema

6 had left Mongbwalu.

7 Q. [12:26:29] We'll go to another part of this video. This time at

8 1.27.41 -- actually, we'll go straight into just a picture taken from that -- from the video

9 at 1.29.06.

10 Sir, according to what we have in the translation or transcript of this video, this is an

11 interview conducted with someone called Jean-Bosco. (Redacted)

12 (Redacted)

13 A. [12:27:23] (Redacted)

14 (Redacted)

15 Q. [12:27:47] Sir, I'm referring to the translation. I'm on page 1373. I will quote

16 from the transcript starting at line 1413. It is Mike speaking and he says:

17 (Interpretation) "How are you?"

18 Jean-Bosco answers: "I'm fine.

19 Mike: What's your name?

20 My name is Jean-Bosco.

21 Mike: I learnt that during the war you fled to the bush.

22 Jean-Bosco: Yes."

23 (Speaks English) So you saw this video during your preparation session. So this

24 Jean-Bosco, what is his ethnic group?

25 A. [12:28:52] Jean-Bosco, I do not know. He may have been Alur.

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Q. [12:29:14] Sir, in paragraph 82 of your statement, this is what you say, 1.27.18:
2 "The person interviewed in this scene is a resident of Mongbwalu who fled the town
3 during the fighting. He is Alur. I can determine that by his physical features and
4 the name he states in the beginning of the interview. (Redacted)
5 Lendu population too. Even in the UPC there were some Lendu."
6 Do you maintain this information in your statement?

7 A. [12:30:08] Sorry, I haven't understood your question. Please, maybe you
8 want to play the video and I can follow it. I have already said that he looks like an
9 Alur, but with the video it might be clearer. When you show me just a photograph
10 like this, it's a bit difficult. This man is talking about their life and then Mike
11 Arereng was interviewing him here.

12 Q. [12:30:42] I'll move to a different video extract at 51.01 until 51.21. This
13 is -- the transcript reference is page 2044, line 706 to 708, and the translation reference
14 is page 1356, line 748 to 750.

15 I'd like to have the sound, but we do not need the interpretation.

16 (Viewing of the video excerpt)

17 MR BOURGON: [12:31:50] The video was stopped at 51.21.

18 Q. [12:31:56] Sir, you recognize this -- what we see on that video as being the
19 mission catholique; is that correct?

20 A. [12:32:15] Ndiyo.

21 Q. [12:32:18] (Redacted)

22 (Redacted)

23 A. [12:32:45] (Redacted)

24 Q. [12:32:53] (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 MR BOURGON: [12:33:11] Mr President, I think --

3 PRESIDING JUDGE FREMR: [12:33:14] Mr Witness.

4 THE WITNESS: [12:33:18] I want a short break, toilet.

5 PRESIDING JUDGE FREMR: No problem. So, court usher --

6 THE INTERPRETER: I need to go to the toilet, says the witness in English.

7 PRESIDING JUDGE FREMR: [12:33:33] -- please guide Mr Witness to the

8 restroom.

9 (The witness stands down)

10 (Pause in proceedings)

11 MR BOURGON: [12:35:02] Mr President, if I can have a time count, please.

12 PRESIDING JUDGE FREMR: [12:35:07] Court officer, please.

13 THE COURT OFFICER: [12:35:15] Six hours 19 minutes.

14 PRESIDING JUDGE FREMR: [12:35:20] So still 41 minutes for you.

15 MR BOURGON: [12:35:23] Thank you, Mr President.

16 PRESIDING JUDGE FREMR: [12:35:24] Do you think you will need all that time?

17 MR BOURGON: [12:35:27] Absolutely, Mr President.

18 PRESIDING JUDGE FREMR: [12:35:30] All right. Noted.

19 (The witness enters the courtroom)

20 PRESIDING JUDGE FREMR: [12:36:28] All right. We do have witness back.

21 Mr Bourgon, please proceed.

22 MR BOURGON: [12:36:32] Thank you, Mr President.

23 Q. [12:36:34] Sir, just before we stopped for a short while I mentioned to you that

24 we looked at an extract of a video with going to the mission catholique, which you

25 confirm. I would like to show you first a picture from the video and this one is taken

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 at 55 minutes -- 55.06. Please take a look at this picture.

2 (Redacted)

3 (Redacted)

4 (Redacted) Can you confirm this, sir?

5 A. [12:37:42] Yes.

6 MR BOURGON: [12:37:44] For the record, I'd like simply to refer to page 1357 of
7 the translation.

8 Q. Sir, please listen carefully. I'll read from line 811.

9 (Interpretation) "They are the workers.

10 Indeed, there are workers, but they are there.

11 Well, those from la Charité are there."

12 (Speaks English) Then Kisembo: (Interpretation) "And which are the ones from
13 la Charité who are helping people?"

14 Unidentified person: "Those from la Charité."

15 (Speaks English) And line 817: (Interpretation) "Even those who were there are
16 also helping, those from there, they are there."

17 (Speaks English) So, sir, all I'm asking you to confirm is (Redacted)

18 (Redacted). You can

19 confirm this?

20 A. [12:39:21] Yes.

21 Q. [12:39:24] (Redacted)

22 (Redacted); is that correct?

23 A. [12:39:55] It's true.

24 Q. [12:39:56] (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Can you confirm this?

2 A. [12:40:46] (Redacted)

3 (Redacted)

4 Q. [12:40:59] Now, sir, in paragraph 69 of your statement you say the following:

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted) Would you agree with me, sir?

12 A. [12:42:14] (Redacted)

13 Q. [12:42:21] And, sir, I simply suggest to you that (Redacted)

14 (Redacted). That's

15 what I'm suggesting to you.

16 A. [12:43:00] (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [12:43:25] Sir, in the transcript --

20 A. [12:43:28] (Redacted)

21 Q. [12:43:34] Sir, in the transcript that goes along with (Redacted)

22 (Redacted)

23 (Redacted) Do you recall this, sir?

24 A. [12:44:11] (Redacted)

25 Q. [12:44:14] (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 Sir, I'll move to my next question because I'm limited by time. I simply suggest to
3 you that any information found in your statement about (Redacted), other than what
4 is -- can be established from the transcript, is simply (Redacted).

5 Would you agree with me, sir?

6 A. [12:45:09] (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [12:45:30] Thank you, sir. I look at paragraph 90 of your statement where it
10 says the following on page 0012:

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted) Does that refresh your

19 memory?

20 A. [12:47:14] That's not true at all. (Redacted)

21 Q. [12:47:18] And, sir, I also suggest to you that (Redacted)

22 (Redacted)

23 (Redacted) Does that refresh your memory?

24 A. [12:47:34] That's false because (Redacted)

25 (Redacted) I remember that very well. (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 Q. [12:48:08] (Redacted)

3 A. [12:48:13] (Redacted)

4 Q. (Redacted)

5 A. (Redacted)

6 (Redacted)

7 Q. [12:48:49] Sir, we -- you mention in this paragraph that the (Redacted)

8 (Redacted)

9 (Redacted), and I suggest to you based on the information that we have that

10 (Redacted)

11 (Redacted)

12 (Redacted) Are you aware of this, sir?

13 A. [12:49:59] No. (Redacted)

14 (Redacted)

15 Q. [12:50:14] Sir, the -- you say yourself that (Redacted)

16 (Redacted). Do you recall saying this, sir?

17 A. [12:50:33] Yes. (Redacted)

18 (Redacted)

19 Q. [12:50:48] (Redacted)

20 A. [12:51:14] (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. [12:51:35] (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

- 1 (Redacted)
- 2 A. [12:52:19] (Redacted)
- 3 Q. [12:52:27] (Redacted)
- 4 A. [12:52:48] (Redacted)
- 5 (Redacted)
- 6 Q. [12:53:28] Thank you, sir. (Redacted)
- 7 (Redacted); is that correct?
- 8 A. [12:53:42] Yes.
- 9 Q. [12:53:46] (Redacted)
- 10 (Redacted)
- 11 A. [12:54:09] (Redacted)
- 12 (Redacted)
- 13 Q. [12:54:29] (Redacted)
- 14 A. [12:54:44] (Redacted)
- 15 (Redacted)
- 16 MR BOURGON: [12:55:00] If I can have on the screen, please, the item number or
- 17 exhibit number DRC-OTP-0090-0428.
- 18 Q. Sir, this is (Redacted)
- 19 (Redacted). This exhibit will appear on your screen.
- 20 He may need the assistance of the usher.
- 21 You see the exhibit on the screen, sir?
- 22 Now you see on (Redacted)
- 23 A. [12:56:11] Yes.
- 24 Q. [12:56:11] (Redacted) Is that correct?
- 25 A. [12:56:21] Yes. (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 Q. [12:56:48] Sir, we will -- I have information -- actually, (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 A. [12:58:43] (Redacted)

12 Q. [12:58:46] Sir, on the basis of -- well, first I'll put this exhibit on the screen so
13 that everybody can see it. It's (Redacted), but on page (Redacted).

14 Yes, it's on the screen before you, sir. Of course it's in French. I'm not sure you
15 can -- you're able to read it, but I just read from the first message on this page, which
16 is dated (Redacted).

17 Now, sir, I suggest to you that this confirms that (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted) Do you wish to comment?

23 I'll move on to a different question.

24 A. [13:01:04] Let me first of all make an observation. (Redacted)

25 (Redacted), I

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 don't really understand.

2 Q. [13:01:47] Sir, I'll move on to my next question.

3 In the evidence pursuant to the Rules of this Court a number of video excerpts were

4 admitted in your testimony by the Prosecution. I refer to the first video excerpt

5 DRC-OTP-0082-0016 -- I'm sorry, I have the wrong number. It's video excerpt -- the

6 second video excerpt. So, I'm sorry, I did have the right number. It was

7 DRC-OTP-0082-0016 and three excerpts were admitted.

8 MR BOURGON: I'm looking at -- sorry, Mr President. I have excerpt number 2

9 and I will change the number to DRC-OTP-0080-0002. (Redacted)

10 (Redacted) I would like to have admitted in evidence the

11 following excerpts: 39.14 to 39.55, 43.25 to 44.06 and 51.46 to 52.05.

12 With respect to excerpt number 4 from the Prosecution, 0081-0006 (Redacted)

13 (Redacted) I would like to have admitted in evidence a

14 further excerpt at 2.05 to 3.35 and I would like to have admitted also the excerpt from

15 6.08 to 6.51. And also another one at 10.54 to 11.50.

16 With respect to excerpt number 5, this is 0081-0002, I would like to have admitted in

17 evidence an additional excerpt going from 1.14.03 to 1.15.04.

18 And lastly, Mr President, with respect to excerpt number 6, which is

19 DRC-OTP-0124-0002, (Redacted)

20 (Redacted), I would like to have the following two excerpts admitted: At

21 06.11 to 07.57. And last also with excerpt number 6 I would like to have admitted

22 from 09.35 to 10.55.

23 In total, Mr President, that is nine excerpts that we would like to have admitted in

24 evidence along with, based on the testimony of the witness, (Redacted)

25 (Redacted), and for each of these excerpts we will provide of course the exact

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 transcript reference and translation reference.

2 And that concludes the cross-examination, Mr President.

3 PRESIDING JUDGE FREMR: [13:07:05] Mr van der Werf, have you captured all
4 those excerpts cumulated in this compound request.

5 MR VAN DER WERF: [13:07:15] Your Honour, unfortunately I have not, but the
6 Prosecution opposes as a matter of principle the admission of these extra excerpts.

7 The witness has not been shown these extra excerpts during testimony and it's not
8 proper -- the proper way to admit these excerpts. If the Defence wishes to, he can

9 seek to have these admitted -- these excerpts admitted through a Bar table motion, but
10 the witness, not having been shown these excerpts during his testimony, it's not the
11 proper way to admit them as the Defence was -- or Defence counsel has requested.

12 Thank you.

13 PRESIDING JUDGE FREMR: [13:07:49] Mr Bourgon.

14 MR BOURGON: [13:07:50] Mr President, this is a Rule 68(3) witness. The
15 Chamber authorises (Redacted) to go in, so even though he was not shown physically
16 in the courtroom all of these excerpts, all of those were used with the witness, (Redacted)
17 (Redacted).

18 So the test in the decision on the conduct of proceedings is met. And in addition, it's
19 also in evidence because it is part of the Rule 68(3).

20 Now, the Prosecution has done a quick selection of some extracts. We just want to
21 add further extracts. Of course I would have liked to have more time to ask
22 questions on these extracts and to ask questions on the extracts of the Prosecution, but
23 the Chamber decided otherwise. So for now we want these extracts at least to come
24 in as part of the record.

25 And all the requirements are fulfilled, Mr President, to have these extracts admitted.

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 Thank you.

2 PRESIDING JUDGE FREMR: [13:08:58] Give me a second. I will consult my
3 colleagues on this issue.

4 (Trial Chamber confers)

5 PRESIDING JUDGE FREMR: [13:11:56] So as you could see, we deliberated on that,
6 and according to our opinion, conditions to admit those experts were not met and we
7 encourage Defence to, if they will insist, to try to admit this through Bar table motion.
8 So the objection was sustained.

9 Mr Bourgon.

10 MR BOURGON: [13:12:26] Mr President, then I ask for a reconsideration of the
11 Chamber's decision in terms of the timing and time allotted to this witness. It is the
12 condition -- there is new information on the record and the fact that now we have a
13 decision that I'm not able to lead or to adduce these exhibits into evidence.
14 There is also the fact that the time allotted was not sufficient to do so. This is not
15 something that could be -- that was known before. Now we know that there was not
16 sufficient time to address these videos.

17 The time that was used during the cross-examination of the witness was well used, it
18 was not wasted. The witness itself, the Chamber will have seen, was very much
19 obstructive in terms of his answers to the questions. And the fact that we are
20 prevented from being able to put these extracts into evidence is -- definitely creates
21 not only prejudice but really it's an injustice to the accused where we have the witness
22 on the stand, he is there to answer questions (Redacted).

23 There were, Mr President, maybe the Chamber is not aware of this, but there was in
24 terms of the material and the hours of video given to the Prosecution by this witness
25 are more than the time that was allotted to the Defence to explore these videos.

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 This witness, Mr President, has been present in The Hague for 15 days and 15 days to
2 prepare for his testimony, and the (Redacted)
3 (Redacted).

4 For all of these reasons, Mr President, I ask for additional time. And if I can get an
5 hour and a half, I will make sure that all the conditions are met to that I can put these
6 exhibits or these excerpts or additional excerpts into evidence.

7 Lastly, Mr President, the Chamber's ruling that we could try and put this in evidence
8 through a Bar table motion when the witness is there, Mr President, we say that this is
9 something that cannot be -- cannot cure the prejudice and the injustice caused to the
10 accused by not having the time to do its work during cross-examination. Thank you,
11 Mr President.

12 PRESIDING JUDGE FREMR: [13:15:11] Thank you.

13 Mr van der Werf, please briefly.

14 MR VAN DER WERF: [13:15:15] Yes. Thank you, Mr President. We oppose the
15 request for reconsideration and we also oppose the request for additional time. The
16 witness has not been obstructive in our view. The Defence should not have assumed
17 that it would be able to have these extra additional excerpts admitted what is in
18 fact -- by what is in fact a circumvention of the Rules. The witness was already -- I'm
19 sorry, the Defence was already given one extra hour to conduct its cross-examination
20 and there's nothing new that warrants reconsideration or that warrants giving the
21 Defence additional time to continue its cross-examination. Thank you.

22 PRESIDING JUDGE FREMR: [13:15:55] Thank you. Give me again a second.
23 (Trial Chamber confers)

24 PRESIDING JUDGE FREMR: [13:16:28] So our decision that we do not grant any
25 additional time and we also haven't found any reasons to reconsider our previously

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 decision.

2 And I will just provide a very brief reasoning: Defence was aware of the time it has
3 at its disposal. The time has been even extended for one hour, and I hope I said it
4 that it's up to the -- and it's valid for any examination, if there are more and less
5 relevant facts according to calling or non-calling party, it's up to the party to select
6 those that more and most relevant in order to succeed to get them into evidence.
7 The Defence was given this chance, it was up to Defence to select those parts of
8 evidence that they found most relevant or at least more relevant than the others, so it
9 was up to them. They did it in the way they found ideal for their case and in our
10 opinion there is no prejudice to the Defence.

11 That's it.

12 And now, Mr van der Werf, you indicated you would like to briefly re-examine
13 Mr Witness, so you still insist on your five minutes?

14 MR VAN DER WERF: [13:18:07] Yes, I have one question, your Honour.

15 PRESIDING JUDGE FREMR: [13:18:09] Okay. So please proceed.

16 QUESTIONED BY MR VAN DER WERF:

17 MR VAN DER WERF: [13:18:11] Could the court officer please pull up document
18 (Redacted). And this is a -- this is a document that the
19 witness was shown some 15 or 20 minutes ago.

20 And could court officer please zoom in on the (Redacted). Thank you.

21 Q. [13:19:24] Now, I will read this (Redacted) again and then I will ask you a
22 question.

23 (Interpretation) (Redacted)

24 (Redacted)

25 Now my question is simple: (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 A. [13:20:03] (Redacted)

3 Q. [13:20:15] Thank you.

4 MR VAN DER WERF: [13:20:16] I have no further questions.

5 PRESIDING JUDGE FREMR: [13:20:18] Thank you.

6 Mr Bourgon, any request for recross?

7 MR BOURGON: [13:20:24] None, Mr President.

8 PRESIDING JUDGE FREMR: [13:20:26] All right. So now let's move into

9 open -- sorry, I don't have any further questions for the witness.

10 Do my colleagues have? No. All right.

11 So now let's move into open session.

12 (Open session at 1.20 p.m.)

13 THE COURT OFFICER: [13:20:48] We are in open session, Mr President.

14 PRESIDING JUDGE FREMR: [13:20:51] Thank you, court officer.

15 Mr Witness, it concludes your testimony. So on behalf of the whole Chamber

16 I would like to thank you that you underwent such a long journey and that you

17 patiently responded all those questions that were put to you. I firmly believe that

18 your testimony can help us in our deliberations and can help us in our effort to find

19 the truth. So we thank you and we wish you safe journey home.

20 And now, court usher, please assist Mr Witness to leave the courtroom.

21 (The witness is excused)

22 PRESIDING JUDGE FREMR: [13:21:55] And as concerns our further programme,

23 so we will now break and we will continue after lunch break with the next witness,

24 which is, if I'm not wrong, Witness P-121. And we would like to at least partially

25 compensate the delay we got in the morning, so -- and moreover, we will have to

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Open Session)

ICC-01/04-02/06

1 finish today a bit earlier because there is a plenary meeting for the Judges, so we will
2 finish at 4.25. So in order to cover all those troubles we would like to shorten lunch
3 break from 90 minutes to 75 minutes, which means that we would like to start the
4 afternoon session - and now give me a session, I have to count it - so 2.40. I hope
5 that my colleague is correct. So we will start at 2.40 and will finish -- sorry? 2.15?
6 So now I have second opinion. Ten, 20, 30 -- I think my colleague is right. Yes. So
7 1 hour and 15 minutes, so 2.40 and we will finish 4.25.
8 Now we break.
9 THE COURT USHER: [13:23:24] All rise.
10 (Recess taken at 1.23 p.m.)
11 (Upon resuming in open session at 2.43 p.m.)
12 THE COURT USHER: [14:43:22] All rise.
13 Please be seated.
14 PRESIDING JUDGE FREMR: [14:43:51] Good afternoon, everybody.
15 Since I see numerous changes in appearances I would like to ask you for the update,
16 starting with Prosecution, please.
17 MS RABANIT: [14:44:02] Good afternoon, Mr President, your Honours. For
18 the Prosecution today appear Selam Yirgou, case manager; Nicole Samson, senior trial
19 lawyer; Kristy Sim, assistant trial lawyer; Julieta Solano, trial lawyer; and
20 Marion Rabanit, associate trial lawyer.
21 PRESIDING JUDGE FREMR: [14:44:27] Thank you, Ms Rabanit.
22 Defence now.
23 MR GOSNELL: [14:44:30] Good afternoon, Mr President. Christopher Gosnell for
24 Mr Ntaganda today, joined by Erik Cookson-Montin and Maria-Kim Vasconi.
25 Thank you

Trial Hearing
WITNESS: DRC-OTP-P-0002

(Open Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [14:44:43] Thank you, Mr Gosnell.

2 And Legal Representative for Victims.

3 MR ABDOU: [14:44:50] Good afternoon, Mr President. Good afternoon, your

4 Honours. No changes for the former child soldiers.

5 MR SUPRUN: [14:44:58] (Interpretation) For the victims of the attacks, no changes

6 either, Mr President. Thank you very much.

7 PRESIDING JUDGE FREMR: [14:45:06] Thank you, Mr Abdou. Thank you,

8 Mr Suprun.

9 So before we move to testimony of our next witness I would like to highlight that in

10 terms of timing the Chamber has already indicated that the examination-in-chief of

11 this witness should be completed in three hours and the Defence will have equal time.

12 Further, the Chamber has taken note of the Defence notice of objections, both to the

13 use and admission of certain documents, and as usually, it will address any such

14 objections, if and when they arise.

15 The Chamber has also taken note of the VWU's vulnerability assessment and confirms

16 that reading assistance is available on standby should this be necessary for the

17 reading of long portions of text.

18 And now we can turn to the scheduled testimony.

19 Mr Witness, good afternoon. Can you hear me?

20 WITNESS: DRC-OTP-P-0121

21 (The witness speaks French)

22 THE WITNESS: [14:46:18] (Interpretation) Yes, I can hear you, but the sound is not

23 clear enough. Could I have more volume, please?

24 PRESIDING JUDGE FREMR: [14:46:34] I will send our court usher and I am sure

25 that he will fix the problem.

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Open Session)

ICC-01/04-02/06

1 Now, Mr Witness, is it okay now?

2 THE WITNESS: [14:46:54] (Interpretation) Yes, super, but we have to turn it down
3 a little bit now.

4 Okay.

5 PRESIDING JUDGE FREMR: [14:47:07] So another test, what about now? One, two,
6 three, can you hear me well?

7 THE WITNESS: [14:47:11] (Interpretation) Yes. Now I can hear you clearly.

8 But there's another suggestion, I feel somewhat uncomfortable in this chair. I am
9 a little bit short and maybe we need to take the chair down somewhat.

10 PRESIDING JUDGE FREMR: [14:47:29] We will also solve it. Give us a second.

11 Are you fine, Mr Witness, at the moment?

12 THE INTERPRETER: [14:48:33] The witness's microphone.

13 PRESIDING JUDGE FREMR: [14:48:36] Could you repeat your last sentence,
14 because the mike was not switched on.

15 THE WITNESS: [14:48:45] (Interpretation) Yes, what I said is that I think we have
16 90 percent success.

17 PRESIDING JUDGE FREMR: [14:48:55] Very well. And I appreciate that you
18 expressed yourself, because we would like you to feel comfortable when giving your
19 testimony.

20 Mr Witness, so it is my role to instruct you about our proceedings.

21 First of all, I would like to highlight that you are called to testify in the case against

22 Mr Bosco Ntaganda and you will be soon asked questions both by the Judges and
23 lawyers in this courtroom. In this connection, please listen carefully to those

24 questions. If you do not understand, feel free to ask for the question to be repeated.

25 We want you to tell the truth and tell us what you saw, heard and sensed yourself.

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Open Session)

ICC-01/04-02/06

1 If you did not see or hear it yourself but you found out some other way, then you
2 should explain how.

3 Please testify just on that which you remember. Don't guess. Don't make things up.

4 There is nothing wrong in saying "I don't know" or "I don't remember."

5 Do you understand all this, Mr Witness?

6 THE WITNESS: [14:50:23] (Interpretation) Yes. I have fully understood what you
7 have said. You have invited me to feel free.

8 PRESIDING JUDGE FREMR: [14:50:37] All right. Then, Mr Witness, protective
9 measures are put in place to ensure that your identity is not revealed to the public.

10 This means that the public cannot see your face and that your voice is being disguised
11 so that the public cannot recognize it. We will refer to you as "Mr Witness" only and
12 ensure that your name and any other information that risks revealing who you are is
13 not broadcast to the public. Therefore, whenever you need to describe anything that
14 might reveal your identity, we will do so in private session so that no one outside the
15 courtroom can hear your answer.

16 Do you understand, Mr Witness?

17 THE WITNESS: [14:51:36] (Interpretation) Mr President, yes, I have fully
18 understood that.

19 PRESIDING JUDGE FREMR: [14:51:42] Very well. Now, Mr Witness, you should
20 find in front of you piece of paper with the text of solemn undertaking. Do you see
21 it?

22 THE WITNESS: [14:52:03] (Interpretation) Yes, I can see solemn undertaking.
23 Thank you.

24 PRESIDING JUDGE FREMR: [14:52:09] So please now make your solemn
25 undertaking to tell the truth by reading out the declaration on the piece of paper you

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Open Session)

ICC-01/04-02/06

1 have in your hands.

2 THE WITNESS: [14:52:23] (Interpretation) Thank you, Mr President. Solemn
3 undertaking, I read: I solemnly declare that I will speak the truth, the whole truth
4 and nothing but the truth.

5 PRESIDING JUDGE FREMR: [14:52:47] Thank you, Mr Witness.

6 So it means you are now under oath and you need to be aware that it is an offence
7 within the jurisdiction of this court to give false testimony. Do you understand that?

8 THE WITNESS: [14:53:10] (Interpretation) Mr President, I am very aware that false
9 testimony is a crime. And I know that refusal to testify is also an offence.

10 PRESIDING JUDGE FREMR: [14:53:25] Very good, Mr Witness. And finally, a few
11 practical matters you should have in mind when giving your testimony.

12 It's important to speak into the microphone, to speak clearly and to speak at a slow
13 pace to allow the interpreters to translate everything. You should only start
14 speaking when the person asking you the question has finished. When a question is
15 asked, please do not respond immediately, but, rather, count in your head at least to
16 three and only then give your answer because this pause of at least three seconds is
17 essential for us to properly translate and record what you are saying.

18 And if you have any questions during your testimony, do not hesitate to let us know
19 by raising your hand. We will then give you the opportunity to speak. Have you
20 understood all that, Mr Witness?

21 THE WITNESS: [14:54:33] (Interpretation) Yes, I have understood it very well,
22 Mr President.

23 THE INTERPRETER: Mr President, could the witness be asked to repeat the last
24 party of his answer.

25 PRESIDING JUDGE FREMR: [14:54:47] Mr Witness, could you kindly repeat the last

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Open Session)

ICC-01/04-02/06

1 part of your answer because it hasn't been captured by the interpreters.

2 THE WITNESS: [14:55:00] (Interpretation) What I said is that I fully understood

3 your explanation and the instructions pertaining to the conduct to be adopted. You

4 suggested, among other things, that the line -- well, I don't know if your line is clear.

5 The line doesn't seem to be clear.

6 PRESIDING JUDGE FREMR: [14:55:24] I hope it will be okay. But what is the most

7 important thing, always please wait until the person who is talking to you finish, then

8 make a break, otherwise it could lead to overlappings and then we will not hear each

9 other, so please have it in mind.

10 Now I am giving the floor to Prosecution, I guess to Ms Rabanit, who will examine

11 you.

12 Ms Rabanit, you have the floor.

13 MS RABANIT: [14:55:59] Thank you, Mr President.

14 QUESTIONED BY MS RABANIT: (Interpretation)

15 Q. [14:56:05] Good afternoon, Mr Witness.

16 A. [14:56:08] Good afternoon, madam.

17 Q. [14:56:10] My name is Marion Rabanit and this afternoon I will be putting

18 questions to you on behalf of the OTP.

19 A. [14:56:18] Thank you.

20 Q. [14:56:24] Well, listen attentively to my questions and please answer only the

21 questions that I put to you.

22 I will start by putting questions to you about your personal background and for that I

23 would like to request that we move into private session.

24 MS RABANIT: [14:56:50] Mr President, I request that we go into private session for

25 this first part.

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

- 1 PRESIDING JUDGE FREMR: [14:56:54] Certainly.
- 2 Court officer, let's move into private session.
- 3 (Private session at 2.56 p.m.) *(Reclassified partially in public)
- 4 THE COURT OFFICER: We are in private session, Mr President
- 5 PRESIDING JUDGE FREMR: [14:57:10] Thank you, court officer.
- 6 Ms Rabanit, please proceed.
- 7 MS RABANIT: [14:57:15] Thank you, Mr President.
- 8 Q. [14:57:19] (Interpretation) What is your name, sir?
- 9 A. [14:57:34] My names are (Redacted).
- 10 Q. [14:57:54] When were you born, sir?
- 11 A. [14:58:00] I was born in (Redacted).
- 12 Q. [14:58:14] You were born on (Redacted); is that correct?
- 13 A. [14:58:18] Yes, that is correct.
- 14 Q. [14:58:19] Which ethnic group do you belong to, sir?
- 15 A. [14:58:29] I am of the Lendu community, generally referred to as the Walendu.
- 16 Q. [14:58:36] Are you of Congolese nationality?
- 17 A. [14:58:38] Yes, I am Congolese.
- 18 Q. [14:58:41] Can you tell us which languages you speak, please?
- 19 A. [14:58:47] I speak French perfectly and Swahili perfectly, as well as Kilendu,
- 20 which is my mother tongue. I also speak some Lingala and a little bit of English.
- 21 Q. [14:59:20] You completed your primary and secondary education; is that
- 22 correct?
- 23 A. [14:59:29] Yes, that is very correct.
- 24 Q. [14:59:31] (Redacted); is that correct?
- 25 A. [14:59:37] Yes, (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

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Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

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14 Page redacted – Private session

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Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. [15:08:00] (Redacted). Some left before 2002

8 but I will not focus on that.

9 Q. [15:08:14] Yes, indeed. I would like you to focus on the events that occurred by
10 the end of 2002.

11 A. [15:08:29] At the end of 2002, that is in October 2002, that was when the war of
12 aggression or incursion which was known as shika na mukono took place. It
13 separated me from my family. My family had already been displaced at the time of
14 effacer le tableau. (Redacted)
15 (Redacted).

16 Now, when shika na mukono happened, it was impossible for me to go to (Redacted)
17 (Redacted), so I went to Gutsi instead. I retreated to Gutsi.
18 One of my children had left, but throughout that period of fighting, we did not get to
19 meet each other.

20 Q. [15:09:48] I am really sorry to interrupt you. We want to fully understand what
21 you are explaining. Please, can you help us by explaining from your point of view
22 what happened when you realised that an event had occurred in Kobu. What were
23 the circumstances in which you fled? What did you hear and see at that time? Can
24 you explain to the Court where you went, where your family was, as you have just
25 been doing, but please explain these things from your own point of view, from your

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 perception. How did these things appear to you?

2 A. [15:10:29] Well, when these happened, it was really quite sudden. We were in
3 Kobu market. We were somewhat distracted. We had almost forgotten what was
4 going on. But to be specific, grand obus, things happened with a bang in the centre,
5 but many people went to (Redacted). So we left.

6 *It was (inaudible). We left. We went to Tchudja. We *left Tchudja and then went
7 directly to Gutsi. Some other people went elsewhere but I myself and a number of
8 young people, we went to Gutsi.

9 Shortly thereafter we saw a combatant whose name was (Redacted). He was also
10 going through Gutsi market, but he had been seriously injured and (Redacted)
11 (Redacted), and today he is still alive. That
12 is what happened. And we spent some time there.

13 Q. [15:12:05] I am really sorry, I have to stop you again. You are telling us too
14 many things, but since we are not familiar with what happened, we want to ask you
15 to help us, to go step by step so that by answering the questions that I put to you, I
16 will be able to put other questions to you later on that can give you an opportunity to
17 explain further.

18 Now, let's go back to the day in Kobu. You said that there was an explosion. Who
19 launched that bomb?

20 A. [15:12:43] No, I am talking about the day on which we left Kobu.

21 Q. [15:12:48] I'm sorry, then maybe I didn't understand you. Can you explain to
22 us what happened on that day when you left the town?

23 A. [15:12:56] The bomb exploded in the sky. It never dropped, so we saw what
24 had happened. Enemies came. We saw weapons. They came from Kilo, but not
25 from Bunia. They came from Kilo, towards Kobu. So we left Kobu and went to

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 Gutsi, that's it.

2 Q. [15:13:19] That bang, do you know who provoked it?

3 A. [15:13:25] It was, indeed, our known adversaries or enemy, the UPC and their
4 allies.

5 Q. [15:13:40] Do you know what UPC stands for, Mr Witness?

6 A. [15:13:44] The definition, yes, it is not a problem if you don't understand it. Yes,
7 it has been a long time ago.

8 Apparently, Union des Patriotes Congolaise is what it means.

9 Q. [15:14:11] How do you know that -- or who the people were who had caused
10 this bomb, bang?

11 A. [15:14:27] Well, to know it, it wasn't the first time that they did it, that they
12 showed aggression. They had done it many times before. And they came back
13 again. We had to leave the village. And while we were at the market, our families
14 were in the bush. That was a prudent decision we had taken. They were hidden.

15 Q. [15:15:05] Sir, was there an ethnic group which was more represented in Kobu
16 during that period?

17 A. [15:15:21] Yes, my ethnic group. *We, the Walendu, were the ones in Kobu and,
18 apparently, we are Sudanese.

19 Q. [15:15:50] I'm sorry, could you repeat the last sentence? I didn't quite catch it, sir.

20 A. [15:16:02] Well, in fact what I said was we are Soudanais or Sudanese. That
21 gives the example. We came from Sudan and that's why people called us Soudanais
22 or Sudanese. So when you ask questions with regard to the ethnic group, the ethnic
23 group, that's not the Balendu, not the Bahema. Those are the tribes, so they are
24 ethnic groups, different. We spoke about ethnic groups. For example, we are the
25 Balendu, we come from Sudan. Apparently, we came from Sudan. There's the

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 Balendu, Balugbara, Wazande (phon), the Nilotic tribes. Those are in the ethnic group,
2 and that includes the Hema, the Djugu, the Hema *who own cattle, and those are
3 from Irumu, the Alur, just to give you some examples. Thank you.

4 Q. [15:16:56] Thank you very much. I understand now. Sir, you referred to the
5 fact that you and your family were in the bush. Could you tell us how that
6 occurred?

7 A. [15:17:25] Could you repeat, please? I already told you that my family was
8 separated from me. Perhaps you mean how did I get back together with my family,
9 how was I informed that I could get to my family.

10 Q. [15:17:44] My question was, rather, is that you referred to the fact that you are
11 prudent because your family was in the bush. Could you please tell us more about
12 that: Why did your family go into the bush and why were they not in Kobu?

13 A. Well, for the first time I told you that war had come to Kobu several times and it was
14 before the war of aggression, before you had effacer le tableau. Before effacer le tableau,
15 there was another aggression led by the APC. So when we left for the first time, when we
16 left Kobu for the first time, some had already gone to the bush *and they immediately settled
17 in Buli. And from that time the children, women, they were afraid of living in the centre.
18 As these events happened time and time again, they decided to stay there.

19 Now, when war started again, we went to Gutsi and we were informed about clashes
20 when shika na mukono arrived in Buli. Buli was seriously struck for three days.
21 And afterwards the idea was to systematically attack Gutsi for three days. Bombs
22 would be used and damage was done to it. *Then there was a lull. And that was
23 when Bunia fell. That drew all the enemies to Bunia. So some people in good faith
24 and some women from the market informed us about people who had left.

25 Now people said "Amani, you can go and see them, some people are already dead."

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 And the enemies had emptied the territory and that's why I also hurried along with
2 others to the centre of Kobu. And during this day I was persuaded the enemy had
3 left because gunfire had already been heard on the Bunia road so they left our
4 territory. So we found out about the situation in Kobu, and that's why I got the
5 courage to go and see my family.

6 Q. [15:20:41] Thank you, sir. We are going to go back into the different points that
7 you have spoken about so that we can really fully understand each stage you
8 describe.

9 A. [15:20:51] Thank you.

10 Q. [15:20:51] Could you explain to us what the term means "shika na mukono"?

11 A. [15:21:07] Thank you. Shika na mukono, that's a phrase in Swahili. "Shika"
12 means take; "na," with; "mukono," the hand. Kamata na mukono, and this means
13 that the enemy had to take the people, they had to take the Bale, whether it was
14 women, men, old people, children, and they had to get them with their hand.
15 Thank you.

16 Q. [15:21:44] How did you know this expression?

17 A. [15:21:58] Shika na mukono, this expression -- there is also another expression,
18 effacer de tableau. Those were the enemy, the fighters, the militia. They were with
19 their firearms or other weapons, bladed weapons. These people were shouting,
20 "effacer de tableau," but this time it was "shika na mukono," take them with your
21 hands, and that's how this name remained, "shika na mukono."
22 Behind them, I don't know what you call them, these were people there to do a war of
23 communication, like they were shouting out. You heard all the time, "shika". And
24 there were people also who knew the people in the village. Among them there were
25 militia who knew the people in the village and they shouted out their names. They

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 said, "Shika na mukono. Today we are going to take you by hand where you are
2 hiding, everywhere you are hiding." And that's why you couldn't put a fire on any
3 more, you couldn't make any noise, you had to remain hidden during the day, and
4 any movement for preparing food had to be done in the dark, under the moon.

5 Thank you.

6 Q. [15:23:39] Sir, on that day when a bomb exploded above you and you left Kobu,
7 do you know if the assailants came and, if so, where did they come from?

8 A. [15:23:53] Thank you. Their base wasn't so much in the mining area. When
9 you have Kilo, Mongbwalu, and then you have Buli. But their position, their attack
10 position, if you like, that was Kilo-État. That's where they created their base for
11 military strategy.

12 Q. [15:24:34] Do you know during how much time they were based there for?

13 A. [15:24:37] Well, in fact, they weren't there for so long, because we were informed
14 in advance, but there was movement of young people, young Hema in the UPC here
15 and there, but they were very organised. When *they had finished setting
16 themselves up, their logistics, their authority, *their entire base, et cetera, then they
17 attacked it once their organisation was established. The Walendu were just in Kobu,
18 in the centre and in the periphery. But the others like Mongbwalu, that was further
19 down, in the forest area, and there the Balendu were not there, or they didn't -- and if
20 they were there it was because they had no other way out.

21 Q. [15:25:53] Sir, do you know, following this attack on that day, if Kobu was taken
22 and, if so, who by?

23 A. [15:26:02] You are asking me if I know the name of the people who took Kobu?

24 Q. [15:26:15] Yes. On the day you fled, the day you are talking about now.

25 A. [15:26:19] Yes, the troops or the name of the organisations? The names of the

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 troops or the organisation?

2 Q. [15:26:25] If we could start with the name of the organisation.

3 A. [15:26:28] We can start with the UPC and their Rwandan allies.

4 Q. [15:26:34] Do you know the name of the commander who was in charge?

5 A. [15:26:41] *I don't know how that person would be called. *At that time, it
6 might have been commander or operations commander. The name Salumu was
7 often heard, Amisi. These two names, you heard those names mentioned a lot.

8 Q. [15:27:10] How did you learn about that, sir?

9 A. [15:27:12] We got a lot of precision because there were not many hidden secrets.
10 You came across people from shika na mukono, Gombili was related to the *chef de
11 groupement of Bambu Kalala and this child, his mother is Nyali, and this child left
12 firstly to go and see what the situation was *during that (inaudible) incident, when
13 people were being tricked to come out. Everybody was in the bush and afterwards
14 he was taken to go and see the arsenal, the number, quantity and performance of the
15 weapons that there were in Kilo. Kobu, Kilo is not so far from each other. And he
16 is the person who gave us a lot more details that their base was in Kilo-État and that
17 their leaders were Amisi, Salumu and that these people were heavily armed. And he
18 *was told, "Go and say that in the village. Say that to your brothers."

19 Q. [15:28:31] And who told you yourself, sir?

20 A. [15:28:41] Well, firstly, he had to be questioned by the leaders of our combatants,
21 (Redacted). I am speaking about all these men. So first of all he told them
22 and he told that to the crowd. That's it. And he walked with the people from the
23 UPC to Ariwara, and he was with them quite a long time.

24 Q. [15:29:28] Could you give the two names of the combatants. I think you said
25 (Redacted); is that correct?

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 A. [15:29:41] That's correct.

2 Q. [15:29:41] Is it possible for you to spell those names for us?

3 A. [15:29:46] (Redacted)

4 (Redacted)

5 Q. [15:30:18] So as you are explaining to us about the fighters, could you tell us
6 a bit more about this group? Was there a particular name?

7 A. [15:30:36] If you could repeat the question.

8 Q. [15:30:40] You spoke to us about combatants and you gave two names,
9 (Redacted). Could you tell us a bit more about these groups of combatants?

10 Was there particular names for these groups?

11 A. [15:31:06] Particular names, like I have two names, or nicknames, or -- ? (Redacted),

12 *he was the leader of young people in Kobu. That's the -- that was him. I don't
13 have other names. Or I've forgotten them.

14 Q. [15:31:26] Who are these groups composed of?

15 A. [15:31:30] That was a group of combatants of the Walendu, because when there
16 were clashes, there were reprisals. We suffered aggression and as a counterpart we
17 had to carry out a counterattack. That's what you would call legitimate defence,
18 legitimate defence. And that gives rise to these combatants who should also protect
19 their people, our people faced with this aggression. They would *rarely go to the
20 enemy because they didn't know the cause, why we would fight the enemy.

21 Q. [15:32:27] What type of weapons did these combatants have?

22 A. [15:32:30] We were never at a weapons market. *We recovered weapons from
23 the enemies, but we managed to get hold of machetes, stones, things like that. They
24 are called bladed weapons or blunt weapons. And shika na mukono, the cause was
25 that during effacer le tableau, the combatants had attacked the enemy and their major

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 weapon or great weapon was left behind. There were clashes, hard clashes, and you
2 couldn't transport a massive weapon, and it was left. And that's how the combatants
3 took that weapon, and that was the cause of shika na mukono. And the first
4 question was where *was their blind side (phon)? That's it. And after that, we
5 were never at a weapons market. We found that out on the battlefield.

6 Q. [15:33:40] You told us that two combatants whose names you gave us, (Redacted)
7 , (Redacted), please correct me if I am mistaken, but you said they were in the Kobu
8 group of combatants. Does that mean that there was a group of combatants for other
9 villages?

10 A. [15:34:08] Well, that's to say (Redacted). When he saw that people
11 had to go to a meeting for peace, he too, he went to this peace meeting in Ngabulo,
12 and he was found among the bodies. His body was found among others in Kobu,
13 those who had accepted peace, and he was among these people. That was it.

14 Q. [15:34:39] Thank you, sir. But I had a more general question for the group of
15 Lendu combatants. Was that just in Kobu?

16 A. [15:34:54] It wasn't just Kobu. Each village had its young people. There were
17 young boys. And in Kobu, there was (Redacted). (Redacted) who came
18 from Mongbwalu with the others who were there. In (Redacted), there were others,
19 *(Redacted)-- I already -- no -- who had come from there. There was (Redacted)
20 (Redacted). (Redacted) came from Kpandroma. And that's how each village had
21 sent young boys, and between them there could be a hundred young boys *or a
22 thousand, and you choose one who's going to be the representative. That would be
23 the person who gave orders. You would ask him questions.

24 Q. [15:36:05] Do you know if there were training centres for these combatants?

25 A. [15:36:18] Thank you for the question, madam. Was there really a training

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 centre to cut with a machete or to throw stones? I don't think there were.

2 Q. [15:36:34] You, were you in one of these groups?

3 A. [15:36:39] Apparently, apparently everybody was part of the group. Whether
4 you were old, even if you were sleeping there, you could have a stick from a tree next
5 to you, or a stone. That meant that everybody was *on alert, everybody including
6 myself, you were provided some legitimate defence. But my role was different.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. [15:37:57] Sir, you spoke to us about effacer le tableau and you spoke to us about
12 shika na mukono. Are these two different operations or is it the same operation?

13 A. [15:38:15] Thank you. These are two different operations. Here you had the
14 UPC with the Rwandans. With effacer le tableau, it was the same people, but with
15 Jérôme's men, with the APC. And us, Walendu, we were driven out of Mongbwalu
16 and that war started in Mongbwalu, behind Mongbwalu, in that area. But shika na
17 mukono was from Kilo to Kobu directly.

18 Q. [15:38:58] Are you able to evaluate, in terms of weeks or months, the distance
19 between effacer le tableau and shika na mukono in terms of time?

20 A. [15:39:15] Yes. I can estimate that. It's been a long time, but, well, I came back
21 from Mongbwalu, I arrived in Kilo, and then we were told 1830, 1900 hours, Bakonde,
22 the combatants were already fired at and I was already in Kilo-État and there was no
23 way for me to go to Kilo-Mission and go to Kobu. And so we left *and went to
24 Nyangarai, Itendey in Nyangarai, Botutu, and then we stayed in the area of Ango,
25 Banahu, Lipri, and that was almost six months, more or less six months.

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 Q. [15:40:10] Sir, to the best of your knowledge, what does this term that you gave
2 us, "effacer le tableau," what does it mean?

3 A. [15:40:39] Thank you, Madam. "Effacer," etymologically speaking, that means
4 to remove any trace. For example, remove any written traces from a board, for
5 example, if it is a blackboard where teachers are teaching. So wipe the slate, if you
6 like, wipe it clean. So that would be wiping away the Lendu, the Gbalé people, *of
7 which I am a member on planet earth. So wipe those people from Planet Earth.

8 Q. [15:41:26] This operation, this offensive, effacer le tableau, is that something you
9 experienced yourself? Were you involved in that war?

10 A. [15:41:40] Yes. As I said, I never left Kobu. I went on a quick family visit to
11 Mongbwalu. From Mongbwalu, when I came back, I had to spend the night in Kilo.
12 Now, Kilo, it is about six *or eight kilometres from Kobu, and I had to spend the night
13 there. When I had already seen members of my family in Mongbwalu and in the
14 evening I was told that effacer le tableau had already taken Mongbwalu. They had
15 already taken *Abombi (phon), and that they were already there in Bakunde.
16 Bakunde is three kilometres from Kilo-État. And there were combatants. *And there
17 was this combatant who was a poacher, not Koliba, but Tutumbu. Tutumbu was a
18 poacher in Yedi, and when he was wounded, people -- all the young people became
19 afraid, and they gave assignments to (inaudible) -- and it was in order for them to flee.
20 In front of young people who are fleeing and they are saying they had to go to Kobu
21 because the enemy was going to Kobu directly. And now we took the road Itende to
22 go to the other side, to cross the whole Banyali area and go to (Redacted). *That was
23 already our home. That was the path that we took and that's how we went into the
24 bush for over six months. And I don't know if I answered the question. Because that
25 happened very quickly in Kilo-État. And when we went to (Redacted), we said no,

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 they're already there, so they can follow us. So instead of sleeping 8 kilometres away,
2 the night, we went to (Redacted). And from there we left and at night -- well, it was in
3 the morning by that time, from (Redacted). Some had already gone to North Kivu.
4 And we left (Redacted). *We went to (Redacted). The people had dispersed and
5 gone to Banahu, Gotutsu, Ango, Lipri. So much time had passed that some even set
6 up a market at Lipri. That is how come we spent more than six months in the bush.
7 Almost six months in the bush we spent. Then people were also trying to go to
8 Kobu market. On the Tuesday, *on Friday, they would go there. And that's how
9 shika na mukono came and would find us in Kobu. That was the situation.

10 Q. [15:45:01] Over the six months, where did you stay? I understand that you were
11 moving around different places, but is there one particular place where you settled?

12 A. [15:45:15] You can't really say where we were. I mean, we were in the bush, we
13 were hiding. Someone who leaves his village, who -- let's say someone from
14 Amsterdam comes to hide here, doesn't have a house here, leaves his own house
15 behind, well, he goes into hiding, *his cat is also eaten up by animals and people.
16 And that's what I did, I was in hiding, in the underground, if you like.

17 And you have to see how you can re-create a life, how you can find food, and that's
18 how people moved around from one village to the next. If you've got a family
19 somewhere, you'll go there. If you've got a family somewhere else you'll go there.
20 That's how people move around among different villages, just a few of them.

21 Q. [15:46:21] Were you constantly on the move or did you settle close to
22 a particular village at one time?

23 A. [15:46:30] It was all around Buli. *Buli was a place that hosted a lot of people.

24 *That is because people were cultivating lots of cassava and other food crops there.

25 There were a lot of young boys as well. It wasn't very far from the road. People left

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 the roadside from the main road. *That is because there was the road through Kobu.
2 *There was the road through Lipri that went straight to Kilo-État. But if you got
3 Bunia, Centrale, Nizi, Kobu, that's also on the way to Mongbwalu. So in that area, in
4 that zone between Bunia and Mongbwalu, *and Djugu and Irumu, you have got
5 people from Bunia, Kobu and Mongbwalu. Bunia, Barrière, Kobu and Mongbwalu
6 and Kilo as well. *Kilo was a strategic centre. If you did not go there, then you
7 could not sell your cassava; you could not sell your fish. In other words, the centre
8 served as a market. It's not like here, where everything is brought together. *Back
9 home, you move about with your goods on your head. You can be given 10 francs,
10 which you use to buy salt and oil. That is what happens.

11 Q. [15:48:02] Without giving us any names, you said you were with your family,
12 you went to find your family, could you give us a little bit more detail as to who you
13 were with over the months that you spent in the forest?

14 A. [15:48:19] During that period there were other people there with us, we were
15 with (Redacted) as well was in the bush. I have already
16 said (Redacted).

17 Q. [15:49:11] Were you with members of your family, sir?

18 A. [15:49:20] Yes, yes. You are talking about (Redacted)?

19 Q. [15:49:24] I am talking about the period between the two operations.

20 A. [15:49:28] Between the two operations, shika na mukono and effacer le tableau.
21 Right. Well, at that time we were on the side of (Redacted), together with the family.
22 My wife was in (Redacted)
23 (Redacted). We were together *during that interval.

24 It was only when it was shika na mukono that we were separated because we were in
25 the market and wives, women, families had remained back in (Redacted), all of that

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 *is in the West. That's what I was getting at earlier on. Going towards Bunia.

2 Q. [15:50:26] Sorry to interrupt you, sir. Could you spell the names that you gave
3 us because I don't think they have been correctly transcribed. I will repeat them to
4 you, as I heard them: (Redacted), but correct me if I am mistaken.

5 A. [15:50:57] You pronounce them very well. You said them very well. (Redacted)
6 , that name came up several times. And then there is (Redacted) is also -- has
7 the name of (Redacted). I was talking about them in the context of Bunia.

8 Q. Please hold on a moment, sir.

9 A. [15:51:23] His name is (Redacted).

10 Q. [15:51:32] Thank you, that's very clear. Sir, all of those people who were with
11 you in the forest, where did they come from?

12 Let me clarify, I am not referring to those people of whom you have given us the
13 name, I am talking about the people in general who were in the forest.

14 A. [15:52:08] Thank you. There were some 36,000 people from around about Buli
15 and around 20,000 from Gutsi and other places. Anyhow, they came from very
16 different places.

17 Q. [15:52:26] What was their ethnic group, sir?

18 A. [15:52:31] They were all Walendu.

19 Q. [15:52:35] Why were they all living in the forest?

20 A. [15:52:43] They were fleeing the war, because I had already said -- I was just
21 talking about Kobu, and those aggressions, those attacks were not just happening in
22 Kobu, they were happening *in Mahagi. There were incursions in the Walendu
23 Watsi areas, some in Kpandroma. That is why Bogo, Aboro are mentioned. It is
24 not in our statement because... I did not talk of other areas. I mentioned Kobu. Then
25 there is Alita, where people were locked in the church.

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 THE INTERPRETER: [15:53:23] Your Honour, could the witness be asked to slow
2 down and to repeat the latter part of his statement. Thank you.

3 PRESIDING JUDGE FREMR: [15:53:31] Mr Witness, could you kindly slow down
4 a bit because the interpreters had problem to capture everything. So could you
5 repeat the last part of your response and slower, a bit.

6 THE WITNESS: [15:53:47] (Interpretation) Thank you for the correction. I was
7 asked about the origin and I said it wasn't just in Kobu that there was war. There
8 was war everywhere where you found Walendu. And the Walendu were on three, if
9 not four to five different territories, starting in Djugu, Walendu Djatsi.

10 MS RABANIT: [15:54:33]

11 Q. [15:54:34] I'm sorry to interrupt. We don't have much time. I am going to try
12 to focus you on what we are talking about now. I apologise, I don't want to be
13 impolite but I am trying to focus you on the attack that we were just talking about.
14 You said that there were incursions. To be perfectly clear, who was behind these
15 incursions? I am asking you for the name of the group.

16 A. [15:55:08] Our only enemy was the UPC, the Hema. They had numerous allies.
17 You will find the name of APC, that was the government army of the time. And
18 those were the people who saw us first. Always allied with the Hema.
19 The second ally was Uganda, the Ugandans *that we just managed to save at the end.
20 They finally realised we were living in the truth. They came behind us. They were
21 our allies -- the allies of our enemies. And then the third, that was the Rwandans,
22 those people never left. They were there right till the end. There were Ethiopians,
23 there were people from Burundi, people from countries in the east and the northwest.
24 But we had no allies.

25 Q. [15:56:23] Sir, the people in the forest and yourself at the time, how did you find

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 food?

2 A. [15:56:33] To eat, well, thank you for asking me the question. We are a farming
3 people. The Mbale or the Lendu people survive, live in the fields. You find a lot of
4 documentation on that. So from a lot of people in my community, you've got your
5 job, your profession, and you farm as well. So we had fields, manioc, cassava, and
6 anybody could go into anybody's fields anywhere. So people had to survive with
7 what they found.

8 Q. [15:57:32] How did you find shelter?

9 A. [15:57:35] Pardon?

10 Q. [15:57:40] How did you find shelter?

11 A. [15:57:43] Thank you for the question. Thank you very much for the question.
12 We felt that the men were less vulnerable than the women and children and old
13 people. So we, the men, as of the age of 16, 18, we were all outside. The children,
14 their mothers and old people, they slept in people's homes, in their houses. Some
15 people moved out, the men moved out, so they could sleep inside, and that's where
16 they slept. Sometimes we would -- the people would have their heads inside and
17 their feet outside, that was people who were more vulnerable, women, elderly people
18 and children. But we slept outside on the ground, like here in the courtroom, if there
19 were no roof, if we were in the open air. And everybody would just lie down all
20 over in a natural state.

21 Q. [15:59:11] Perhaps I misunderstood you, but were there actual constructed
22 houses or huts in the forest when you were there?

23 A. [15:59:29] Thank you. Constructions, well, what does that mean? We don't
24 have buildings like this where I come from. The walls are made of earth.
25 Sometimes you've got foliage growing up the walls. *And the people who have the

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 means would make beds, roofing sheets and wall. You have different coverings
2 once you have created the wall with mud, and then you've got the cover, a sort of
3 a roof. And once you have got that, whatever it is made out of, whether it is lasting
4 or semi-lasting, it is what we call a house. And you've got the churches, Catholic or
5 Protestant, and you have a lot of missionaries who have constructed these churches.
6 But what happened was that we built these mainly for the people who were more
7 vulnerable and we, the men, we slept outside. There were gunshots night and day,
8 *every 30 seconds -- 30 minutes -- that is how come we had to wear leggings without
9 ever removing them.

10 Q. [16:01:01] Were there many women and children in the forest at that time?

11 A. [16:01:21] All of the people were in the bush. Well, they couldn't leave their
12 children behind, so there were a lot of children, a lot of old people, a lot of women.

13 Q. [16:01:31] I didn't put myself very well earlier on when I was asking you
14 questions about where you lived. I understand that you didn't have any solid bricks
15 and mortar type houses. But did you have some sort of shelter in the forest and, if so,
16 what was it made of and when did you set them up?

17 A. [16:02:08] Thank you for clarifying this question. I thought you were talking
18 about everybody in general, but you were talking about me.

19 Like all of the men, all of the others, (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted). And when I went back, when I came back from the

23 bush to see if the houses were still standing, because they were all homes that could
24 be used, they were viable, they helped people, (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted). All of the others had been burnt and destroyed. (Redacted)

3 (Redacted).

4 Q. [16:03:52] Let me come back to the conditions prevailing in the forest around

5 Buli when you were there with the other people. Can you tell us what was the

6 physical state of the people with you in the forest?

7 A. [16:04:20] We were with (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-0121

(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 A. [16:07:46] Yes. In fact, in (Redacted) there were a lot of people who had fled, as I
11 had. I was talking about (Redacted) as well. The man who was in charge of
12 communications and information, who issued instructions. And then there were
13 other people *as I have said, the Avetsi, who had moved from one part of the bush to
14 another. There was (Redacted) as well.

15 Q. [16:08:50] Yes.

16 A. [16:08:50] And then -- well, there were others as well, *whose names I think I
17 did not mention. (Redacted), who is now in Mongbwalu.
18 Anyhow, there were a lot of us. And then there was the nurse who died recently,
19 (Redacted), who didn't really know what to do, how to survive. It was the first
20 time they were in the *bush. They were in Mongbwalu, he had worked there for
21 a long time. Well that's just a few examples. But there were a lot of us. I have just
22 given you four or five names of people in the bush, but there were an awful lot of
23 people, intellectuals, people from all walks of life. *The day we left Liseyi, we were
24 with Abushu together. He, like the others, walked to North Kivu.

25 Q. [16:10:01] Sir, did you hear anything about the situation in Buli when you were

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 in Gutsi, and, if so, what did you hear?

2 A. [16:10:26] Yes. Thank you for the question. When we were in Gutsi, we heard
3 about the situation in Buli. (Redacted)

4 (Redacted). *At that time, Gutsi was a bit calm. Things were happening, but not
5 like in Buli. And you wanted to know how I had heard this?

6 Q. [16:11:03] Yes, how did you hear or who told you?

7 A. [16:11:08] Well the first thing was that despite the conflict, life went on.

8 Women and children would find ways to move on. People went from Buli to Gutsi
9 and vice versa, because there were markets in both places, Buli and Gutsi. So it was
10 *first of all the market women who would give us the information. Secondly, there
11 was a radio. There were Motorola radios. (Redacted) was in charge of that. And he
12 heard everything, he listened. We didn't have any Motorolas. So he listened in to
13 enemy communications, heard who was doing what where, and so on. So that was
14 the second means.

15 Thirdly, the young people communicated among themselves. *And how did they do
16 that? Just like during the colonial period, the colonists would give you a stick like
17 that, put an envelope there, and you would run with it to the other person. Or
18 saying go and tell so-and-so in Gutsi, or vice versa, someone from Gutsi saying go to
19 Buli to tell so-and-so this, that or the other.

20 Q. [16:13:04] You said that this radio did not belong to you, who did it belong to?

21 A. [16:13:12] Please repeat your question, madam.

22 Q. [16:13:18] The radio, where did it come from?

23 A. [16:13:21] Oh, thank you for the clarification. The radio was something like
24 this, some three centimetres large -- or, 30 centimetres large and with a height of
25 about 10 centimetres. It was an apparatus that one could refer to as -- well, it was

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 like a radio set which would receive messages from other Motorola, from people in
2 Kobu, Kilo and other areas, even Ngabulo. There were people even in Sangi who
3 used the radio.
4 That radio was recovered in Mongbwalu by the youth. They were able to also
5 capture other apparatus and you would see some signals and people would throw
6 them into holes, but the signals would continue to show. So people wondered what
7 those were *and threw a lot of stones, and these spots were covered up again with soil.
8 And yes, but the Motorola base, that particular instrument or appliance was taken by
9 some youth from the place where it had been left by the UPC. They were the ones
10 who had the Motorola and that's how the transmission was able to be done. You see,
11 all the Balendu had left Mongbwalu and had gone back to Kobu, and then from Kobu
12 to Gutsi. That's how it happened that they started checking what was going on and
13 when they switched on or they touched one of the buttons they were able to hear
14 something. They pulled up an -- the antenna and were able to attach some electrical
15 cables to the antenna and then it became a base, a receptor base for the Motorola, yes.

16 Q. [16:16:07] The voices and the messages that were being exchanged, which you
17 heard, whose voices were they, who was talking?

18 A. [16:16:16] I have just told you that the Motorola was used by the enemies, UPC,
19 Hema, Rwandans, they are the ones who were communicating among themselves,
20 they were not communicating with us. But we were able to receive their information.
21 We had stolen their techniques and we were able to eavesdrop on their plan of action,
22 that is how (Redacted) informed people that on such-and-such a day this will happen,
23 please don't do this and that, and so on and so forth.

24 Q. [16:16:58] Did you yourself hear any of those messages, sir?

25 A. [16:17:02] Yes, yes, I heard some, but that was not my job. It was only when I

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 happened to be there. It was like when you are at the phonie, do you know what the
2 phonie is? Well, people would shout "Oh, go fetch such-and-such a person" and so
3 one was able to hear. And that's how I happened to hear, because I was nearby, and
4 when they would call for someone to receive information and so on and so forth I was
5 also there and I could hear.

6 Q. [16:17:31] Where was this radio kept in Gutsi?

7 A. [16:17:46] The radio was not observed as such, to use your term. I'm sorry if
8 that's what I said. But what happened is that there was a school built in thatch,
9 a primary school, and at some corner, that they had installed those sticks and it didn't
10 have to be moved again. So the radio was right next to the sticks or that tree which
11 had been pulled up, and so this was on the slopes of the hill known as -- it was -- it is
12 still towards Gutsi, but more in this area, *at Dheji; the school known as Dheji, and on
13 the tall hill called Chumbo (phon). I don't know whether this is an answer to your
14 question. It was in the school in Gutsi, a small area known as *Dheji. And there is
15 a hill, a summit there, a high point where the primary school, the *Dheji primary
16 school was located and it is in a corner of that school that someone used to work on
17 the radio and he would come to the verandah of the school and he was stuck there, he
18 was stuck there, to listen to what the enemies were saying, because it was possible for
19 them at any time to change, *and if that happened, one would have to inform people
20 and say "Go to Gutsi immediately" and then it was necessary for people to be
21 informed. And that's how we had to receive this information.

22 There was also the peace meeting and we got information about that. We got also
23 information about what women were saying when they went to fetch food in the
24 farms or when they went to the market, whether it be in Buli or in Gutsi.

25 Q. [16:20:00] Mr Witness, can you simply spell out the name of the school, the

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 school which you mentioned?

2 A. [16:20:08] Yes, it is called EP *Dheji. I don't know whether this appears, but it's
3 still in Gutsi, but behind the school there are other villages and then there is a river,
4 that's it. And so you go across the river and then you are already in Mabanga where
5 the Hema were.

6 Q. [16:20:41] Thank you, sir. You told us that the peace meeting, that's also how
7 we received it. Can you explain to us what that meeting is and how you heard
8 mention of it?

9 PRESIDING JUDGE FREMR: [16:21:00] Sorry, Ms Rabanit, I will have to interrupt
10 you, because as I told, we have to leave 4.25 and this topic I am sure will need more
11 time. So I don't want to cut you in the middle of the issue. So we will have to break,
12 break now.

13 Now let's move into open session.

14 (Open session at 4.21 p.m.)

15 THE COURT OFFICER: [16:21:31] We are in open session, Mr President.

16 PRESIDING JUDGE FREMR: [16:21:37] Thank you, court officer.

17 Mr Witness, we will have to break now, but we will continue tomorrow, 9.30. And it
18 is my duty to remind you that in the meantime till tomorrow you must not discuss
19 your testimony with anybody else. Do you understand, Mr Witness?

20 THE WITNESS: [16:22:05] (Interpretation) That's about tomorrow?

21 PRESIDING JUDGE FREMR: [16:22:11] I just said that you must not discuss what
22 you said today in the courtroom with anybody else till tomorrow. Is it clear now?

23 THE WITNESS: [16:22:25] (Interpretation) Yes, it is very clear. But I don't have any
24 opportunity to talk to anyone anyway, I am alone and I am entirely alone

25 PRESIDING JUDGE FREMR: [16:22:39] All right. That's even better from that

Trial Hearing
WITNESS: DRC-OTP-P-0121

(Private Session)

ICC-01/04-02/06

1 angle or view. So I thank you, I wish you a good evening and we see you tomorrow,

2 9.30.

3 Court usher, please assist Mr Witness to leave the courtroom.

4 And just I would like to ask for update on timing.

5 THE COURT OFFICER: [16:22:58] Yes, Mr President, the Prosecution has used so far

6 one hour 25 minutes.

7 PRESIDING JUDGE FREMR: [16:23:03] So you still have one hour 35 minutes,

8 Ms Rabanit, for tomorrow.

9 So we break now and we reconvene tomorrow, 9.30.

10 THE COURT OFFICER: [16:23:18] All rise.

11 (The hearing ends in open session at 4.23 p.m.)

12 RECLASSIFICATION REPORT

13 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,

14 the public reclassified and lesser redacted version of this transcript is filed in the

15 case.