

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing
7 Thursday, 12 November 2015
8 (The hearing starts in open session at 9.34 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: The Court is sitting in the situation of the Democratic
15 Republic of Congo in the case of The Prosecutor versus Bosco Ntaganda.
16 PRESIDING JUDGE FREMR: Thank you.
17 Now appearances starting with Prosecution.
18 MS SAMSON: Good morning, Mr President and your Honours. The Prosecution
19 today is represented by Ms Kristy Sim and Mr James Pace, both assistant trial lawyers;
20 Ms Claudine Umurungi, legal assistant; Ms Selam Yirgou, case manager; and myself
21 Nicole Samson, senior trial lawyer.
22 PRESIDING JUDGE FREMR: Thank you very much, Ms Samson.
23 Defence please.
24 MR BOURGON: (Interpretation) Good morning, your Honour. Good morning,
25 your Honours, and to all people present in the courtroom. Representing

1 Bosco Ntaganda, who is present in an adjacent room this morning, accompanied by
2 my colleague Counsel Martineau, we have Madam Rochel, William St-Michel and
3 myself Stéphane Bourgon. Thank you, your Honour.

4 PRESIDING JUDGE FREMR: Thank you very much, Mr Bourgon.

5 Now Legal Representatives of Victims, please.

6 MS PELLET: (Interpretation) Thank you very much, your Honour. Former child
7 soldiers are represented by myself, Sarah Pellet, counsel in the OPCV.

8 MR SUPRUN: (Interpretation) Good morning, your Honour. Good morning,
9 your Honours. The victims of the attacks are represented by myself, Dmytro Suprun,
10 counsel of the OPCV.

11 PRESIDING JUDGE FREMR: Thank you very much, Ms Pellet. Thank you very
12 much, Mr Suprun.

13 Ms Witness, I welcome you again. Are you feeling well today?

14 WITNESS: DRC-OTP-P-0010 (On former oath)

15 (The witness speaks Swahili)

16 THE WITNESS: (Interpretation) Yes.

17 PRESIDING JUDGE FREMR: Very well. Is my mic -- very well. The light is -- test,
18 test, test.

19 THE INTERPRETER: We can hear you in the interpreter's booth, your Honour.

20 PRESIDING JUDGE FREMR: I will try -- now it's fine.

21 So, Ms Witness, it's my duty to remind you that you are still under oath, which means
22 that like yesterday you have to speak the truth and nothing but the truth. Do you
23 understand?

24 THE WITNESS: (Interpretation) I do.

25 PRESIDING JUDGE FREMR: Very well.

1 And I would like to remind you that you should follow my guidance but you did it
2 perfectly yesterday, it means to focus on questions, to try to answer directly the
3 question put to you, also observe pauses between question and your response. But
4 you did it perfectly yesterday, so please continue in the same way.

5 And now I can hand over the floor to Ms Samson.

6 Ms Samson, you have the floor. And do you want to proceed in private or in open?

7 MS SAMSON: Open session, please, your Honour.

8 PRESIDING JUDGE FREMR: So you may proceed.

9 MS SAMSON: Thank you.

10 QUESTIONED BY MS SAMSON: (Continuing)

11 Q. Good morning, Ms Witness.

12 A. * Good morning.

13 Q. I'm going to continue today by showing you the video that we started to look at
14 yesterday. So I will start showing a sequence and I'll stop at a particular point and
15 ask you some questions about that sequence. Do you understand?

16 A. Yes.

17 MS SAMSON: For the court officer, the ERN of the video is DRC-OTP-0120-0293.

18 And if the court officer could allow the Prosecution to manipulate the video from our
19 bench, please.

20 (Viewing of the video excerpt)

21 MS SAMSON:

22 Q. Ms Witness, can you see an image on your screen?

23 A. Yes.

24 Q. At the moment we're at minute zero of this video, 00.00. Do you recognize the
25 person that you see on the screen, in the centre of the screen?

1 A. Yes.

2 Q. What's that person's name?

3 A. That's Thomas Lubanga.

4 Q. Do you recognize the person that's next to Thomas Lubanga on the left of the
5 screen in the red beret?

6 A. Yes.

7 Q. And what's that's person's name?

8 A. He's called Dekta (phon).

9 Q. Could you please repeat that name one more time slowly?

10 A. Dekta.

11 Q. Did he have any other names?

12 A. I knew him by the name of Dekta.

13 Q. Thank you. We'll continue with the video.

14 (Viewing of the video excerpt)

15 MS SAMSON: A question for the court officer: The video has no sound at the
16 moment and we would like to play it with sound, please.

17 (Viewing of the video excerpt)

18 MS SAMSON: We've stopped the video at minute 00.26.

19 Q. Do you recognize the person in the centre of the screen who was singing and
20 clapping during that sequence?

21 A. Yes, I recognize the person, but I've forgotten his name.

22 Q. Thank you. We'll continue.

23 (Viewing of the video excerpt)

24 MS SAMSON:

25 Q. Ms Witness, can you see the hill, trees and building in the background? Can

1 you tell the Court what that part of this camp was used for?

2 A. On the hill, where the mango trees are, the buildings that are there, on the left,
3 that's where we spent the night and --

4 THE INTERPRETER: On the right, corrects the interpreter.

5 THE WITNESS: (Interpretation) And on the left is where we prepared the food of
6 the recruits.

7 MS SAMSON:

8 Q. If I understood correctly, on the left you prepared food, and on the right is
9 where the recruits slept; is that correct?

10 A. Yes. Yes.

11 MS SAMSON: For the record, I had stopped the video at minute 00.52.

12 (Viewing of the video excerpt)

13 MS SAMSON: We've stopped the video at minute 01.01.

14 Q. Can you tell the Court, please, who are the people who are standing in civilian
15 clothes on the left of the screen?

16 A. They are the recruits.

17 Q. And do you recognize the building behind the recruits?

18 A. Yes.

19 Q. What was that building used for?

20 A. It was a house where the officers lived.

21 Q. Were civilians who were not recruits permitted to go to Rwampara training
22 camp?

23 A. I haven't understood the question. Could you repeat it, please?

24 Q. Certainly. Could anybody enter the Rwampara camp if they were a civilian
25 but if they were not undergoing training?

1 A. The civilians could not enter where the recruits were, they couldn't even enter
2 the camp.

3 Q. We'll continue.

4 (Viewing of the video excerpt)

5 MS SAMSON:

6 Q. I've stopped for a moment at minute 01.40. Do you see the man on the right of
7 the screen in civilian clothes? Do you know who that person is?

8 A. I've forgotten completely. But it was one of the commanders. But I've
9 forgotten his name.

10 Q. We'll continue now.

11 (Viewing of the video excerpt)

12 MS SAMSON:

13 Q. Do you -- I've stopped at minute 01.53. Do you recognize anybody in this
14 scene? In particular, the individual that's in the right of the screen next to the person
15 you identified as Thomas Lubanga.

16 A. The person who's wearing the military uniform?

17 Q. Yes. He's facing the camera. You can see his face fully on the screen.

18 A. Yes, he accompanied Thomas Lubanga. I've forgotten his role.

19 THE INTERPRETER: Could the witness be asked to repeat the last point, asks the
20 Swahili booth.

21 MS SAMSON:

22 Q. Would you please repeat the last portion that you said. You said that he
23 accompanied Thomas Lubanga and then you said something else but the interpreters
24 didn't hear.

25 A. I think he was one of the chiefs responsible for defence. I've forgotten his

1 official role. Perhaps I'll remember later.

2 THE INTERPRETER: But I've forgotten his name, corrects the interpreter.

3 MS SAMSON:

4 Q. Okay. We're going to continue.

5 (Viewing of the video excerpt)

6 MS SAMSON: I've stopped for a moment at minute 02.38.

7 Q. And when the individual in the centre of the image was clapping you could see
8 that he had something in his hand. Did you see what he had in his hand?

9 A. Yes.

10 Q. Can you tell us what you saw?

11 A. It's a Motorola.

12 Q. We'll continue.

13 (Viewing of the video excerpt)

14 MS SAMSON: We've stopped now at minute 03.05.

15 Q. Do you recognize the person who is in civilian clothes, in a blue shirt, who's to
16 the left of the individual you've identified as Thomas Lubanga?

17 A. Yes.

18 Q. Do you remember his name?

19 A. I no longer remember his name, but he was one of the commanders.

20 Q. Perhaps as we continue you'll see a better shot of his face as well.

21 We'll continue.

22 (Viewing of the video excerpt)

23 MS SAMSON: I've stopped at minute 03.42.

24 Q. Do you recognize the person in the screen -- in the centre of the screen who's
25 wearing purple civilian clothing?

1 A. Yes.

2 Q. What is that person's name, please?

3 A. It is Mzee Bosco.

4 (Viewing of the video excerpt)

5 MS SAMSON: I've stopped at minute 03.54.

6 Q. And I'd like you to focus on the three individuals in military uniform that are
7 next to the person you've identified as Mr Bosco, to his left. Do you see those three
8 people and do you recognize them?

9 A. Yes.

10 Q. Starting with the person who is closest to mister -- the person you've identified
11 as Mr Bosco, can you please tell us that person's name, the one whose arms are folded
12 across his chest?

13 A. That's Mapa.

14 Q. What was his role in the UPC?

15 A. He was one of the bodyguards of Bosco.

16 Q. And the person who's next to him, to the left, who you can only see his profile,
17 do you recognize him?

18 A. Yes.

19 Q. What was his name?

20 A. Museveni.

21 Q. What was his role in the UPC?

22 A. (Redacted)

23 Q. Did he have a particular role with Mr Bosco?

24 A. He was one of his closest.

25 Q. And the person who is next to Museveni, who has a hand in front of his face,

1 can you recognize him?

2 A. Yes.

3 Q. What is his name?

4 A. We called him by his call sign, 61-Sierra.

5 Q. Do you know any of his other names, his real names?

6 A. I didn't know his name. We just called him 61-Sierra.

7 Q. What was his role within the UPC?

8 A. He arrived. And afterwards, after the battle in Mongbwalu, he arrived with
9 Mzee Bosco.

10 Q. Did he have a particular task with Mr Bosco?

11 A. No, he was just one of his close persons. And he was there wherever he went.

12 And they spoke in their language. I didn't understand what they said.

13 Q. We'll continue with the video.

14 (Viewing of the video excerpt)

15 MS SAMSON: I've stopped at minute 04.03.

16 Q. The people on this side of the video screen, on this side of the camp in civilian
17 clothes, can you tell me what -- who they were, what they were -- what their role was?

18 A. Those are recruits.

19 Q. And can you see what they have in their hand?

20 A. I can't see very well.

21 Q. I'll play a bit more of the video and perhaps I'll stop again and you can see more
22 clearly.

23 (Viewing of the video excerpt)

24 MS SAMSON: I've stopped at minute 04.06.

25 Q. Were you able to see what they had in their hands?

1 A. Yes.

2 Q. What is it?

3 A. It's their bits of wood.

4 Q. Do you know what they used the bits of wood for?

5 A. They used them as guns.

6 Q. Are these bits of wood the same thing that you described yesterday as
7 branches?

8 A. Yes.

9 Q. We'll continue.

10 (Viewing of the video excerpt)

11 MS SAMSON: I've stopped at minute 4.24.

12 Q. Can you tell us what the songs they're singing are about?

13 A. They're singing about the Ugandans because the Ugandans don't know Lingala.

14 Q. We'll continue.

15 (Viewing of the video excerpt)

16 MS SAMSON: I've stopped at minute 06.44.

17 Q. Here we can see a number of individuals in military uniform also holding sticks.

18 What was their role? Who are they?

19 A. They are recruits who'll soon have finished their training.

20 MS SAMSON: Mr President, may we move into private session just for one or two
21 questions, please?

22 PRESIDING JUDGE FREMR: All right.

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

24 (Private session at 10.08 a.m.) *(Reclassified partially in public)

25 THE COURT OFFICER: We are in private session, your Honour.

1 PRESIDING JUDGE FREMR: Thank you.

2 Ms Samson, you may proceed.

3 MS SAMSON: Thank you.

4 Q. Ms Witness, do you see a person in military uniform holding a weapon with a
5 military hat at the far left part of the screen? The person is looking towards the
6 camera so you can see the person's face. Do you see that person?

7 A. Yes.

8 Q. Do you know who that person is?

9 A. It's Lamama.

10 Q. Do you recognize the type of weapon Lamama is carrying?

11 A. It's an SMG.

12 Q. Is she carrying anything else that you can see?

13 A. I can't see.

14 Q. We'll continue.

15 (Viewing of the video excerpt)

16 MS SAMSON:

17 Q. Ms Witness, do you remember Lamama's age?

18 A. Lamama was younger than me, but I don't know exactly how old she was.

19 MS SAMSON: Mr President, with your leave we could move back into open session.

20 PRESIDING JUDGE FREMR: All right.

21 Court officer, let's move back into open session.

22 Mr Bourgon, do you want to make your submission in private or in open session?

23 MR BOURGON: If we are still in private session, maybe it is better I do it in private
24 session.

25 PRESIDING JUDGE FREMR: Well, so let's stay in private session.

1 MR BOURGON: I was just wondering, unless I did not hear, where the Lamama
2 was identified we were not given a count.

3 MS SAMSON: Since we hadn't moved the image, from when I had stopped earlier
4 and identified the people in uniforms, I hadn't repeated it but, for the record, it
5 probably is wise for me to repeat it. Thank you. So --

6 PRESIDING JUDGE FREMR: Please.

7 MS SAMSON: -- the image stopped where (Redacted) was identified is 06.44..

8 PRESIDING JUDGE FREMR: That's it. Okay, then we now can move into open
9 session.

10 (Open session at 10.12 a.m.)

11 THE COURT OFFICER: We're in open session, your Honour.

12 PRESIDING JUDGE FREMR: Thank you.

13 Ms Samson, you may proceed.

14 MS SAMSON: Thank you.

15 We'll continue with the video. We had stopped briefly at minute 07.02 to move into
16 open session, and we'll continue now.

17 (Viewing of the video excerpt)

18 MS SAMSON: I've stopped at minute 08.05.

19 Q. Do you know, Ms Witness, what the -- do you know what the purpose is of
20 singing such songs, why it was done?

21 A. Yes.

22 Q. Can you tell us please why, why these songs were sung?

23 A. It was to boost morale. When the commander was there, it was necessary to
24 boost morale and make the troops aware.

25 Q. What were the troops supposed to be made aware of?

1 A. I don't understand.

2 Q. You had said that it was necessary to sing the songs to boost morale and to
3 make the troops aware. What does that mean, "to make the troops aware"?

4 A. Whenever there was a gathering it was necessary to sing. It was a tradition,
5 we had to sing.

6 Q. We'll continue with the video.

7 (Viewing of the video excerpt)

8 MS SAMSON: I've stopped at minute 09.04.

9 Q. And for the purpose of the record, the person who's speaking at this point,
10 what's his name?

11 A. It's Thomas Lubanga.

12 Q. What was the purpose of this talk to your knowledge?

13 A. I don't remember exactly, but he was making a speech in the presence of the
14 recruits.

15 Q. We'll continue with the video.

16 (Viewing of the video excerpt)

17 MS SAMSON: I've stopped at minute 10.54.

18 Q. There is a tall person in military uniform with a stick under his arm. Do you
19 see him?

20 A. Yes.

21 Q. Is he also a recruit?

22 A. No, it's not a recruit.

23 Q. Do you know that person's name?

24 A. I don't know his name.

25 Q. Do you know what that type of stick is used for?

1 A. Instructors had these types of stick. It's the recruits' instructors who had them.

2 Q. What did they use those sticks for?

3 A. The sticks were used for lots of different things. They could be used to salute
4 authorities or to punish recruits.

5 Q. We'll continue.

6 (Viewing of the video excerpt)

7 MS SAMSON: I've just stopped at minute 31.05.

8 Q. And I want to know if you can tell me what's happening in this scene? What
9 do you see happening?

10 A. This extract here?

11 Q. Yes. I can play a little bit more if you would like, but do you recognize what
12 you're seeing here?

13 A. Yes.

14 Q. What is it?

15 A. They are greeting the authorities who came to visit, who are leaving.

16 Q. We'll continue.

17 (Viewing of the video excerpt)

18 MS SAMSON: I've stopped at minute 31.50.

19 Q. Who are the people in uniforms who are saluting Mr Lubanga and Mr Bosco?

20 A. An instructor.

21 Q. And the people behind him who are in line?

22 A. They are the recruits who are at the end of their training. They are presenting
23 their honours.

24 Q. We'll continue.

25 (Viewing of the video excerpt)

1 MS SAMSON: I've stopped at minute 37.25.

2 Q. Do you know what's happening in this scene?

3 A. The commanders are going to go back into the vehicle in order to leave.

4 Q. Do you recognize a person in uniform, he is towards the left of the screen and

5 can you see right now that there's a white mouse icon circling that person? The

6 person is not as tall as the people next to him. You can see the person you've

7 identified as Mr Lubanga in the centre. To his left there's another man, and then

8 there's another person. Do you recognize that person?

9 A. Yes, that's one of our kadogos.

10 Q. What was his role? Who is -- what was he doing?

11 A. He was a member of the bodyguard.

12 Q. Whose bodyguard?

13 A. Mr Bosco's bodyguard.

14 Q. Do you remember his name?

15 A. I've forgotten his name.

16 Q. How old is he at that time?

17 A. I no longer remember his age, but I know that he was a kadogo. I no longer

18 remember the age. He was a kadogo.

19 Q. Was he older than you or younger than you?

20 A. He was younger than me.

21 Q. We'll continue.

22 (Viewing of the video excerpt)

23 MS SAMSON: I've stopped at minute 37.29.

24 Q. Do you know whose truck that white truck is?

25 A. That is the vehicle of Mr Bosco.

1 MS SAMSON: May I ask one question or two in private session, please,
2 your Honour?

3 PRESIDING JUDGE FREMR: All right.

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

5 (Private session at 10.54 a.m.) *(Reclassified partially in public)

6 THE COURT OFFICER: We're in private session, your Honour.

7 PRESIDING JUDGE FREMR: Ms Samson, please.

8 MS SAMSON: Thank you.

9 Q. Ms Witness, how did you arrive and leave the Rwampara training camp that
10 day?

11 A. We arrived in vehicles and we also came back on vehicles.

12 Q. (Redacted)

13 A. (Redacted)

14 Q. (Redacted)

15 (Redacted)

16 A. I no longer remember.

17 Q. Does this type of white vehicle have a name?

18 A. It was a Toyota.

19 Q. And before we complete the viewing of the video - which is not much
20 longer - do you remember where you went after this visit to Rwampara?

21 A. No, I no longer remember. It was a long time ago. It is a long time since these
22 events took place.

23 MS SAMSON: We'll continue and watch the last few seconds of the video. And for
24 that, your Honour, we can move into open session, please.

25 PRESIDING JUDGE FREMR: Court officer, let's move back into open session.

1 (Open session at 10.57 a.m.)

2 THE COURT OFFICER: We're in open session, your Honour.

3 PRESIDING JUDGE FREMR: Thank you.

4 Ms Samson, you may proceed.

5 MS SAMSON: Thank you, your Honour.

6 We'll continue and play the last bit of the video.

7 (Viewing of the video excerpt)

8 MS SAMSON: The video ends at minute 37.51.

9 Mr President, I have a few more questions unrelated to the video. We have two
10 minutes left. I'm in your hands as to whether you would like me to start with those
11 questions or do so after the break.

12 PRESIDING JUDGE FREMR: How much time are you -- maybe it would be better to
13 still continue. How much time you will need to continue with questions on video?

14 MS SAMSON: I'm finished with the video questions. I'm done with questions
15 about the video. I will seek to admit the video into evidence, and thereafter I have
16 questions for no more than 10 minutes and then my examination is finished.

17 PRESIDING JUDGE FREMR: So then I would prefer to continue, and then we will
18 just shift the break.

19 So you may proceed.

20 MS SAMSON: Certainly.

21 Your Honour, I now move to tender the video into evidence along with the transcript
22 and translation, which are items 2, 3 and 4 of the Prosecution's list of evidence.

23 The video I've already identified by ERN, it is DRC-OTP-0120-0293.

24 The corresponding transcript in Swahili is at -- it is number 2 on the Prosecution's list
25 of documents, it is at DRC-OTP-0120-0318.

1 The translation of that transcript into English is number 3 on the Prosecution's list of
2 documents at DRC-OTP-0120-0298.

3 And lastly, the translation of the transcript into French, number 4 on the Prosecution's
4 list of documents, is at DRC-OTP-0120-0335. Thank you.

5 PRESIDING JUDGE FREMR: Ms Samson, we in fact operate it with two versions of
6 video; one with French subtitles, the other one without. The ERN number of version
7 without subtitles is what?

8 MS SAMSON: It is actually the same ERN. And the subtitled version is at a
9 different page of the ERN. The subtitled version is at DRC-OTP-0120-0293, and then
10 there's an underline EX01, and underline S -- capital S and lower case b. And so that
11 is the version that we showed with subtitles. Thank you for the question.

12 PRESIDING JUDGE FREMR: Thank you.

13 Defence, your position to the request made by Prosecution?

14 MR BOURGON: Thank you, Mr President. Regarding the video itself, which is the
15 item, I guess, number 1 on the Prosecution's list, if I'm correct, we would like -- we
16 request the Chamber to delay admission into evidence of this video until the
17 cross-examination has taken place. We believe, Mr President, that we highlighted
18 the reasons why this is so, and that at the end of the cross-examination this will be
19 clearer to the Chamber.

20 PRESIDING JUDGE FREMR: I think you have already indicated that a bit.

21 So it means that your position as to the translations and transcripts is derived from
22 this, from the number 1; am I right?

23 MR BOURGON: Indeed, Mr President. However, I wish to underscore that -- the
24 issue of the translation issue.

25 The translation, issue, Mr President, I -- we informed the Chamber already some time

1 ago that we have contacted the Registrar in order to find a solution so that we would
2 be able to put in place and to abide with the guidance provided by the Chamber.
3 To this day, we have not received a response from the Registry. And we certainly
4 want to be able to verify these excerpts but we are just not in a position to do so at this
5 time because we just don't have the capacity to do so.

6 As soon as we have the capability to do so, it is certainly our intention to verify these
7 transcripts and to make sure that they can be -- that we can agree with the
8 Prosecution on these, especially the excerpts. Thank you, Mr President.

9 PRESIDING JUDGE FREMR: Give us a second, we will deliberate.

10 (Trial Chamber confers)

11 PRESIDING JUDGE FREMR: So the Chamber having had in mind the character of
12 objection already indicated by the Defence decided to postpone decision on the
13 Prosecution's request at the end of this testimony.

14 So now Ms Samson you may -- Mr Bourgon?

15 MR BOURGON: If I may, Mr President, regarding the transcript itself, there is still
16 an outstanding issue as to if the Chamber should decide at the end of the testimony to
17 consider admitting the transcript in evidence.

18 To us it is a very important issue in principle. When we do admit a transcript or if
19 we don't admit a transcript, there needs to be a purpose for doing so, especially in a
20 case like this one.

21 If we do admit a transcript into evidence, then the Prosecution must say what is the
22 purpose of admitting the transcript. The transcript in this case was not used, there
23 were some subtitles with the video itself. The Chamber decided to use the video
24 with subtitles. So there is an outstanding issue on which I would like to make some
25 arguments later on. Thank you, Mr President.

1 PRESIDING JUDGE FREMR: Well noted.

2 Ms Samson, could you then now continue with your questions within the 10 minutes
3 you promised, okay?

4 MS SAMSON: Certainly, Mr President. I will.

5 Q. Ms Witness, I have a last series of questions for you on several different topics
6 going over some of the material that you mentioned, some of the evidence you gave
7 yesterday, and I have some supplementary questions.

8 So first of all, you mentioned that when you, yourself, were in training that you had
9 to perform certain military exercises. And I'd like to know whether all of the
10 youngest of the recruits that you referred to as kadogo, could they physically perform
11 those military exercises? Was it easy for them, or was it difficult?

12 A. Yes, all of us carried out the same exercises.

13 Q. And was it -- did you note if it was particularly difficult or easy for the young
14 ones to perform those exercises?

15 A. It was difficult, whether for the young ones or the adults, but we all had to carry
16 out the exercises and we did it together.

17 Q. Would anything happen if somebody could not perform the exercises because
18 they were physically unable to do it?

19 A. If somebody couldn't carry out the exercise, then he or she was punished.

20 Q. What type of punishments would be used in that case?

21 A. They had to do press-ups, they were whipped, or they were told to roll around
22 in dirty water, do summersaults in dirty water, that sort of punishment.

23 Q. And on a different topic, you spoke to us about rapes by commanders at the
24 Rwampara training camp. Did you know of any rapes at the Mandro training camp
25 by any commanders?

1 A. Are you talking about the place where the training was carried out?

2 Q. Yes. Did you know, hear of, or witness any rapes of recruits by commanders at
3 the Mandro training camp?

4 A. Yes. It happened everywhere.

5 Q. How did you know that it happened at the Mandro training camp?

6 A. The practices were the same in all of the training camps, whether it was Mandro,
7 Rwampara or anywhere else. It was exactly the same.

8 Q. On a different -- I have several questions on different topics.

9 And, Mr President, I think it may be best to move into private session for those last
10 questions, with your leave.

11 PRESIDING JUDGE FREMR: All right. Let's move into private session, court
12 officer, please.

13 (Private session at 11.10 a.m.) *(Reclassified partially in public)

14 THE COURT OFFICER: We're in private session, your Honour.

15 PRESIDING JUDGE FREMR: Thank you.

16 Ms Samson.

17 MS SAMSON:

18 Q. Ms Witness, you spoke to us yesterday about (Redacted)

19 (Redacted)

20 (Redacted) Do you remember the names of any of the individuals (Redacted)

21 (Redacted)

22 A. I can't remember the names.

23 Q. Do you know whether (Redacted) had received military
24 training?

25 A. All of the bodyguards had already been through military training.

1 Q. Was there any specific training to become a bodyguard?

2 A. No, there wasn't.

3 Q. You spoke yesterday of soldiers smoking hemp and drinking alcohol. Did you
4 also smoke hemp and drink alcohol when you were in the UPC?

5 A. Yes.

6 Q. (Redacted)

7 (Redacted)

8 A. (Redacted)

9 (Redacted)

10 Q. Ms Witness, I want to thank you for answering my questions over the last few
11 days. I don't have any more questions for you today.

12 PRESIDING JUDGE FREMR: Before we break, I would like to put one question to
13 Ms Pellet.

14 Ms Pellet, you have already indicated that you would like to also question this
15 witness, you also indicated some area, but before asking you I would rather escort the
16 witness out.

17 So please let's move into closed session and escort witness out of the courtroom.

18 (Closed session at 11.15 a.m.) *(Reclassified entirely in public)

19 THE COURT OFFICER: We are in closed session, your Honour.

20 (The witness stands down)

21 PRESIDING JUDGE FREMR: Now the witness has left, so we now can move into
22 open session.

23 (Open session at 11.15 a.m.)

24 THE COURT OFFICER: We're in open session, your Honour.

25 PRESIDING JUDGE FREMR: Thank you.

1 And now I would like to ask Ms Pellet, who is Legal Representative of Victims, that if
2 she want, in the light of questions put to the witness by Ms Samson, to amend her
3 previous request, if yes, on what areas?

4 Ms Pellet, you have the floor.

5 MS PELLET: (Interpretation) Thank you, your Honour. Yes, I stand by my
6 request to put questions to the witness. However, in the light of the questions put by
7 the Prosecution and the answers provided by my client, I would only have questions
8 to put concerning the consequences of the harm suffered by the witness concerning
9 not only her own interests with a view to possible reparations, but also personal
10 interests of the 283 other victims that I represent who might have been subject to
11 similar crimes and suffered the consequences of said crimes as well.

12 Thank you, your Honour. Oh, I'm sorry, as regards the questions, I don't think I'll
13 need more than 15 minutes. Thank you.

14 PRESIDING JUDGE FREMR: So if I understood well, in fact, you would like to
15 focus on the item 3 from your previous request; am I right?

16 MS PELLET: (Interpretation) Yes, your Honour. And also paragraphs 4 and 5 of
17 my request because in the decision concerning the conduct of proceedings of 2
18 June 2015 you indicated in paragraph 67 that the legal representative was to inform
19 you of the possibility of putting questions concerning reparations. Thank you.

20 PRESIDING JUDGE FREMR: Now I would like to get position of the parties to that.
21 Prosecution?

22 MS SAMSON: No objection, your Honour.

23 PRESIDING JUDGE FREMR: Thank you, Ms Samson.
24 Defence?

25 MR ST-MICHEL: There is no formal objection on our side, Mr President. I would

1 just, for the record, highlight that it is item -- from my understanding, that is item 11(a)
2 of my colleague's request that she'll be addressing.

3 And, well, I just want to recall the Chamber's guidance that was issued in relation to
4 Witness P-805. So as long as consequences that will be addressed by my colleague
5 during her questions are related to the harm that was allegedly suffered by the
6 witness and other related witnesses, the Defence has no formal objection to that.

7 Thank you, Mr President.

8 PRESIDING JUDGE FREMR: Thank you. We will deliberate during the break and
9 we will render our ruling after the break.

10 Now -- sorry, Ms Pellet.

11 MS PELLET: (Interpretation) I'm sorry, your Honour. Let me clarify something;
12 it concerns paragraph A and paragraph C in 11 of my request.

13 PRESIDING JUDGE FREMR: Well noted.

14 So as I said we will deliberate on that. And we break now and we will reconvene at
15 10 to 12.

16 THE COURT USHER: All rise.

17 (Recess taken at 11.19 a.m.)

18 (Upon resuming in open session at 11.55 a.m.)

19 THE COURT USHER: All rise.

20 Please be seated.

21 PRESIDING JUDGE FREMR: We will start this session by oral ruling on the LRV
22 request to question Witness P-10.

23 Over the break we deliberated and, having heard the submissions of Ms Pellet and of
24 the Defence, we have made the following decision on the request to put questions to
25 Witness P-10 by the Legal Representative of Victims.

1 Considering the content of the testimony of the witness, the Chamber grants your
2 request Ms Pellet to question the witness, noting its previous decisions with respect to
3 the questioning of victims in this case by the legal representatives.

4 The Chamber considers that while questions by the legal representative must be
5 carefully tailored to elicit responses on the concrete harm suffered by the witness,
6 such questions may also extend to the harm suffered by other victims allegedly
7 recruited under the age of 15 years by the UPC or FPLC as long as there is sufficient
8 link with the testimony of the current witness.

9 Therefore, the Chamber finds that the witness may be questioned on the topics
10 identified in the amended legal representative's request to the extent that they comply
11 with this guidance.

12 In addition, consistent with the Chamber's guidance in relation to previous witnesses,
13 please, Ms Pellet, try not to be repetitive of any of the Prosecution questions.

14 So now, Ms Pellet, you have the floor.

15 MS PELLET: (Interpretation) Thank you, Mr President.

16 QUESTIONED BY MS PELLET: (Interpretation)

17 Q. Good morning, Madam Witness.

18 A. Good morning.

19 Q. For the requirements of the record we know each other only too well, but I'd
20 like to specify that I am your legal representative and I shall be putting a number of
21 question to you with regards to the consequences that your service within the
22 UPC/FPLC militia had on you personally. Is that all right?

23 On Tuesday, you explained that at the end of your military training you were given a
24 military uniform and a weapon and you were deployed out into the battlefield.

25 I would like to know whether you used this weapon against the enemies of the

1 UPC/FPLC?

2 A. I didn't really understand your question.

3 Q. I shall repeat it. At the end of your training you were given a weapon. And
4 did you use said weapon during the fighting?

5 A. Yes.

6 Q. Do you recall the first occasion upon which you used said weapon?

7 A. Yes.

8 Q. Could you explain to me what occurred?

9 A. On the first occasion that I used the weapon, the bullet that I shot hit somebody.
10 And I didn't feel at all good about that. It was as if the hair -- it was as if I had lost
11 all the hair on my head. I did not feel at all well.

12 Q. I thank you, Madam Witness.

13 You explained that you took part in many battles when you were within the
14 UPC/FPLC. Were you wounded during said battles?

15 A. Yes.

16 Q. Could you explain to me where you were wounded?

17 A. I was wounded on my right leg. I received a gunshot wound.

18 Q. And did you receive any treatment for this wound?

19 A. I did receive treatment, but I still feel pain in my leg today. Especially when I
20 walk for a long period of time, I feel pain in my leg.

21 Q. Could you explain to me precisely what form of treatment you received?

22 A. The bullet remained lodged in my leg. I did not receive any stitches; rather,
23 a -- a dressing was put on the wound.

24 Q. If I understand correctly, the bullet is still in your leg today?

25 A. No, the bullet was extracted.

1 Q. I thank you for that clarification.

2 You explained this morning in response to a question put to you by the Office of the
3 Prosecutor that you, yourself, smoked hemp and drank alcohol on a regular basis
4 when you were within the militia. Now, did those have -- did those practices have
5 any consequences or impact upon your health?

6 A. Yes.

7 Q. And what were they?

8 A. By virtue of the fact that I smoked, I feel pain in my rib cage and in my lungs.
9 And my lungs are not in a good state.

10 Q. And what consequences did such practices have upon you, whether it be the
11 consumption of hemp or alcohol whilst you were in the ranks of the militia?

12 A. You know, it's not a good thing to smoke hemp because it destroys your spirit.
13 And a lot of people who made use of this substance were a little bit off-kilter.

14 Q. And on what occasion did you use this substance? Were there particular
15 occasions or instances?

16 A. No, there was no moment in particular. No opportune moment to smoke
17 hemp. We would smoke it at any time.

18 Q. Thank you, Madam Witness. You explained on many an occasion that all the
19 PMF, the female soldiers, were raped by the UPC commanders, including yourself.
20 Did you benefit from any form of treatment subsequent to this?

21 A. No. To date, we have never received any treatment.

22 Q. And these rapes that you were victim of, did they have a consequence upon
23 your health and upon your life in general terms to date?

24 A. Yes.

25 Q. Could you explain this to me?

1 A. I would say that, subsequent to the rapes, I have occasional pain in my stomach.
2 Despite the medication that I have been taking, it does not stop me from feeling this
3 pain in my stomach.

4 Q. And apart from this physical pain, have there been any other forms of impact or
5 consequences upon you?

6 A. Yes.

7 Q. And what are they?

8 A. I often think about the rapes that I was a victim of. And I cannot at all forget
9 the rapes that I experienced. It is an open wound to me.

10 Q. Thank you, Madam Witness. And during your testimony you already
11 explained -- you also explained that you were in the fourth year of primary school
12 when you were forcibly enlisted in the UPC/FPLC. Now, did you return to school
13 after your demobilisation after having fled the militia?

14 A. No.

15 Q. Why was that?

16 A. I did not have the financial means to take up my schooling again. I did not
17 have any parents and there was nobody to help me go back to school.

18 Q. Madam Witness, you have just explained to us that when coming out of the
19 UPC/FPLC you never found your family members; is that correct?

20 A. (No interpretation)

21 PRESIDING JUDGE FREMR: Ms Witness. Ms Witness, I would like to move to
22 private session for this response.

23 (Private session at 12.10 p.m.) *(Reclassified entirely in public)

24 THE COURT OFFICER: We are in private session, your Honour.

25 PRESIDING JUDGE FREMR: Thank you, court officer.

1 Now, Ms Witness, you may respond to the question put to you by Ms Pellet. Or,
2 rather, maybe Ms Pellet please repeat the question.

3 MS PELLET: (Interpretation) Yes, Mr President. My question was has she seen
4 the members of her family again and she responded in the negative.

5 Q. Can you confirm this answer, Madam Witness?

6 A. No, I never saw them again.

7 MS PELLET: (Interpretation) Mr President, might we move back into open session,
8 please. I do not have any further questions regarding this matter.

9 PRESIDING JUDGE FREMR: Very well. Let's return back into open session now.

10 (Open session at 12.10 p.m.)

11 THE COURT OFFICER: We are in open session, your Honour.

12 PRESIDING JUDGE FREMR: Ms Pellet, you may proceed.

13 MS PELLET: (Interpretation) Thank you, Mr President.

14 Q. Madam Witness, and this will be my last question: How do you envisage your
15 life today? You have explained to us that you are still thinking about the events that
16 unfolded more than 12 years ago now. How do you envisage your future life?

17 A. Until today, I am alone in life. I do not have any parents, I do not have any
18 brothers or sisters. I live alone, like a bird. That's my life.

19 Q. I thank you, Madam Witness.

20 Mr President, I have no further questions for the witness.

21 PRESIDING JUDGE FREMR: Thank you very much, Ms Pellet. And I also
22 appreciate that you perfectly kept the time limit, or the estimation of time you will
23 need.

24 Now before we move to cross-examination, Ms Witness I would like just to give you
25 some additional guidance now.

1 You will be questioned by Defence. I would like to emphasise that this Court is
2 governed by the principle of fair trial, which means that both parties, both
3 Prosecution and Defence, have to be treated equally. So I would like you to respond
4 to the questions that will be put to you by the Defence in the same way how you did
5 it to questions put to you by Prosecution. Do you understand?

6 THE WITNESS: (Interpretation) Yes.

7 PRESIDING JUDGE FREMR: Very well.

8 So now -- and one announcement before Defence starts: According my information,
9 time exhausted by Prosecution, and I would like to highlight that its time does not
10 include some procedural issues, so really time covering the real questioning itself,
11 used by Prosecution was 6 hours and 23 minutes.

12 So according our rules, I would like Defence, you also use the same time and only if
13 there will be some special circumstances that you may request for some additional
14 time. So now who will be questioning the witness?

15 MR BOURGON: I will, Mr President.

16 PRESIDING JUDGE FREMR: And last remark from my part: Mr Bourgon, please
17 have in mind the special guidance the Chamber made on this concrete witness.
18 You may proceed.

19 MR BOURGON: Mr President, there is only one podium to -- to use and it's on the
20 other side, so I'm not sure if the court usher can --

21 PRESIDING JUDGE FREMR: Court officer, please assist Mr Bourgon.

22 MR BOURGON: Mr President, I -- I'm in a position already to inform the Chamber
23 that I will be seeking to use more time than the time used by the Prosecution and that
24 this request should be made in the absence of the witness. I can do it -- do so right
25 now or at the end of this session.

1 PRESIDING JUDGE FREMR: I think it will be enough to make it in the end of the
2 session.

3 MR BOURGON: Thank you, Mr President.

4 PRESIDING JUDGE FREMR: Ms Samson.

5 MS SAMSON: Just before we begin, your Honour, I know according to the
6 Chamber's decision regarding to the conduct of the proceedings, any objection to the
7 use of the documents that the Defence intends to use during cross-examination could
8 be made at the outset of the cross-examination, or should your Honours decide
9 differently, it could be made when the item is to be used.

10 So the only point I'd like to make right now is in relation to one video that was
11 disclosed to the Prosecution this morning. We were not able to access it until after
12 10 a.m. I don't have a translation of that video, which is not in English or French.
13 And according to the protocol, the Defence is required to provide one.
14 Since we were provided with that video only this morning and not 24 hours in
15 advance, I would ask that the video not be used until tomorrow so that I can have an
16 opportunity to view it if possible. Thank you.

17 PRESIDING JUDGE FREMR: Mr Bourgon, your reaction on this request or oral
18 objection?

19 MR BOURGON: Thank you, Mr President. Of course we are -- we do not agree. I
20 intend to go into the video immediately because this is what we were doing this
21 morning. So it logically flows from the Prosecution's examination-in-chief. This
22 video, we do not have a translation either because we have no resources, we're not the
23 Prosecution. So we do not have any translation for this video.
24 However, the video -- I have some submissions I can make on this video and it will be
25 better to make them in the absence of the witness, Mr President.

1 PRESIDING JUDGE FREMR: Okay.

2 Now, court officer, please we will have to move first to the regime of closed session
3 and the witness will be escorted out of the courtroom.

4 (Closed session at 12.18 p.m.) *(Reclassified entirely in public)

5 THE COURT OFFICER: We are in closed session, your Honour.

6 (The witness stands down)

7 PRESIDING JUDGE FREMR: Now let's move into the regime of open session, court
8 officer, please.

9 (Open session at 12.19 p.m.)

10 THE COURT OFFICER: We are in open session, your Honour.

11 PRESIDING JUDGE FREMR: Thank you.

12 Mr Bourgon.

13 MR BOURGON: Mr President, I guess the proper procedure would be for the
14 Prosecution to object to the use of the video. I don't know if they're only objecting to
15 the time, the timing of the use of the video, or the use itself, and then I can respond,
16 Mr President.

17 PRESIDING JUDGE FREMR: I think you -- you just indicated the -- the core of the
18 issue because, if I am not wrong, according our conduct of proceedings decision, the
19 proper time for the Defence to indicate items that are intended to be used for
20 cross-examination is at least 24 hours, which I guess in this case was not met,
21 Mr Bourgon.

22 MR BOURGON: Indeed, Mr President, it was not met. Our list of
23 cross-examination items was handed to the Prosecution last night.
24 You will recall, Mr President, that the Prosecution had indicated 10 hours for the
25 conduct of its examination-in-chief. We had no idea that the -- that the

1 examination-in-chief would conclude as early as it did.

2 Yesterday afternoon we were informed that things were progressing very quickly and
3 that it would finish earlier. So we immediately worked last night on our list of
4 exhibits. And our list of exhibit was forwarded to the Prosecution last night. The
5 exact timing, I think, it's somewhere around 9 o'clock last night. And we sent the list
6 to the Prosecution.

7 On this list appears one item, this one item is a video. And this video was uploaded,
8 in accordance with the applicable procedure, was uploaded into eCourt and a copy of
9 which was given to the Prosecution at the earliest opportunity this morning as soon
10 as we entered the courtroom.

11 If the Chamber wants me to go into the substance of the video, it is actually exactly
12 the same video as the Prosecution with, of course, one exception; and this exception
13 that it contains 10 minutes before and 10 minutes after the video which was shown by
14 the Prosecution.

15 So there's really no surprise. It is the same event that was led by the Prosecution, but
16 we have 10 minutes before and 10 minutes after and some people that -- that showed
17 up during those -- those two instances. And we intend to ask questions to the
18 witness as to who those people are, and the events that took place before and after.
19 So there's really no surprise to the Prosecution.

20 As for the issue of the translation, we just don't have one. Again, we do not
21 have -- we do not have resources to make translations. And moreover, this is only
22 an excerpt of the video, of a longer video.

23 Now, this excerpt that we intend to use, of course, we intend to use that for
24 impeachment purposes. So it is clear-cut. We informed the Chamber earlier that
25 our -- our position is that the witness was not present in Rwampara and that the

1 person that she identified in the video is not her. And this will be of assistance in
2 showing this. And as far as the -- so it's only a video for the sake -- for the purpose
3 of impeachment only. If we do seek to have it admitted at the end, and it's part of
4 the longer video, and the longer video will, according to our -- to the applicable
5 procedure, will be disclosed by the Defence when the time comes to disclose our
6 material to the Prosecution.

7 So there's, in my view, no problem in proceeding with this video. And the
8 Prosecution, of course, has re-examination. This is something, of course, that will be
9 new because it is something that will be raised in cross-examination that was not
10 raised during examination-in-chief, therefore the Prosecution will have all liberty to
11 look at the video and to re-examine at the end on those two sections which are
12 additional.

13 One last issue, Mr President, I take this opportunity to raise that: It is in fact an issue
14 that we intend to raise with the Chamber, which is the fact that we're not sure yet, if
15 we had investigators maybe we would, but we are checking into the issue that the
16 video comes from the same source. At least -- "source" maybe not the right word,
17 but it is the same video. And we wonder why is it that we have a longer video than
18 that in the possession of the Prosecution.

19 Without going into too much detail at this point in time, it's our understanding that
20 someone from the Prosecution travelled to the area and selected video material from
21 other larger video material. They selected what they wanted, but they did not select
22 this part. We are, again, looking into this. Maybe my colleague can respond and
23 offer why we have a longer video, but this is an issue for later.

24 For now, I just keep my submissions at the fact that there is no surprise, there is
25 re-examination, the witness is there and the natural flow is to move from the first

1 video this morning to our own video. Thank you, Mr President.

2 PRESIDING JUDGE FREMR: Ms Samson, in the light of some new facts mentioned
3 by Mr Bourgon, they don't have translation, they state that the substantive part is, in
4 fact, the same like video you have presented, even there are some new pieces, so do
5 you insist on your objection?

6 MS SAMSON: Yes, your Honour. I haven't had a chance to look at this video.
7 The video was disclosed at some point this morning while we were in the courtroom.
8 We were unable to open it. I made a request to the Defence to have a copy that we
9 could actually view. I was advised that sometime after 10 o'clock this morning it
10 was put in eCourt. But I think I'm entitled to take a look at that video before I make
11 a final objection or not.

12 I take what the Defence has said and I don't disbelieve the Defence, but I think it is an
13 issue of fundamental fairness that I be allowed to view it. I don't know that I will
14 have time to do that over the lunch period. I have another meeting scheduled in
15 relation to a different witness. I just can't guarantee it.

16 So my request is that the Chamber's decision is implemented and that I get 24 hours
17 to view the video, which would mean that by 10 o'clock tomorrow Mr Bourgon can
18 use the video, I would even say by 9.30. I just need some time. And it is an issue of
19 fairness and in the adherence to the Chamber's decision.

20 The issue of translation may not in the main be a big deal if the portions are limited to
21 20 minutes, as my friend has suggested. We do have the capacity to understand the
22 video. It is again an issue of whether or not the Defence is saying that they have no
23 intention of adhering to the Chamber's decision and ever providing translations when
24 that is a requirement, and when the Prosecution does it, because that's what I've
25 understood my friend to say today. It is what I've understood him to say at other

1 times as well.

2 And I leave it to the Chamber to determine how best to implement its decision, but

3 I don't think it's satisfactory that at this stage the Defence provides a video on the day

4 they intend to use it and simply say, sorry, we can't do what the Chamber's ordered

5 us to do and provide a translation of that.

6 In terms of the issue, which is not really one that's meant for today, as to whether

7 there was a larger excerpt in the Prosecution's possession, I'm not aware of that,

8 your Honour. I really do not know at this moment, but I do not believe that we

9 selected excerpts of videos and only disclosed portions. Thank you very much.

10 PRESIDING JUDGE FREMR: Mr Bourgon.

11 MR BOURGON: Thank you, Mr President. First on the issue of translation, no

12 translation is required for the purpose for which we want to use the video. Now, if

13 the -- if we were conducting the case for the Defence and we were disclosing the

14 video to the Prosecution, we would take the necessary measures by asking for the

15 necessary resources in order to have, as we have said from the beginning, an

16 independent person prepare a translation to certify this translation and to verify,

17 verify and certify, and this video will then be issued to the Prosecution.

18 This is -- the case we are in now is completely different. This is simply

19 cross-examination. It is for the purpose of impeachment. The video was shown to

20 the witness. It happens that we have a longer video and we will show pictures. We

21 don't even need any sound. And then the witness can look at it.

22 Now, my colleague insists on the 24 hours. As a matter of fact, if my colleague

23 insists, I suggest, Mr President, that we -- that we delay the proceedings until

24 tomorrow morning so that the Prosecution has time to look at the -- at the exhibit.

25 We did as quickly as we could in the circumstances. This morning we came in with

1 a CD-ROM with the video on it. There was a technical error. Immediately upon
2 being informed, we proceeded to provide a copy. They've had the video since
3 10 o'clock. It's already 12 o'clock. They've had 20 minutes to look at it.
4 And where is -- where is the prejudice when they have re-examination? It's
5 wholly -- it's completely different. If the Prosecution uses a video and we don't get
6 to see it before examination-in-chief, this is a -- this is la preuve à charge, it is
7 completely different. Now we're just talking about evidence for the purpose of
8 impeachment and evidence that will assist the Chamber in understanding whether
9 the witness was there or not at Rwampara at any given time.
10 So we don't see the problem, but we're certainly -- actually, if we decide to -- to wait
11 until tomorrow morning, then I think, Mr President, that this would be a good idea.
12 It would ensure that everything is fair and it will also allow the Defence to have a
13 much more focused examination -- cross-examination. But I leave that in the hands
14 of the Chamber, Mr President. Thank you.

15 PRESIDING JUDGE FREMR: And one question in this context, in case the Chamber
16 decides that -- allow the postponement, wouldn't it be possible to start your
17 cross-examination from a different area and wait with this issue till tomorrow
18 morning?

19 MR BOURGON: This will be very difficult, Mr President, because this is the issue
20 that we have prepared because we knew, based on the information we had, that this
21 morning we would be looking at the video as a whole, and we ended last -- yesterday
22 afternoon with that. For us, this is the issue that we've been working on. To start
23 with another issue, I could have a couple of questions, but then I would ask the
24 Chamber for leave to begin tomorrow morning with the video. Thank you,
25 Mr President.

1 PRESIDING JUDGE FREMR: I see.

2 Ms Samson first, and then Ms Pellet.

3 MS SAMSON: Thank you, Mr President. One fundamental question that comes to
4 my mind is when did the Defence collect the video because if it had it last week it
5 obviously could have disclosed this video earlier than this morning.

6 And secondly, we oppose a suggestion that this cross-examination should wait yet
7 again. That will inevitably postpone the witness's return till certainly next week.
8 And she has been here a very long time.

9 I'm simply insisting that the rules the Chamber has set out are met and it ought not be
10 to the benefit of the Defence to get extra time to conduct cross-examination by
11 violating the orders of the Chamber. Thank you.

12 PRESIDING JUDGE FREMR: And Ms Pellet now.

13 MS PELLET: (Interpretation) Yes, thank you very much, your Honour. With
14 regard to this issue I would just like to put into the record that I have not received the
15 CD. We haven't been given it at the same time that it was given to the Office of the
16 Prosecutor.

17 I represent the witnesses. And furthermore, for the needs of the transcript as well,
18 the exchanges of emails which were mentioned yesterday concerning disclosure of
19 documents is something I was not copied on, even though I represent this witness.

20 And I would wish that the Chamber would be informed thereof.

21 And where it concerns the possibility of delaying the start of the cross-examination of
22 my client, she has shown for several days -- she has pointed out the fact that her stay
23 is extremely long here and that has consequences on her children who have to be able
24 to go to school and who, for the moment, do not have the possibility.

25 I would ask you to take that into consideration if this information has not already

1 been communicated to you by the people who are responsible for communicating that
2 and who are responsible for her protection and well-being. Thank you very much,
3 your Honour.

4 PRESIDING JUDGE FREMR: Thank you as well. So because the submissions are
5 rather extensive we will need to deliberate outside of the courtroom, but I think we
6 will need 10 or 15 minutes. And we will anyway render our ruling before the
7 lunch-break, so please remain in the courtroom and we will be back in, I guess, in 15
8 minutes.

9 THE COURT USHER: All rise.

10 (Recess taken at 12.34 p.m.)

11 (Upon resuming in open session at 1.02 p.m.)

12 THE COURT USHER: All rise.

13 Please be seated.

14 PRESIDING JUDGE FREMR: The Chamber has considered the submissions and
15 now renders its ruling.

16 The Chamber notes that the video appears to have only been disclosed by the Defence
17 three hours ago. This is contrary to the Chamber's direction that such materials must
18 be disclosed 24 hours in advance of cross-examination.

19 The Chamber understands that the examination-in-chief of this witness may have
20 been shorter than anticipated and the Defence, therefore, has less notice in terms of
21 providing the documents it intends to use with this witness.

22 Nonetheless, the Chamber wishes to remind the parties of the importance of adhering
23 to these deadlines as the Chamber already emphasised on Tuesday.

24 The Chamber considers that the Prosecution must be provided with a reasonable
25 opportunity to review the content of the video.

1 For these reasons, the Chamber directs that the Defence may not use the video with
2 the witness until tomorrow morning.

3 The Defence should however proceed with its cross-examination of the witness on the
4 other topics this afternoon. The Chamber does not accept that the Defence is only in
5 a position to examine in relation to this video today, noting that the Defence has
6 estimated it will require in excess of 6 hours for its cross-examination and that it
7 should have been entirely foreseeable to it that an objection would be raised to use of
8 the video within 2 hours of its disclosure.

9 The Chamber considers the Defence's proposal to postpone the proceedings
10 completely until tomorrow morning inappropriate, particularly in light of the
11 circumstances of this witness.

12 Regarding the legal representatives access, the Chamber understands that the video is
13 now available on eCourt.

14 That concludes our ruling.

15 And we will break now and resume at 2.30 with the cross-examination.

16 THE COURT USHER: All rise.

17 (Recess taken at 1.05 p.m.)

18 (Upon resuming in open session at 2.35 p.m.)

19 THE COURT USHER: All rise.

20 Please be seated.

21 PRESIDING JUDGE FREMR: As I have already indicated, we will this afternoon
22 continue with testimony of our witness, P-10, concretely with her cross-examination
23 by Defence.

24 So Mr Bourgon, you have the floor.

25 MR BOURGON: (Interpretation) May it please the Court.

1 QUESTIONED BY MR BOURGON:

2 Q. Good afternoon, Witness.

3 A. Good afternoon.

4 Q. Witness, I listened to your examination-in-chief with a great deal of attention,
5 and I have a number of questions to put to you in search of clarification to the
6 responses you've provided.

7 Let me introduce myself first and foremost. My name is Stéphane Bourgon, and I
8 am counsel representing Bosco Ntaganda. You will recall that we met, I believe, last
9 week, did we not?

10 A. Yes.

11 Q. And on that occasion, I was in the company of my colleague, who is also
12 counsel, by the name of Isabelle Martineau. Do you remember her being present?

13 A. Yes.

14 Q. And today I am in the company of two of my colleagues; I have Madam
15 Berta Casas Rochel and also William St-Michel by my side, and together we represent
16 the accused, Bosco Ntaganda, in this case.

17 Now, the first question that I would like to put to you, (Redacted)

18 (Redacted)

19 (Redacted)

20 PRESIDING JUDGE FREMR: Mr Bourgon, we have to move into private session, so
21 please hold on.

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

23 (Private session at 2.38 p.m.) *(Reclassified partially in public)

24 THE COURT OFFICER: We are in private session, your Honour.

25 PRESIDING JUDGE FREMR: Thank you.

1 You may proceed, Mr Bourgon.

2 MR BOURGON: Thank you, Mr President. Of course I will endeavor to stay in
3 public session as much as we can. And by all means, Mr President, if I forget, don't
4 hesitate to stop me. I will do my best to remember.

5 PRESIDING JUDGE FREMR: Just an explanation from my part, I have been several
6 times -- the Chamber has been requested to redact any question concerning fact or
7 revealing fact that the witness (Redacted)

8 (Redacted)

9 (Redacted) It was my reason for doing that. So
10 you may proceed.

11 MR BOURGON: Thank you, Mr President. (Interpretation)

12 Q. (Redacted)

13 (Redacted)

14 (Redacted)

15 A. (Redacted)

16 Q. (Redacted)

17 (Redacted)

18 A. (Redacted)

19 Q. (Redacted)

20 (Redacted)

21 A. (Redacted)

22 Q. (Redacted)

23 (Redacted)

24 A. (Redacted)

25 Q. (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

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14 Page 43 redacted – Private session.

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1 A. (Redacted)

2 THE INTERPRETER: Says the witness in French.

3 MR BOURGON: (Interpretation)

4 Q. And by virtue of the time spent in the UPC, you know how it's organised. Was
5 there a unit that you were a member of specifically?

6 A. Well, I would say that I was a member of the UPC. I don't know which unit it
7 was, as such. Most of us had not been school. How could we have been in a
8 position to know which unit it was?

9 Q. And who was your hierarchical superior at that moment in time, Witness?

10 A. What superior?

11 Q. (Redacted)

12 (Redacted) You, as a member of the UPC, who was your superior?

13 A. We had a battalion commander whose name I no longer recall now.

14 Q. And where was your battalion located?

15 A. It was based at (Redacted).

16 Q. Could you assist us in providing us with some of the names of the officers who
17 were located at the same location as your battalion?

18 A. I have no names to provide you with because I no longer recall. A few years
19 have passed. (Redacted)

20 (Redacted)

21 Q. Witness, we have already heard this response. I am just merely attempting to
22 ascertain who you were employed by in the (Redacted)

23 PRESIDING JUDGE FREMR: Ms Samson.

24 MS SAMSON: Yes. Your Honour, I believe that question was already answered.

25 "I have no names to provide you with because I no longer recall."

1 PRESIDING JUDGE FREMR: Mr Bourgon.

2 MR BOURGON: Mr President, on multiple occasions my colleague allowed the
3 witness to refresh her memory and to think about it. It's part of what we're trying to
4 do with this witness, to go slowly, and to give her a chance, to think and to come up
5 with answers.

6 On numerous occasions, she came back with answers after saying "I don't remember,"
7 she provided other answers. I'm just trying to go slowly so that we can proceed and
8 get some information from the witness.

9 PRESIDING JUDGE FREMR: In this case, I see some different. But generally, you
10 are right, but in this case the objection is sustained. And as to the pace, please try to
11 be a little bit slower, to observe a bit longer pauses because sometimes there is a slight
12 overlapping between your question and the translation for us of witness's response.
13 Thank you.

14 MR BOURGON: Thank you, Mr President. (Interpretation)

15 Q. Witness, how many people were there in your battalion in (Redacted)

16 A. The battalion comprised three companies. There was only one battalion
17 present there. A battalion comprises three companies.

18 THE INTERPRETER: Correction from the English booth: It was not (Redacted), it
19 was (Redacted)

20 MR BOURGON: (Interpretation)

21 Q. And how long did you spend with this battalion (Redacted)
22 (Redacted)

23 A. I no longer recall. (Redacted) I do not know
24 exactly how long.

25 PRESIDING JUDGE FREMR: Ms Witness, I think in the case that you are not

1 absolutely sure, it is not necessary for you to give exact response, but at least you
2 should try to say approximately 2 months, 4 months, you know? So to say "I don't
3 remember," it's too easy. So if at least you know something, or if you are able to give
4 at least some partial response, you should try to do it.

5 So as to the estimation of time, if you are not sure about the exact time, don't say
6 "I don't remember," if you at least have some idea. And please try to make some
7 estimation. You can say "I am not sure, but I would say it was roughly 2 months,
8 half of the year," something like that because it would be very helpful even for the
9 Chamber.

10 Mr Bourgon, you may proceed.

11 MR BOURGON: Thank you, Mr President. I will just say my question again just to
12 ensure that the witness is given a chance to respond. (Interpretation)

13 Q. Witness, approximately how much time did you spend at (Redacted)
14 (Redacted)

15 A. I said that I no longer recall. I am not going to venture to say something that I
16 am not certain about.

17 Q. Witness, at a later stage I shall return with information that you furnished on a
18 number of occasions when you were questioned by representatives of the Office of
19 the Prosecutor. I believe that you will agree with me when I say that you went to
20 (Redacted) after the training that you claim to have followed in Rwampara; is
21 that correct?

22 A. That is not correct.

23 Q. So tell us where we can situate in time the training in Rwampara, the battalion
24 in (Redacted) and the time at which you (Redacted)
25 (Redacted)

1 A. The training in Rwampara was military training. It was after the battle that I
2 returned to (Redacted).

3 Q. And which battle are you referring to, Witness?

4 A. Well, when we left Rwampara, we went to the front; and subsequently, I
5 returned to my battalion in (Redacted).

6 Q. So after the military training that you claim you followed in Rwampara, you
7 went to the front. Now, where did you go to the front, to the best of your
8 recollection?

9 A. I have forgotten the name of the locality.

10 Q. A little later on I'm going to help you with information that you provided to the
11 representatives of the OTP, but for the time being I'm going to come back to the
12 organisation (Redacted)

13 (Redacted)

14 (Redacted)

15 A. (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. (Redacted)

19 A. (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. (Redacted)

23 A. (Redacted)

24 (Redacted)

25 Q. (Redacted)

1 A. (Redacted)

2 Q. (Redacted)

3 (Redacted)

4 A. (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. So four platoons make up a company; is that correct?

8 A. Four platoons make up a company and a half.

9 Q. Now, if I base myself on your figures --

10 THE INTERPRETER: Message from the Swahili booth: Could the witness please
11 be requested to repeat the last part of her answer. Apologies.

12 PRESIDING JUDGE FREMR: Ms Witness, could you kindly, if you remember,
13 repeat the last part of your response because it was not captured by the Swahili
14 interpreters. If not, Mr Bourgon could repeat his question.

15 THE WITNESS: (Interpretation) I did not hear the last answer.

16 PRESIDING JUDGE FREMR: So I think the best solution, Mr Bourgon, please repeat
17 your question.

18 MR BOURGON: Thank you, Mr President. (Interpretation)

19 Q. Witness, you said that four platoons comprising three sections each make up a
20 company and a half; is that correct?

21 A. Could you please repeat? I didn't quite grasp what you said.

22 Q. I shall go stage by stage, Witness. One section comprises 12 soldiers; is that
23 correct?

24 A. Yes.

25 Q. And three sections makes up a company; is that correct?

1 A. No. Three sections make up a platoon.

2 Q. That's my mistake, Witness. I do apologise. Three sections do make up a
3 platoon, that is correct; is it not?

4 A. Yes.

5 Q. And if I have understood correctly, (Redacted)

6 (Redacted) is that correct?

7 A. Yes.

8 Q. (Redacted)

9 A. Please repeat your question. I didn't quite grasp it.

10 Q. (Redacted)

11 (Redacted)

12 (Redacted)

13 A. (Redacted)

14 Q. (Redacted)

15 (Redacted)

16 A. (Redacted)

17 Q. (Redacted)

18 (Redacted)

19 A. (Redacted)

20 Q. (Redacted)

21 A. (Redacted)

22 (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 A. (Redacted)

1 (Redacted)

2 Q. (Redacted)

3 A. (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. (Redacted)

9 (Redacted)

10 A. (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. Could you help us by giving us a date concerning the fighting with
14 the -- against the Ugandans? When did this occur?

15 A. I don't recall the exact date, but if you can remember the period where there was
16 fighting against the Ugandans, that's when it was. It was common knowledge.
17 I don't remember the exact date.

18 Q. And the date of the fighting against the Ugandans, you answered a question put
19 by Prosecution, you said it was after your visit to Rwampara; is that not correct?

20 A. That's not the way I answered. The visit to Rwampara happened before we
21 fought against the Ugandans. The questions were put concerning Mongbwalu.

22 Q. According to the answers you gave, your visit to Rwampara, according to your
23 testimony, was between Mongbwalu and the fighting against the Ugandans; is that
24 not correct?

25 A. You're complicating things for me. I don't even understand what you're

1 saying.

2 Q. I will take things slowly, Witness. (Redacted)

3 (Redacted) Do you remember

4 having said that?

5 A. Yes.

6 Q. According to your testimony that visit occurred before the fighting against the

7 Ugandans; is that not correct?

8 A. Please ask the question again.

9 Q. Certainly, Witness. The visit to Rwampara that you testified about, it occurred
10 before the fighting against the Ugandans; would you agree with that?

11 A. Yes.

12 Q. And that visit occurred after the events in Mongbwalu; is that not correct?

13 A. Please repeat your question. I didn't follow.

14 Q. Certainly. According to your testimony, (Redacted)

15 (Redacted) you know which visit I'm referring to.

16 Did that visit occur before or after Mongbwalu?

17 A. The visit occurred after the fighting in Mongbwalu.

18 Q. Before I move to the next set of questions, I'd would like to confirm a number of
19 things with you, Witness, as regards the information that you provided to the
20 Prosecutor over the last few years.

21 I'll begin with the very first time when you met the representatives of the Office of the
22 Prosecutor. According to the information I have available to me, that first meeting
23 occurred on (Redacted). Do you recall that meeting?

24 A. You know full well that what happened in (Redacted) goes back a long time. That
25 was the first time that I met the Office of the Prosecutor. It's a long time ago that I

1 met the people from the OTP.

2 Q. I fully understand, Witness. What I'm trying to establish with you is that the
3 first time that you met the representatives of the OTP was in (Redacted) and, on that
4 occasion, you made a written statement. Do you recall that?

5 A. Yes, I remember.

6 Q. Do you remember that that statement was preceded by a number of meetings
7 over a period (Redacted) Do you remember that?

8 A. I remember.

9 Q. Do you also remember that in the course of those interviews you were told how
10 important it was to tell the truth; is that not correct?

11 A. Yes.

12 Q. And at the end of those meetings, there was somebody who read out to you or,
13 rather, translated into Swahili the statement that you had made. Do you remember
14 that?

15 A. Yes.

16 Q. So you had the opportunity to make corrections to that statement? Back
17 in (Redacted), you were given that possibility then, were you not?

18 A. I really don't understand.

19 Q. I'm going to read one sentence from the statement to you. I'm going to quote
20 from the statement itself. This is document DRC-OTP-0126-0122. The date of the
21 document is (Redacted). And I'm going to refer to page 00126-0142.

22 Witness, I come back to you and I'm going to read something to you here:

23 "I solemnly and truthfully declare that the information in this statement that I have
24 re-read in person are a correct reflection of my hearing of the (Redacted)
25 (Redacted)

1 Do you remember having seen that paragraph?

2 A. Yes, I know. I had an interview with the investigators.

3 Q. And on that occasion you had the opportunity to answer all of the questions put
4 to you by the investigators, did you not?

5 A. Yes.

6 Q. To the best of your recollection, explain to us what happened on the last day
7 when you had an interpretation into your language, Swahili, of the statement that you
8 had made. How did that actually happen?

9 A. I don't know how to answer you.

10 Q. Did someone read your statement out to you, or did someone explain to you
11 what it contained?

12 A. Whenever there was an interview, the document was read to me.

13 Q. I'm going to read a paragraph to you from page 00126-0143. We're in private
14 session and I'm referring to paragraph 4, and I'll read it to you. Your name is given.
15 (Redacted) has confirmed that the facts and events related during the hearing,
16 as translated by myself, are the truth as she knows it and according to her recollection,
17 and consequently has signed in the relevant space."

18 Do you remember that you confirmed the facts and events, that this was actually
19 translated to you in your language?

20 A. Yes.

21 Q. There's a second document I'd like to look at together with you. Do you
22 remember having made a request to participate in the proceedings in the Lubanga
23 case? Do you recall that?

24 A. I do remember.

25 Q. Here I'm referring to document, and this is for the purposes of the transcript,

1 DRC-OTP-0206-0255.

2 Witness, explain to us how you came to make that request to participate.

3 A. I don't know if -- I have to explain to you what exactly is the request?

4 Q. Do you remember having made a request to participate in the trial proceedings
5 in the Lubanga case? Do you remember that?

6 A. Yes.

7 Q. In that request, you provided information concerning the events that occurred
8 in 2002-2003. Do you remember that?

9 A. Yes.

10 Q. Who was it who accompanied you when you made that request?

11 A. I don't understand.

12 Q. Where did you make that request?

13 A. What request?

14 Q. I'm talking about the request to participate in the proceedings in the Lubanga
15 case. Do you know which request I'm talking about?

16 A. Yes. (Redacted)

17 (Redacted) I can't even remember that now.

18 Q. For the time being, Witness, I'm trying to establish together with you which
19 documents concern you, and then I will have a number of questions to put to you.
20 In the Lubanga case there was this document, and you filled it in exactly where?

21 A. I was in (Redacted).

22 Q. Were you on your own or did somebody accompany you?

23 A. When I filled that document out I was in (Redacted). I don't really know what it is
24 you're trying to find out in addition to that.

25 Q. I'd like to know whether you did that on your own or together with somebody

1 else?

2 A. I filled the document out in the company of the investigators from the Office of
3 the Prosecutor, and we were in (Redacted).

4 Q. As far as the content of the document is concerned you are the one, are you not,
5 who gave that to the investigators of the Office of the Prosecutor?

6 A. I don't understand.

7 Q. In the document I have before me the content is content you provided, is it not?

8 A. If it's a document that concerns me, then I am the one who said it.

9 Q. When it came to signing the document, did you have the opportunity to make
10 changes, to check that it was indeed your testimony?

11 A. Yes.

12 Q. I will simply read one sentence to you, but I'll come back at a later stage. And I
13 am quoting from page 0206-0263. It's section D, question 1. And the question reads
14 as follows: "Please give a detailed description of the alleged crime or crimes that are
15 behind this request." In brackets it says "Please explain in detail what happened to
16 you."

17 I'm just going to read out the first line of that document where it says, "My forced
18 enlistment by the UPC. I was scarcely 15 years old."

19 Do you remember having given that information?

20 A. Yes.

21 Q. Witness, when you say the investigators of the Office of the Prosecutor, do you
22 know anyone by the name of (Redacted). Does that name mean anything to
23 you?

24 A. Yes.

25 Q. Who is it?

1 A. It's somebody who works at the ICC.

2 Q. Someone who works at the ICC. Is that the same as an investigator, or is it
3 somebody different?

4 A. I don't know because I don't work at the ICC.

5 Q. Earlier on you said that you were accompanied by investigators from the Office
6 of the Prosecutor. That person, (Redacted) was he one of the people who were
7 with you?

8 A. In fact, it's not (Redacted); it's through, in fact, (Redacted) that I met
9 the investigators from the Office of the Prosecutor. He's the one who came to get us.

10 Q. How did things actually occur when he came to get you?

11 A. I don't remember. It was a long time ago now. It was a long time ago when
12 they came to get us.

13 Q. Where were you when he came to get you?

14 A. I was in (Redacted) when (Redacted) came to get me.

15 Q. And where were you living in (Redacted) at that time?

16 A. Why do you want to know where I lived in (Redacted)? I can't tell you.

17 Q. Witness, we are in private session, so everything that is stated here remains
18 confidential. And it's important to know where you lived at that time.

19 A. I can't give you the address. I just can't.

20 Q. Were you living in a private residence, or were you living in another place?

21 A. When I was in (Redacted), I was not yet (Redacted). I had already left
22 the army. So please put this item to one side because it recalls a lot of things,
23 reminds me of a lot of things.

24 Q. Witness, from the moment in time when you (Redacted) and the
25 moment when you left the army, in whose company were you and with whom were

1 you residing?

2 A. When I left (Redacted), I was in the company of my friends and I was living (Redacted)

3 (Redacted). At that moment in time, I had not yet found my family

4 member again, that is to say the younger sister of my mother.

5 Q. And (Redacted) any other individuals like

6 yourself?

7 A. I had met her previously when I was in the army (Redacted)

8 Q. And what was (Redacted) doing in the army?

9 A. No, I said that she met me whilst I was in the army. I didn't say that she was in
10 the army.

11 Q. And what (Redacted)

12 A. I can't provide you with (Redacted).

13 PRESIDING JUDGE FREMR: Ms Samson.

14 MS SAMSON: Objection, your Honour, on the basis of relevance.

15 PRESIDING JUDGE FREMR: Mr Bourgon, could be, but please because we have the
16 witness present, could be more specific but it still remain in some general, otherwise
17 we should take the witness out. What should be the potential relevance of this kind
18 of questioning?

19 MR BOURGON: To explain the relevance it would be necessary for the witness to
20 exit the courtroom. So I prefer to move to my next question and maybe this will
21 clarify the matter.

22 PRESIDING JUDGE FREMR: But still, Witness, I don't think there is any real reason
23 you can at the moment refuse to answer this question, so please answer the question
24 put to you by Mr Bourgon.

25 THE WITNESS: (Interpretation) I am here. If there are any questions concerning

1 me, he can put them to me, but with regard to the period after my leaving the army, I
2 do not want him to put questions to me in this regard.

3 PRESIDING JUDGE FREMR: Madam Witness, it's not up to you to decide whether
4 anything is relevant for this Court or not. I told you respond this question.

5 THE WITNESS: (Interpretation) Could you please put the question to me again.

6 MR BOURGON: (Interpretation)

7 Q. Witness, you made mention of the fact that (Redacted)
8 (Redacted). My first question is whether she took any other young
9 women (Redacted)

10 A. I said as follows: (Redacted) And before going to
11 (Redacted) I went to other locations. I went to the centre.

12 Q. When you say "the centre," Witness, are you talking about (Redacted) centre?

13 A. Yes.

14 Q. And when you were at (Redacted) centre, and I'm going to spell that for the
15 stenographers – (Redacted) centre, where is this (Redacted) centre located?

16 A. The (Redacted) centre is in (Redacted). I no longer remember the name of the street
17 because I left (Redacted) a long time ago.

18 Q. And when you were at (Redacted), was it -- was it on
19 that occasion that you were residing with (Redacted) other young women?

20 A. I didn't quite grasp what you said.

21 Q. Certainly. I shall repeat my question. Witness, you know (Redacted), do you
22 not?

23 A. Yes, I do know (Redacted).

24 Q. And (Redacted) did she not?

25 A. Yes.

1 Q. And you know (Redacted), don't you?

2 A. Yes.

3 Q. And (Redacted)

4 A. Yes. (Redacted)

5 (Redacted)

6 Q. And you also know (Redacted)?

7 A. Yes.

8 Q. And I have a fourth name, (Redacted)

9 (Redacted)

10 A. (Redacted)

11 PRESIDING JUDGE FREMR: Mr Bourgon, do we really need to have a full list of
12 room-mates of -- I probably see the direction you would like to get, but please maybe
13 go just to the core.

14 MR BOURGON: Thank you, Mr President. (Interpretation)

15 Q. And, Witness, who are said individuals? (Redacted)

16 (Redacted)

17 A. They are my friends.

18 Q. And were these friends at a given point in time in the army?

19 A. No, not all of them.

20 Q. And which of these three individuals were in the army?

21 A. (Redacted)

22 Q. I shall be moving on to another document now, Witness, a document that I have
23 before me dating back to 2008. And this is a document in which you provide
24 additional information to individuals from the ICC. The document I am referring to
25 is document DRC-OTP-0206-0279. And I will correct the date; it is, in fact, dated

1 (Redacted)

2 Mr President, this is in fact the follow-on from the preceding document.

3 Witness, this is a document in which you provide additional information concerning
4 your situation, or the events that you experienced in 2002-2003. Do you recall
5 having provided this document in the presence of Madam Sarah Pellet and Madam
6 Paolina Massidda. Do you recall this?

7 A. Yes.

8 Q. And the information contained in this document, Witness, is indeed information
9 concerning yourself, Madam Witness?

10 A. Yes.

11 Q. I shall move on to another event, Witness, dating back to (Redacted) This
12 is a document that was disclosed to us by the Prosecution, and it is in fact an
13 interview conducted by the representatives of the Office of the Prosecutor. Do you
14 recall having given an interview in (Redacted) to representatives of
15 the Office of the Prosecutor?

16 A. Yes.

17 Q. And, Witness, I can see on this document that you were represented by counsel,
18 counsel by the name of Paolina Massidda. Do you recall this?

19 A. Yes.

20 Q. I will not read to you all the names of those who were present, but you will
21 recall that your current counsel, Sarah Pellet, was also in attendance, was she not?

22 THE INTERPRETER: Message from the Swahili booth, Mr President: The Swahili
23 interpreter did not hear the response provided by the witness.

24 PRESIDING JUDGE FREMR: Mr Bourgon, please could you kindly repeat the
25 question because the Swahili booth have not captured the response of the witness.

1 MR BOURGON: Monsieur le Président, je pense que -- I believe the answer was yes.

2 I think it just was not heard.

3 PRESIDING JUDGE FREMR: Can you confirm, Ms Witness. Did you answer yes --

4 THE WITNESS: Ndiyo.

5 PRESIDING JUDGE FREMR: Fine, then you can proceed.

6 MR BOURGON: Thank you, Mr President.

7 THE INTERPRETER: Answer: Yes.

8 MR BOURGON: (Interpretation)

9 Q. You will recall that on this occasion, and we are in the year (Redacted), the interview
10 was recorded on video and also recorded on a tape?

11 A. Yes.

12 Q. And you will recall that there were a number of sessions, in fact there were six
13 sessions, six different sessions during which you answered questions, did you not?

14 A. Yes.

15 Q. And I take it for granted that you were told at the time just how important it
16 was to tell the truth, were you not?

17 A. Yes.

18 Q. And you were told at the time -- well, you were given the opportunity to correct
19 anything that you had said, were you not?

20 A. Yes.

21 Q. I shall move on to another event of interest to me that will enable me to put
22 questions to you subsequently. This is your testimony in the Lubanga case. Do
23 you recall having testified in the Lubanga case?

24 A. Yes.

25 Q. You recall that when you testified your testimony lasted for two days, did it

1 not?

2 A. Yes.

3 Q. And the date that I have before me is the (Redacted)

4 (Redacted). Does that ring a bell?

5 A. Yes.

6 Q. And at the outset, before you testified, do you recalled having taken the oath?

7 A. Yes.

8 Q. After your testimony, do you know what happened to Mr Lubanga?

9 Do you know what the result of the trial of Mr Lubanga was?

10 A. Yes.

11 Q. And for the record (Speaks English) I will quote the number,

12 DRC-OTP-2055-0633. And the last page of this document at the end of the second

13 day, DRC-OTP-2055-0884.

14 (Interpretation) Witness, some time, a short while after your testimony in the

15 Lubanga case, I provided you with a date a little earlier, it was the month of

16 (Redacted) you once again met with representatives of the ICC according to the

17 information I have, and that was on (Redacted). Do you recall that?

18 THE INTERPRETER: The (Redacted) correction from the interpreter.

19 THE WITNESS: (Interpretation) Yes.

20 MR BOURGON: (Interpretation)

21 Q. And that took place in (Redacted) did it not?

22 A. Yes.

23 Q. And this interview was not recorded on video or CD, do you recall?

24 A. Yes.

25 Q. And this interview was --

1 PRESIDING JUDGE FREMR: Ms Samson, please.

2 MS SAMSON: Just to be clear for the witness, the interview was at least audio
3 recorded. I don't have at hand whether it was video recorded, but I have the
4 transcript which suggests audio recording, so I wondered if my friend wanted to
5 clarify.

6 PRESIDING JUDGE FREMR: Mr Bourgon.

7 MR BOURGON: My colleague is right, Mr President. I do have a transcript of at
8 least an audio transcript. The number of this transcript, DRC-OTP-0221-0375.

9 (Interpretation)

10 Q. Do you remember having given this interview, Witness?

11 A. Yes.

12 Q. And do you remember having answered various specific questions put to you
13 by the investigators of the OTP, do you not?

14 A. Yes.

15 Q. So I shall correct in French, I don't know whether you heard the translation, but
16 this interview was audio recorded. Do you recall this?

17 A. Yes.

18 Q. Now, what is important for me, Witness, is that it was explained to you just
19 how important it is for you to tell the truth, as is the case for any other statement; is
20 that not correct?

21 A. Yes.

22 Q. And at the end of the interview you were provided with the opportunity of
23 bringing any corrections to something that you might not have been in agreement
24 with; is that correct?

25 A. Yes.

1 MR BOURGON: Mr President, there is a second transcript also for this interview,
2 and the second number is DRC-OTP-0221-0389.

3 Q. Witness, I'd like here to refer to -- (Interpretation) Witness, I would like to
4 refer you to an excerpt of the judgment in the Lubanga case concerning you, and
5 I would like to know whether you were informed of the paragraph that I'm going to
6 read to you.

7 THE INTERPRETER: The interpreter does not have the document.

8 PRESIDING JUDGE FREMR: Mr Bourgon, you would like to read this passage
9 which is relating credibility of the witness, or what passage?

10 MR BOURGON: The -- it's a -- one of the conclusions reached by the Trial Chamber
11 in the Lubanga proceedings when the judgment was rendered.

12 PRESIDING JUDGE FREMR: Give me a second.

13 Ms Samson.

14 MS SAMSON: Yes, Mr President. I don't see the relevance of the questioning.
15 This Bench is an entirely new Chamber who will reach its own conclusions in relation
16 to the credibility of this witness and I don't think it is appropriate for this witness to
17 be read out an extract of a Chamber's decision. For the purposes of what, asking her
18 whether she agrees with it? Thank you.

19 PRESIDING JUDGE FREMR: Give us a second. I would like to confer with my
20 colleagues.

21 (Trial Chamber confers)

22 PRESIDING JUDGE FREMR: So Mr Bourgon, if your idea is to quote this passage in
23 which Trial Chamber I takes its position to the credibility of the witness, we will not
24 grant this, or we will not allow this quotation because, in our opinion, we are free to
25 evaluate the credibility of this witness on the basis of testimony. We will have the

1 chance to listen to and we are, any aspect, we are not bound by the conclusion made
2 by Trial Chamber I. So please omit to quote this.

3 MR BOURGON: Thank you, Mr President. I'm not looking to cite any factual or
4 any conclusions, but there is an, what I call --

5 PRESIDING JUDGE FREMR: I really don't -- we simply don't want to -- we don't see
6 any relevance, we only can see some of the risk of negative effect of the testimony if
7 you would like to quote this characteristics. We don't see any relevance, so please
8 forget about that.

9 MR BOURGON: Thank you, Mr President. (Interpretation)

10 Q. Witness, were you already informed of the fact that your status as a participant
11 in the proceedings had been withdrawn?

12 A. I didn't follow what you said.

13 Q. You have been accompanied for a long time now by counsel and today this
14 individual is Madam Sarah Pellet. Now, the question I'm putting to you is whether
15 you were informed that your status as a participant in the proceedings was to be
16 withdrawn?

17 A. Could you explain this to me a little further. I haven't understood.

18 Q. You will request that you made -- you will recall that you made a request to
19 participate in the Lubanga case to take part in the proceedings in your capacity as a
20 victim, and earlier we saw or read about this document in which you made such a
21 request and you were certainly informed of the fact that this document had been
22 received, were you not?

23 PRESIDING JUDGE FREMR: Ms Samson, please.

24 MS SAMSON: Thank you, Mr President. I rise to make the same objection. The
25 withdrawal of the victim participation was based on the decision of the Chamber, so

1 it is the same issue. The witness is a participating victim in this case, and this
2 Chamber will, at the conclusion of the case, determine her credibility and eventually
3 whether or not she remains a victim going through to reparations. So I don't see the
4 relevance. I find it argumentative. Thank you.

5 PRESIDING JUDGE FREMR: Mr Bourgon, I think Ms Samson is right because this is
6 a close connection with our previous decision, so please respect it and go further.
7 But anyway, your time is almost over, so I would like you to put the last few
8 questions and to finish in 5 minutes maximum.

9 MR BOURGON: Mr President, I would like to address the Chamber without the
10 presence of the witness so I can explain.

11 PRESIDING JUDGE FREMR: You mean explain the purpose of this question?

12 MR BOURGON: I would like to -- I would like to explain to the Chamber and to
13 seek reconsideration of the Chamber's decision as to why this question is being asked
14 and what is the relevance of the question, and then the Chamber can deny it again,
15 Mr President.

16 PRESIDING JUDGE FREMR: Well, but in such a case we will anyway excuse the
17 witness because it is 4 o'clock and we can then decide tomorrow morning on
18 your -- or, reconsider our decision. So now let's move into closed session in order to
19 escort witness out of the courtroom.

20 Witness, before we do that, thank you very much for your -- today's testimony. We
21 will continue tomorrow. And please having in mind, I have to repeat this guidance
22 again, that between today and tomorrow you must not discuss your testimony with
23 anybody else. Do you understand?

24 THE WITNESS: (Interpretation) Yes.

25 PRESIDING JUDGE FREMR: Okay. Okay, now please let's move into closed

1 session and escort witness out of the courtroom.

2 (Closed session at 4.02 p.m.) *(Reclassified entirely in public)

3 THE COURT OFFICER: We are in closed session, your Honour.

4 (The witness stands down)

5 PRESIDING JUDGE FREMR: Thank you.

6 The witness has left, so now we can move -- I guess, could we move into open session,

7 Mr Bourgon? I guess that your argumentation will allow us to be in open session;

8 am I right? Is there anything that could reveal identity of the witness within your

9 argument you would like to submit now?

10 MR BOURGON: I don't think so, Mr President. I think we can go into public

11 session.

12 PRESIDING JUDGE FREMR: Then let's move into open session.

13 (Open session at 4.03 p.m.)

14 THE COURT OFFICER: We are in open session, your Honour.

15 PRESIDING JUDGE FREMR: Thank you, court officer.

16 Mr Bourgon, you may proceed with your amended objection.

17 MR BOURGON: Thank you, Mr President. I will be very brief.

18 The witness testified in the Lubanga proceedings and the date was 5 and 6

19 March 2009.

20 Further to this testimony, she was met again by the Office of the Prosecutor on 19

21 December 2009.

22 The judgment in the Lubanga proceedings was rendered on 17

23 December 2014 -- sorry, 2012. Sorry.

24 In the judgment, the Trial Chamber, not looking at the facts, not looking at anything

25 else, simply concluded that it was necessary to withdraw the right of P-10 to

1 participate in the proceedings.

2 My first question is I've been trying to get an answer as to what happened after this
3 conclusion by the Chamber, but in this case it happens that the witness, after this
4 decision, made an application to participate in these proceedings, then provided a
5 statement, which is light years further than anything she ever said before.

6 Our submission is that there is a reason why Witness P-10 suddenly added to her
7 testimony a number of the things she said today and yesterday, and that reason -- one
8 of that reason is -- is the fact that her status was withdrawn, and in order to obtain it
9 again she knew that she had to put in more information.

10 And I submit respectfully, Mr President, that this is highly relevant. And I was not
11 going to embarrass the witness in anyway, my first question was at least to establish
12 whether she had been informed of that decision, and whether any measures had been
13 taken pursuant to the Trial Chamber's decision. And based on -- based on her
14 answer, I would probably have left it there, depending on the answer.

15 But it is relevant whether she was or not informed about that conclusion in the
16 Lubanga Trial Chamber to withdraw her status to participate, and then she makes her
17 second request to participate in these proceedings, and she provides a statement with
18 a lot more information.

19 Thank you, Mr President. For these reasons, I respectfully submit that we should be
20 able to -- allowed to put the question to the witness as well as to obtain an answer
21 from the powers to be at the International Criminal Court as to what happened
22 pursuant further to the Trial Chamber's ruling in the Lubanga judgment. Thank you,
23 Mr President.

24 PRESIDING JUDGE FREMR: Ms Samson.

25 MS SAMSON: Thank you, Mr President. The Lubanga trial judgment was issued

1 on 14 March 2012.

2 And in her trial testimony, this witness indicated that she was 13 years old at the time
3 of her recruitment and she went through various events, including her recruitment,
4 battles she fought in, training that she was -- she was at.

5 She subsequently met the Office of the Prosecutor in 2015 because we wanted to
6 know more about what her -- what facts she may be able to tell us that related to this
7 case that were never asked during the Lubanga proceedings. So it is not as if the
8 new meeting with the witness was connected to her victim application in any way.

9 And the withdrawal of her victim status is entirely related to the Chamber's decision
10 not to rely on her as a witness in the Lubanga's proceedings, not being able to find
11 certain things beyond reasonable doubt including her age.

12 And I note that the Prosecution in this case is not relying on the this witness as a
13 person under 15 given certain findings in the Lubanga decision and because of certain
14 discrepancies in documentary evidence.

15 We are -- we do not -- we think she may very well have been 13, but we're not sure
16 that that can be proven beyond reasonable doubt.

17 And so the line of questioning remains irrelevant. If the Defence would like to ask
18 her if she has in anyway changed or lied on any victim application form, they're free
19 to ask that question, but doing so via this route of the Lubanga judgment, or a
20 reparations form, and whether she was advised of being taken off the list strikes us as
21 somewhat harassing to the witness and unnecessary and irrelevant. Thank you.

22 PRESIDING JUDGE FREMR: Give me a second.

23 MS PELLET: (Interpretation) Excuse me, your Honour.

24 PRESIDING JUDGE FREMR: Ms Pellet, you are too much in the corner. Please, go
25 ahead.

1 MS PELLET: (Interpretation) I'm sorry. As Maître Bourgon said several times
2 over that I was also the legal representative of the witness in the Lubanga case, I
3 cannot testify myself, but of course the judgment in Lubanga and the passage that,
4 I don't know for what reason because it is to do with another case, that Mr Bourgon
5 wanted to read to him has already been explained to my client of course.

6 PRESIDING JUDGE FREMR: So give us a second. We will just -- Mr Bourgon, you
7 want to add something? Okay.

8 (Trial Chamber confers)

9 PRESIDING JUDGE FREMR: So I think we believe that this witness may be asked
10 about her obligation as a victim, but it shouldn't be put in any connection with the
11 Lubanga judgment.

12 So, in fact, we are very close to the argumentation of Ms Samson to be brief. So
13 please take it into account. And you can just ask whether there's some difference
14 between her testimony in the previous -- in previous proceedings and now, but that's
15 it, okay?

16 MR BOURGON: Thank you, Mr President.

17 PRESIDING JUDGE FREMR: And before we break, I would like to remind two
18 things: First of all, I would like to quote from our ruling on orders on additional
19 special measures, and I would quote this part of the ruling saying that "Parties should
20 use short simple questions and language which is easy to understand avoiding legal
21 terms, long sentences and double negations" which, in my view, was not always the
22 case, especially this afternoon. But in my view, it is not only -- it means that you
23 declined from our -- from our ruling, but it also, in my view, was less productive.
24 And the second part of our ruling, I would like to highlight is this, saying that parties
25 should put questions in a non-confrontational non-pressuring manner. I think the

1 Chamber is aware of the fact that it is a little bit in controversy with the purpose of
2 cross-examination, but still until now the Chamber has good reasons to believe that
3 this witness suffered a lot in the past, that she's still heavily traumatized and,
4 according the Rules of this Court, we all have to respect that and adjust the way of the
5 questioning to that.

6 So Mr Bourgon, but it is not only message to you, it is message to all who can be
7 potentially involved in the further examination of this witness, please respect that.
8 And I would like just to emphasise that I will insist on that during the rest of the
9 testimony of this witness.

10 That's it for today. And we will adjourn and we will reconvene tomorrow at half
11 past 9.

12 THE COURT USHER: All rise.

13 (The hearing ends in open session at 4.15 p.m.)

14 RECLASSIFICATION REPORT

15 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
16 the public reclassified and lesser redacted version of this transcript is filed in the case.