

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 Monday, 2 May 2016
8 (The hearing starts in open session at 10.34 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: (Interpretation) Good morning. Yes, your Honour.
15 Situation in the Democratic Republic of the Congo in the case of the Prosecutor versus
16 Bosco Ntaganda, ICC-01/04-02/06.
17 And we are in open session, your Honour.
18 PRESIDING JUDGE FREMR: Thank you, court officer.
19 Now appearances please in usual order starting with Prosecution.
20 MS SOLANO: Good morning, Mr President, your Honours. For the Prosecution
21 this morning appear Mr James Pace on my left, assistant trial lawyer; behind him Mr
22 Eric Iverson, trial lawyer; and Ms Laura Morris, assistant trial lawyer; and on the back
23 bench Ms Selam Yirgou, case manager; and I am Julieta Solano, trial lawyer.
24 PRESIDING JUDGE FREMR: Thank you, Ms Solano.
25 Defence please.

1 MR BOURGON: (Interpretation) Good morning, your Honours. Good morning
2 to everyone here in the courtroom. Representing Bosco Ntaganda, who is present
3 today, we have Eric Cooksin-Montin, Dignité Bwiza and myself, Stéphane Bourgon.
4 Thank you, your Honour.

5 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

6 Now Legal Representatives of Victims, please.

7 MS PELLET: (Interpretation) Thank you, your Honour. The former child soldiers
8 are represented by Mohamed Abdou and myself, Sarah Pellet, OPCV.

9 MR SUPRUN: (Interpretation) Good morning, your Honours. The victims of the
10 attacks are represented by the OPCV, Anne Grabowski, associate counsel; Chérine
11 Luzaisu; and myself, Dmytro Suprun. Thank you, your Honours.

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

13 The Chamber was informed that Defence would like to address us. So, Mr Bourgon,
14 please, you have the floor.

15 MR BOURGON: Thank you, Mr President. Considering the time that we have
16 spent already this morning, I'll do this at a later time, Mr President, so that we can
17 proceed with the witness.

18 PRESIDING JUDGE FREMR: All right. Yes, good point. Just at the beginning, we
19 are very sorry for this one-hour delay that has been caused by technical shortcomings,
20 technical problems, which are unfortunately not under our control. So we will have
21 to adjust our today's schedule, so the idea of the Chamber is to sit just for two sessions
22 each two hours, which means from 10.30 till 12.30, then to have a regular break for 90
23 minutes, and then to continue from 2 to 4.

24 I guess that it will not create any problems to parties, then I would like to before we
25 call the witness, I would like to deal with a few procedural matters. First, in

1 accordance with our usual practice, the Chamber will ask Mr Suprun if he maintains
2 his application to question the witness after the Prosecution's examination-in-chief
3 will be finished and then decide upon the request, and in this regard the Chamber
4 notes that the additional item in relation to which Mr Suprun seeks to question the
5 witness communicated via email last Friday.

6 Second, the Chamber recalls decision number 1293 granting in-court protective
7 measures for Witness P-887 in the form of face and voice distortion and the use of a
8 pseudonym. The Chamber had deferred its decision on special measures until
9 receipt of the VWU's vulnerability assessment of the witness. Having received this
10 on 26 April, the Chamber finds it appropriate to order that the parties appropriately
11 adapt their questioning to the needs and capacity of the witness.

12 Having considered the VWU's assessment, the Chamber does not consider it
13 necessary for a Swahili-speaking support assistant to assist as of this time; however,
14 the VWU should ensure that appropriate support is available on standby should it be
15 required during the course of the witness' testimony.

16 As noted in its decision on protective measures, the Chamber will determine on a
17 case-by-case basis at the relevant time during the witness' testimony whether private
18 or closed sessions are necessary for hearing certain of her evidence.

19 The Chamber will also be vigilant as to the requirement for any further special
20 measures if the need arises.

21 Third, according to its email of 29 April, the Defence does not object to the use of any
22 of the documents the Prosecution may seek to use with this witness, provided that
23 applicable provisions of the decision on the conduct of proceedings are complied with.

24 At this stage the Chamber simply places this on the record.

25 Fourth, the Chamber was informed on Friday that following the oral decision of 12

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1 April contained in transcript number 79, the Prosecution lifted the redaction with
2 respect to the name contained in DRC-OTP-2090-0089 relating to this witness. The
3 Chamber notes this just for the record. Or do any of the parties wish to make any
4 further submission on this issue? I think it's not the case. Okay.
5 Then we can move to the fifth item of our agenda this morning, which is issue of
6 timing. As we already indicated on Friday and also by way of email, the Chamber
7 strongly encourages the Prosecution to complete its examination-in-chief of this
8 witness within four hours. As usual, the Chamber therefore considers the Defence
9 are to complete its cross-examination in roughly the same amount of time. It's
10 nothing new. They are principles we are trying to promote for all our proceedings.
11 Finally, I recall that we continue to sit for five hours per day starting with tomorrow,
12 today it will be just four hours because of those reasons mentioned, with a two-hour
13 afternoon session ending at 4.30 p.m.
14 So now unless the parties or participants wish to raise anything at this point, we can
15 return to the scheduled testimony. No?
16 So please, court usher, you can escort Mr Witness -- pardon, Madam Witness, into the
17 courtroom.
18 (The witness enters the courtroom)
19 PRESIDING JUDGE FREMR: Madam Witness, good morning. Can you hear me?
20 WITNESS: DRC-OTP-P-0887
21 (The witness speaks Swahili)
22 THE WITNESS: (Interpretation) Yes.
23 PRESIDING JUDGE FREMR: Very well then. On behalf of this Chamber, I would
24 like to welcome you to the courtroom. You are called to testify in the case
25 Prosecutor against Mr Bosco Ntaganda to assist our Chamber in our search for the

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1 truth. You will be asked questions both by the judges and lawyers in the courtroom
2 and in this connection I would like to guide you as follows.
3 Please listen carefully to those questions. If you don't understand, feel free to ask for
4 the question to be repeated. We want you to tell the truth and tell us only what you
5 saw, heard and sensed yourself. If you didn't see or hear it yourself, but you found
6 out some other way, then you should explain how. You may not remember all
7 details, and it doesn't matter. You may not -- please testify just on that which you
8 really remember. Don't guess. Don't make things up. There is nothing wrong in
9 saying "I don't know" or "I don't remember."

10 Do you understand all this, Madam Witness?

11 THE WITNESS: (Interpretation) Yes.

12 PRESIDING JUDGE FREMR: Very good. Madam Witness, protective measures are
13 put in place to ensure that your identity is not revealed to the public. I am aware
14 that this has already been explained to you, but let me briefly remind you that the
15 public cannot see your face today and that your voice is being disguised so that the
16 public cannot recognize it. We will all here refer to you as "Madam Witness" and
17 ensure that your name and any other information that risks revealing who you are is
18 not broadcast to the public.

19 Therefore, whenever you need to describe anything that might reveal your identity,
20 we will do so in private session so that no one outside the courtroom can hear your
21 answer. Do you understand?

22 THE WITNESS: (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: Fine. Now, Madam Witness, you will find or now
24 court officer will put it in front of you a piece of paper with the solemn undertaking.
25 Please now make your solemn undertaking to tell the truth by reading out the

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1 declaration on that piece of paper, please, Madam Witness.

2 THE WITNESS: (Interpretation) I solemnly swear that I shall tell the truth, the
3 whole truth and nothing but the truth.

4 PRESIDING JUDGE FREMR: Thank you, Madam Witness. It means that you are
5 now under oath. So you need to be aware that it is an offence within the jurisdiction
6 of this Court to give false testimony. Is it clear to you?

7 THE WITNESS: (Interpretation) Yes.

8 PRESIDING JUDGE FREMR: Fine. Now a few practical matters you should have
9 in mind. It's important to speak into the microphone, to speak clearly, and to speak
10 at a slow pace, approximately like me now. You should only start speaking when
11 the person asking you the question has finished. When a question is asked, please
12 it's very important, please count in your head to three and only then give your answer.
13 Observing such a pause is essential for us to have proper interpretation and proper
14 transcript.

15 If you have any questions during your testimony or if you feel that you need a break,
16 do not hesitate to let us know by raising your hand. We will then give you the
17 opportunity to speak. Have you understood all that?

18 THE WITNESS: (Interpretation) Yes.

19 PRESIDING JUDGE FREMR: Very well, Madam Witness. So now we can start
20 with your testimony, and your testimony will start by examination conducted by
21 Prosecution.

22 Who will be questioning the witness?

23 MS SOLANO: I will be, your Honour.

24 PRESIDING JUDGE FREMR: All right. Ms Solano, you have the floor. And
25 please bear in mind my caveat about the timing, please.

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1 MS SOLANO: I will do so, your Honour. Thank you. Your Honour, for the initial
2 identifying questions I request to go into private session, please.

3 PRESIDING JUDGE FREMR: All right. And as we did it last time, feel free I think
4 that -- I guess there will be no objection from the Defence to put leading questions on
5 those information. Is it okay with Defence?

6 MR BOURGON: Yes, Mr President, of course.

7 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

8 QUESTIONED BY MS SOLANO:

9 Q. Good morning, madam. Can you hear me well?

10 PRESIDING JUDGE FREMR: Sorry. My fault. And first of all, we have to move
11 into private session.

12 (Private session at 10.51 a.m.) * Reclassified partially into public

13 THE COURT OFFICER: (Interpretation) We are in private session, your Honour.

14 PRESIDING JUDGE FREMR: Thank you, court officer.

15 Now you may proceed, Ms Solano.

16 MS SOLANO: Thank you, your Honour.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. Madam, is your Hema birth father alive?

2 A. No.

3 Q. When did he die?

4 A. He died during the war.

5 Q. And which war was that?

6 A. During the second UPC attack on Mongbwalu.

7 Q. Do you remember the month and the year?

8 A. It was late in the year 2002, I think it was in December.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. Can you explain what you mean? Which military camp?

4 A. This camp was known as Appartements.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 MS SOLANO: Your Honour, we can go to open session.

12 PRESIDING JUDGE FREMR: All right. Court officer, let's move into open session
13 now.

14 (Open session at 11.07 a.m.)

15 THE COURT OFFICER: (Interpretation) Your Honour, we are in open session.

16 PRESIDING JUDGE FREMR: Thank you, court officer.

17 Ms Solano, please proceed.

18 MS SOLANO:

19 Q. Madam, apart from the other UPC soldiers, were there also any UPC leaders at
20 this camp?

21 A. Can you kindly repeat the question?

22 Q. Did the soldiers living at the Appartements camp have leaders?

23 A. Yes.

24 Q. Who were they and where did they live?

25 A. All of them were living at Appartements.

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1 Q. What were the names of these leaders?

2 A. The most senior commander was Tiger One. Amongst the other commanders
3 you had Roger and several others.

4 Q. Do you remember the names of the others?

5 A. Please repeat the question.

6 Q. What were the names of the other leaders apart from Tiger One and Roger?

7 A. I remember Commander STK, Roger, Mateso. There were several of them.

8 Q. Thank you. Madam, you said that before you married your husband you had
9 fled. Can you explain to the Judges where you fled to and why you fled?

10 A. Which war are you referring to during which we fled because there were two
11 attacks?

12 Q. The first attack.

13 A. At the time of the first attack we all fled to Sayo.

14 Q. Who attacked you?

15 A. It was the UPC.

16 Q. Who was the UPC fighting in this war?

17 A. During that period, the UPC was fighting against the Lendu combatants.

18 Q. And who are the people who fled to Sayo? You said "we fled." Who did you
19 flee with?

20 A. All of us, the entire population of Mongbwalu and all the combatants fled to
21 Sayo.

22 Q. What ethnic group or groups did the ethnic population of Mongbwalu belong to,
23 the ethnic population that fled with you?

24 A. All ethnic groups were represented. You had the Nyali. In fact, members of
25 all the ethnic groups lived in Mongbwalu except the Hema.

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1 Q. Madam, you told us you are Hema. How is it that you were still in
2 Mongbwalu?

3 (Redacted)

4 (Redacted)

5 Q. Can you describe how this first UPC attack on Mongbwalu unfolded? Can you
6 tell us how it began?

7 A. It was in the morning at about 6 or 7 a.m. We heard gunfire. And the
8 combatants were moving around with microphones, and they were telling us not to
9 flee because they were the ones shooting. But after a while we heard *gunshots from
10 heavy weapons and we realised that it was not our combatants, that it was the UPC
11 that was attacking. *So we fled to Sayo with the combattants. But after we arrived
12 Sayo, the combatants came back to fight against the UPC in Mongbwalu.

13 Q. And are those the Lendu combatants that you're speaking of?

14 A. Yes, the Lendu combatants.

15 Q. After the Lendu combatants went to fight the UPC in Mongbwalu, did you see
16 them again?

17 A. We saw them again. After fighting in Mongbwalu, they returned to Sayo.

18 Q. And did you learn who had won the fight that day?

19 A. I never knew what happened, but I simply learned that the UPC had left.

20 Q. You said that you heard fire, you heard UPC fire. Can you tell us what kind of
21 fire you heard? Do you know what kind of weapons they were shooting?

22 A. We could hear firing from light weapons, but I did not know what type of
23 weapons those were. But subsequently we heard firing from heavy weapons.

24 Q. How long did you stay in Sayo?

25 A. We spent one night there and we left the following day.

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1 Q. And where did you go after Sayo?

2 A. We returned to the village.

3 Q. Do you mean Mongbwalu?

4 A. Yes.

5 Q. And what did you see when you came back to Mongbwalu?

6 A. When we returned to Mongbwalu from Sayo, we saw dead bodies on our way
7 back.

8 Q. Can you describe the state that these bodies were in?

9 A. There were dead bodies that were cut in two pieces. These were not full bodies.
10 And since the dead bodies were naked, it was difficult to identify the people, that is to
11 whom these dead bodies belonged.

12 Q. Did you learn who had cut up these bodies?

13 A. No.

14 Q. And in what part of Mongbwalu did you see these bodies?

15 A. On the road from Sayo, particularly in the Shuni neighbourhood.

16 Q. Apart from these dead bodies, did you see any more evidence of the firing that
17 you had heard?

18 A. No.

19 Q. Did you -- you referred to a second attack by the UPC. How long after the first
20 attack did the second attack occur?

21 A. Two weeks.

22 Q. Can you tell us how that second attack happened?

23 A. The second time we heard gunfire from the direction of Pluto. At that time the
24 Lendu combatants went there to fight. But at one point we also heard gunfire
25 coming from the direction of the airport, and that is when we fled. But the gunfire

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1 actually started from the direction of Pluto.

2 Q. Do you know how these Lendu combatants were armed?

3 A. No. I don't know what type of weapons they had, but I know that they were
4 carrying rifles.

5 Q. How were they dressed?

6 A. They did not have any uniforms. Only very few of them had uniforms. But
7 the majority of them were wearing civilian clothing.

8 Q. Who were you with when you fled?

9 A. Please kindly repeat the question.

10 PRESIDING JUDGE FREMR: I'm sorry, Madam Witness, we are still in open
11 session.

12 So I guess, Ms Solano, it would be better to move into private, because now probably
13 Witness will mention some concrete persons. Do you agree?

14 MS SOLANO: Yes, your Honour.

15 PRESIDING JUDGE FREMR: All right. Court officer, let's move into private
16 session now.

17 (Private session at 11.27 a.m.) * Reclassified partially into public

18 THE COURT OFFICER: (Interpretation) We're in private session, your Honour.

19 PRESIDING JUDGE FREMR: Thank you, court officer.

20 Ms Solano, please proceed.

21 MS SOLANO:

22 Q. Madam, who were you with when you fled the second UPC attack on
23 Mongbwalu?

24 (Redacted)

25 (Redacted)

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1 THE INTERPRETER: The Swahili interpreter corrects: (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 A. During the UPC attack in Damblo, (Redacted) people had

18 died there in Mongbwalu. When (Redacted) was running away, she was carrying a

19 child on her back and the child *was shot at. So it was decided that she should go

20 and rest in Butembo.

21 Q. Madam, when the child was shot, was (Redacted) in Damblo or in

22 Mongbwalu?

23 A. She was in Damblo with the child.

24 Q. Who shot the child?

25 A. I'm really not in a position, I don't really know what happened.

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1 Q. Did (Redacted) tell you what had happened?

2 A. When we left Sayo, we remembered that the UPC soldiers had come by way of
3 Damblo, had gone by there. So we said to ourselves *perhaps they did not do
4 damage there. So that is why we and other people (Redacted)
5 decided to go there to find out what had happened.

6 Q. Where is Damblo relative to Mongbwalu?

7 A. To get to Damblo, you have to go by the airport. Once past the airport, you
8 then head in the direction of Damblo.

9 Q. And how did you know that the UPC had come through Damblo?

10 A. Could you ask your question again, please?

11 Q. You said when you left Sayo you remembered that the UPC had come through
12 Damblo. How did you know that?

13 A. They headed in the direction of the airport. And when you leave Mabanga by
14 way of the airport, you certainly will go by way of Damblo. Since we knew that they
15 had gone in that direction towards the airport, we said to ourselves that surely they
16 must have been in Damblo.

17 Q. Did you find (Redacted) in Damblo?

18 A. Yes.

19 Q. Did (Redacted) tell you who had shot the child?

20 A. No. She didn't know. She felt bullets graze her. That was all.

21 Q. Who did the child belong to?

22 A. (Redacted)

23 Q. How old was the child?

24 A. Two years old. The child was two years old.

25 Q. Was it a boy or a girl?

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- 1 A. The child was a little boy.
- 2 Q. Did you see the child after he was killed?
- 3 A. Yes.
- 4 Q. Where did you see him?
- 5 A. Well, where (Redacted) buried him.
- 6 Q. And where was that?
- 7 A. In an area of vegetation where they had gone as they fled, in an area of bushes.
- 8 Q. Where did you go after Damblo?
- 9 A. We went back to Mongbwalu.
- 10 Q. And, Madam, you said that when the UPC attacked a second time, you fled.
- 11 Where did you go to?
- 12 A. We headed in the direction of Sieri.
- 13 THE INTERPRETER: Interpreter correction, Tieri (phon).
- 14 MS SOLANO:
- 15 Q. Can you say the name of the place again very slowly, please?
- 16 A. Sieri.
- 17 Q. Was (Redacted) with you as you fled to Sieri?
- 18 A. Yes.
- 19 Q. And apart from you and (Redacted) was anyone else
- 20 fleeing in that direction?
- 21 A. There were many people.
- 22 Q. Do you know what ethnic group or groups they belonged to?
- 23 A. Well, I would say that all the ethnic groups living in Mongbwalu, the Nyali, the
- 24 Lendu, the Alur, except the Hema people.
- 25 Q. When you leave Mongbwalu, what direction is Sieri in?

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1 A. It is on the road that leads towards Bunia.

2 Q. Where did you stay in Sieri and how long did you stay there?

3 A. When we got to Sieri, we didn't stay along the road. We went into the bush
4 and we stayed there for three days.

5 Q. Did you have food to eat and a place to sleep in the bush?

6 A. When we went into the bush, we had built some makeshift shelters using tarps,
7 and people went and managed to find some food in the fields.

8 Q. Where did you go after three days?

9 A. We went back to Mongbwalu.

10 Q. How did you know that you could go back to Mongbwalu?

11 A. When we were in the bush, we moved towards the road and we saw some
12 soldiers. They were the ones who told us that we could go back to Mongbwalu.

13 Q. What soldiers -- what group did those soldiers belong to?

14 A. They were UPC soldiers.

15 Q. And when you got back to Mongbwalu, was it safe there?

16 A. Yes. There was security, but it was not complete security.

17 Q. Why do you say that? What was going on?

18 A. It was calm during the day, but at night there were abductions. As well there
19 were cases of rape during the day, and that is why I said that it was not completely
20 safe.

21 Q. Who was being abducted?

22 A. If you were suspected of being a collaborator or if you were identified as a
23 Hema person who had not fled or any person who had a problem with UPC, any of
24 those peoples, any and all of those people were abducted.

25 Q. And did these people come back at one point?

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1 A. Who are you talking about?

2 Q. The people that you say were being abducted, were they abducted and did they
3 then come back or did they not come back?

4 A. Well, you know, when someone is abducted, the likelihood is that you will find
5 their corpse or never ever see them again.

6 Q. Do you know of anyone to whom this happened?

7 A. Well, I can give you the case of my father. At that time my father was killed.

8 Q. Who killed your father?

9 A. I wasn't in a position to know, but I do know that it was the UPC soldiers who
10 were in control of the town.

11 Q. Do you know what happened to your father before he was killed?

12 A. No.

13 (Redacted)

14 (Redacted)

15 Q. You told us he was Hema. Do you know why he was abducted and killed?

16 A. His wife explained that when they came to get him, they called him a traitor
17 because he had stayed with the Lendus.

18 Q. Did she describe the people, the person or the people who came to get him?

19 A. She said that it was soldiers.

20 Q. Did she tell you what they were wearing and whether they were armed?

21 A. No. We did not try to get all those details. We did not ask those questions.

22 Q. Was your father's body found, Madam?

23 A. Yes.

24 Q. Where? Can you explain, please?

25 A. The body was found in a field somewhere.

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1 Q. Who found the body?

2 (Redacted)

3 (Redacted)

4 Q. Did you see the body?

5 A. Yes.

6 Q. Can you -- could you tell how your father had died?

7 A. I don't know the circumstances of his death. I only saw his corpse.

8 PRESIDING JUDGE FREMR: But, Madam Witness, I understood, and I guess Ms

9 Solano can confirm, that the sense of the question was whether from his corpse or

10 from his body was clear how he was killed?

11 THE WITNESS: (Interpretation) I haven't understood your question. You want

12 to know what he was killed with?

13 PRESIDING JUDGE FREMR: Whether he was shot or he was, you know, killed by

14 machete or I don't know what was visible. Maybe not, it's up to you whether you

15 saw some clues about some violence on his body.

16 THE WITNESS: (Interpretation) Okay. Personally, I did not see any particular

17 marks on his body, so I don't know whether his neck had been wrung or how he had

18 been killed.

19 MS SOLANO:

20 Q. Did (Redacted) tell you if

21 he saw any indications of how your father was killed?

22 PRESIDING JUDGE FREMR: Asked and answered, Ms Solano. In fact, you are

23 trying to get the same information, but it's clear that witness said she simply doesn't

24 know. Please move on.

25 MS SOLANO:

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(Private Session)

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1 Q. Madam, apart from your father, are you aware of any other people who were
2 abducted and killed after the UPC second attack in Mongbwalu?

3 And, your Honour, we can move to open session.

4 PRESIDING JUDGE FREMR: Very well.

5 Court officer, let's move into open session now.

6 (Open session at 11.55 a.m.)

7 THE COURT OFFICER: (Interpretation) We are in open session.

8 PRESIDING JUDGE FREMR: Thank you, court officer.

9 Ms Solano, please proceed.

10 MS SOLANO:

11 Q. Are you aware of any other people who were abducted and killed after the
12 second UPC attack on Mongbwalu?

13 A. No, I don't know of any other examples. But I heard that there had been other
14 cases of abduction. But personally, I don't know of any other cases.

15 Q. Can you tell us the names of the people who you heard had been abducted?

16 A. No, I don't have any names I can give you.

17 Q. Madam, you said that in this period there were also rapes being committed
18 during the day. Who was committing these rapes?

19 A. Soldiers.

20 PRESIDING JUDGE FREMR: Mr Bourgon.

21 MR BOURGON: Thank you, Mr President. I think the kind of questions that are
22 being asked, we should begin by establishing the rape before we go into who
23 committed the rape based on the information that is provided, which is most of the
24 time secondhand. So maybe she can describe the rape and then we can go into who
25 did the rape. Thank you.

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1 PRESIDING JUDGE FREMR: Ms Solano.

2 MS SOLANO: Your Honour, I'm not sure I understand the objection. The witness
3 had already said that in this period when she came back to Mongbwalu, the town was
4 not entirely safe, and rapes were being committed during the day. And that was at
5 page 23, lines 1 to 2 of the transcript. So I think the witness has already indicated
6 that she knows; and of course I will ask her how she knows if I can.

7 PRESIDING JUDGE FREMR: Mr Bourgon, briefly.

8 MR BOURGON: It's just, Mr President, she says rapes were committed. Before we
9 go into who committed the rape, it would be nice to know what these rapes are, when,
10 how and what, what she knows about the rapes, and then we can move into what she
11 knows about the identity of the alleged rapist. Thank you.

12 PRESIDING JUDGE FREMR: Also find, Ms Solano, it's reasonable at least to try to
13 find sources of this information, at least some general description of those incidents
14 and then to finish by names, if any, of perpetrators of victims.

15 MS SOLANO:

16 Q. Madam, who was committing these rapes that you're talking about?

17 A. Soldiers.

18 Q. Soldiers belonging to what group, please?

19 PRESIDING JUDGE FREMR: Mr Bourgon.

20 MR BOURGON: Thank you, Mr President. Unless, unless I misunderstood the
21 Chamber's guidance, we were supposed to start with the incidents before going into
22 the who.

23 PRESIDING JUDGE FREMR: Yes, I have to confirm, Ms Solano, even my idea was,
24 you know, I think it's not just an issue for objection, real objection. But even myself,
25 I would really find reasonable, because we just we know at the moment about the

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1 existence of this kind of crime, I can say, and now you just, you are trying to explore
2 perpetrators. But maybe it would be fine to fill something between circumstances
3 about those incidents, something like that, and then to move to perpetrators. So it
4 was even my previous guidance. Was I clear enough?

5 MS SOLANO: Your Honour, I am trying to establish whether the rapes that she has
6 knowledge of are relevant to the case or not, and that depends on what -- I'm not
7 looking for the identity of individual perpetrators, but a group at least.

8 PRESIDING JUDGE FREMR: All right then.

9 MS SOLANO: Thank you, your Honour.

10 Q. Madam, these soldiers that you say were perpetrating rapes, what group did
11 they belong to?

12 A. They were soldiers of the UPC. There was no other group there except the
13 UPC.

14 Q. And what rapes do you have knowledge of? Can you explain where they
15 occurred, who the victims were and how you know this?

16 A. It was girls who were raped.

17 Q. Did you know any of these girls yourself?

18 A. There is one of them who was our neighbour, and the other victims were girls
19 from neighbouring villages but who came to seek refuge in the *town. So I saw one
20 of those girls who had also been raped by a soldier.

21 Q. Do you know the name of that girl and the name of the soldier?

22 A. No.

23 Q. Do you know what ethnicity she was?

24 A. I do not know her ethnicity.

25 Q. And how did you learn that she had been raped by a soldier?

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1 A. We were at home. We saw the girl on the road. She was in front and the
2 soldier was behind her chasing her or pushing her forward. She went into her house
3 and the soldier also went into that house. Her father was there. And the soldier,
4 who had a gun, asked that the girl should come out of the house, and she came out
5 and left with him.

6 Q. How do you know that she was raped?

7 A. Well, when a man grabs a girl and takes her away with him and the girl spends
8 the night with that soldier, what does that mean? Obviously something happened.

9 Q. Did that girl come back home, do you know?

10 A. Yes, she returned the following morning.

11 Q. And did she tell anybody what had happened to her?

12 A. All of us knew that since she had been taken away by soldiers, upon her return
13 we knew that she had probably been raped -- we knew that she had certainly been
14 raped.

15 THE INTERPRETER: Corrects the Swahili interpreter.

16 MS SOLANO:

17 Q. Madam, at what point did you --

18 Your Honour, may we go to private session, please?

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

20 (Private session at 12.06 p.m.) * Reclassified partially into public

21 THE COURT OFFICER: (Interpretation) Mr President, we are in private session.

22 PRESIDING JUDGE FREMR: Thank you.

23 Ms Solano, please proceed.

24 MS SOLANO: Thank you, your Honour.

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 PRESIDING JUDGE FREMR: All right. We will break for five minutes.

9 THE COURT USHER: All rise.

10 (Recess taken at 12.08 p.m.)

11 (Upon resuming in private session at 12.23 p.m.) * Reclassified partially into public

12 THE COURT USHER: All rise.

13 Please be seated.

14 THE COURT OFFICER: (Interpretation) For your information, your Honour, we
15 are in private session.

16 PRESIDING JUDGE FREMR: Yes, well noted. Please move into open session now.

17 (Open session at 12.23 p.m.)

18 THE COURT OFFICER: (Interpretation) Your Honour, we are in open session.

19 PRESIDING JUDGE FREMR: Madam Witness, the Chamber had been informed

20 about your health troubles. We fully respect this and we will adjust our further

21 schedule in a way that would allow you to see the doctor and hopefully to feel better

22 soon.

23 Our idea is now to continue till 1 o'clock, which means next 30 minutes, then we will

24 break. I was told that there was appointment with the doctor arranged for you, so

25 you will have a chance then to see the doctor, and then we will see whether you will

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1 be ready to continue this afternoon. Is it okay with you?

2 THE WITNESS: (Interpretation) Yes, your Honour.

3 PRESIDING JUDGE FREMR: And for the parties, so our current schedule, but we all

4 will have to be flexible, because it will be depending on Madam Witness' health

5 conditions in the afternoon, so we will now continue till 1 o'clock. Then we will

6 break till 3 o'clock and if everything -- if witness will be feeling better, we will

7 continue from 3 to 4.30. So that's the current schedule.

8 Now let's move back into private session.

9 Sorry, Ms Solano, it's up to you.

10 MS SOLANO: Your Honour, since we're in public session, I can ask some questions

11 before we move back.

12 PRESIDING JUDGE FREMR: So please proceed, Ms Solano.

13 MS SOLANO: Thank you, your Honour.

14 Q. Madam, when you returned to Mongbwalu after the second attack, did the rest

15 of the civilian population of Mongbwalu also come back?

16 A. Yes.

17 Q. Did the Lendu civilians come back?

18 A. No.

19 Q. Do you know why they didn't come back?

20 A. It is because the UPC was fighting against the Lendu.

21 Q. What, if anything, happened to the houses of those Lendu civilians who did not

22 come back?

23 A. Some of the houses were pillaged.

24 Q. What was taken from the houses to your knowledge?

25 A. All valuable items were taken away.

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1 Q. And who had done this?

2 A. The soldiers.

3 Q. How do you know that this pillaging occurred?

4 A. We were aware because the pillaging did not take place on a single day. All
5 the time that the UPC was in Mongbwalu, they were looting, they were pillaging the
6 entire time.

7 Q. Was your house pillaged?

8 A. Are you talking about our house or my house?

9 Q. I'm talking about your mother's house and your birth father's house, so both.

10 A. Yes, they were pillaged.

11 Q. Are you able to say what properties were taken from these houses?

12 A. In our house they took away mattresses, plates, clothes and things like that.

13 Q. And in your birth father's house?

14 A. What I have just told you refers to things that were taken in our house.

15 Q. Was there any damage to buildings and houses in Mongbwalu after the second
16 attack?

17 A. No, the houses were not damaged.

18 Q. And did you see the pillaging occurring yourself or did other people tell you
19 about it?

20 A. Well, you can't just stand by and watch when a soldier is looting, no.

21 MS SOLANO: Your Honour, may we move into private session, please?

22 PRESIDING JUDGE FREMR: Certainly.

23 Court officer, let's move into private session

24 (Private session at 12.31 p.m.) * Reclassified partially into public

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

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(Private Session)

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1 PRESIDING JUDGE FREMR: Thank you.

2 Ms Solano, please proceed.

3 MS SOLANO: Thank you, your Honour.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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WITNESS: DRC-OTP-P-0887

(Private Session)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. What were the activities of the soldiers at the camp?

23 A. I don't know about the military activities all in all. I know that in the morning

24 they would go for parade and after parade they would go about their usual business.

25 As for other activities, I really don't know.

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(Private Session)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. How about the other soldiers in the camp, were they armed?

6 A. Yes, they all were armed.

7 Q. What kind of weapons did they have?

8 A. They had the kind of weapons that were usually referred to as SMGs.

9 Q. How were they dressed?

10 A. They wore military uniforms and green berets.

11 Q. Were there -- did the civilians from Mongbwalu ever come inside the camp?

12 A. No. The civilians did not have access to the camp. There was *a gate in front
13 of the camp.

14 Q. Did unmarried soldiers ever have women visit them?

15 A. No, there were no women who would come and visit them. Rather it would be
16 it used to be the soldiers who would go to the centre of town and find the women and
17 bring them back to where they were staying.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 MS SOLANO: Your Honour, I can ask some questions in open session.

23 PRESIDING JUDGE FREMR: Court officer, let's move into open session now.

24 (Open session at 12.43 p.m.)

25 THE COURT OFFICER: (No interpretation)

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(Open Session)

ICC-01/04-02/06

1 THE INTERPRETER: Inaudible, your Honour.

2 PRESIDING JUDGE FREMR: Thank you.

3 Ms Solano, please proceed.

4 MS SOLANO: Thank you, your Honour.

5 Q. Who were these women that the soldiers brought back with them to the camp?

6 A. They were women from the local population, the civilian population.

7 Q. What happened to these women inside the camp?

8 A. Don't know what happened to them. I would see the soldiers bring them and
9 ask them to go in front, and the soldiers would go behind. And I would also see
10 these women when they left the place. They would be crying. I don't know what
11 happened in the house where they were taken.

12 Q. Did you ever talk to anyone about these women?

13 A. Could you please repeat your question?

14 Q. Did you find out from other people what happened to these women while they
15 were in the camp?

16 A. No. I'm talking about what I saw.

17 Q. When you saw these soldiers coming in with the women, were the soldiers
18 armed?

19 A. Yes.

20 Q. How long did these girls stay inside the camp?

21 A. Well, once they arrived, the soldiers would have them go into the house and
22 then shortly after they would leave the place. If one would come in the evening, she
23 would spend the night, and the next morning she would leave again.

24 Q. What were the ages of these women?

25 A. I don't know how old they were.

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1 Q. Apart from the women, did you see the UPC soldiers bring anyone else into the
2 camp?

3 A. Well, I would also see prisoners of war who would come by.

4 Q. How would they get into the camp?

5 A. I saw some who were tied up and brought into the camp.

6 Q. Where were they taken in the camp?

7 A. They would be brought into the camp where* the commander was.

8 Q. Why were they taken to the commanders?

9 A. That is where they were supposed to be questioned. But it was also the place
10 where the prison was.

11 Q. What kind of a prison was that? Can you describe it?

12 A. It was an underground prison.

13 Q. Did you see the prison yourself?

14 A. Yes, I saw the prison at Appartements, but also in other places where I would
15 go by. Each time *we would arrive in a place, they would actually dig trenches and
16 they would use them as prisons.

17 Q. To which commanders were the prisoners taken? Do you know their names?

18 A. I can't give you the exact names of the commanders to whom prisoners were
19 brought. However, I do remember the name of Tiger One. He was the most senior.

20 Q. Apart from the Appartements, where did you see this kind of prison?

21 A. In Mamedì I saw prisons as well.

22 Q. When you saw these prisons, were there actually any prisoners inside?

23 A. Are you talking about the Mamedì prison or other ones? Or are you talking
24 about the prison in Appartements in Mongbwalu? Which prison are you
25 talk -- which prison or prisons are you talking about?

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(Open Session)

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1 Q. Let's talk about Mongbwalu and I'll come back to the other ones later. Were
2 there any prisoners inside the prison in Mongbwalu at the Apartments?

3 A. It was a prison, and I think that there were some prisoners there. I didn't
4 bother to go and see, to look into the trench to see if there were prisoners or not.

5 Q. You say these people were prisoners of war. Can you explain what you mean?

6 A. They were prisoners, people who had been detained during the war.

7 Q. Do you know why they had been detained?

8 A. No, no, I don't know.

9 Q. Do you know if they were civilians or combatants?

10 A. I don't know if they were civilians or combatants. I just know that they were
11 people who had been detained.

12 Q. Do you know whether Tiger One knew that some of the UPC soldiers brought
13 women into the camp?

14 A. No, I don't know if he knew about that or not. Civilians were not allowed to
15 enter the camp. And soldiers who brought people into the camp did not go in via
16 the official road. They would come in another way taking paths or roads that were
17 not official.

18 Q. Did you ever speak to Tiger One or any of the other commanders at the
19 Apartments?

20 A. No.

21 Q. How long did you stay at the Apartments?

22 A. About six months, we spent about six months there.

23 Q. Why did you leave?

24 A. We left Appartements during the conflict between the Ugandans and the UPC
25 soldiers in Bunia. That was when we -- that is when we fled, we left.

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1 Q. Who did you flee with?

2 A. With all the soldiers who were in Mongbwalu and the Hema civilians as well.

3 Q. Where did you go?

4 A. We took the road, the Pluto road, and we went to Mamedì.

5 Q. How long did you spend in Mamedì?

6 A. We spent two months there in Mamedì.

7 Q. Were there any UPC commanders with you in Mamedì?

8 A. Yes.

9 Q. Who were they?

10 A. Kisembo was the one with the highest rank. There were others as well, but I've
11 forgotten their names. I remember Kisembo. He was the most senior.

12 Q. Do you know where Kisembo was before he came to Mamedì?

13 A. No, I don't know.

14 MS SOLANO: Your Honour, we could break at this point.

15 PRESIDING JUDGE FREMR: All right. So, Madam Witness, thank you very much
16 for being patient and regardless of your health, current health conditions. I firmly
17 hope that after meeting doctor your situation will improve, but we will see.

18 So if you will be feeling better, we will continue at 3 o'clock in the afternoon. And
19 it's the same for the parties, we should reconvene at 3 o'clock, and if there would be a
20 need for a change, we will inform you. So now court is adjourned.

21 THE COURT USHER: All rise.

22 (Recess taken at 1 p.m.)

23 (Upon resuming in open session at 3.02 p.m.)

24 THE COURT USHER: All rise.

25 Please be seated.

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(Open Session)

ICC-01/04-02/06

- 1 THE COURT OFFICER: (Interpretation) Your Honour, we are in open session.
- 2 PRESIDING JUDGE FREMR: Thank you, court officer.
- 3 Good afternoon, everybody.
- 4 Good afternoon, Madam Witness. Madam Witness, are you feeling better?
- 5 THE WITNESS: (Interpretation) Yes, I feel better.
- 6 PRESIDING JUDGE FREMR: Good to hear that. This afternoon we will have a bit
- 7 shorter, shorter session. We are planning to sit till half past 4. So I hope that
- 8 everything will be fine with you; if not, just raise your hand and we'll see.
- 9 Now I will hand over floor to Ms Solano.
- 10 Ms Solano, do you want to proceed in open or in private session?
- 11 MS SOLANO: Open session, your Honour.
- 12 PRESIDING JUDGE FREMR: All right. And so you may proceed.
- 13 MS SOLANO:
- 14 Q. Good afternoon, Madam. Can you hear me?
- 15 A. Yes.
- 16 Q. Are you able to estimate how long after you returned from Sieri to Mongbwalu
- 17 you moved to the Apartments?
- 18 A. Before going back to Mongbwalu?
- 19 Q. Once you were back in Mongbwalu, how much time did you spend in
- 20 Mongbwalu before you moved to the Apartments?
- 21 A. About one week.
- 22 Q. You told us about the girls that the UPC soldiers brought to the Apartments
- 23 camp. How often did you see this occur?
- 24 A. I couldn't tell you how many times, but we would see them come in when they
- 25 were still -- correction, when we were still at the camp.

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(Open Session)

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1 Q. What were the ages of the soldiers at the camp, at the Apartments camp?

2 A. I really couldn't tell you.

3 Q. Were all of the soldiers at the Apartments camp adults?

4 A. No.

5 Q. How young was the youngest child that you remember seeing at the
6 Apartments camp?

7 A. The youngest might have been 12 or 13 years old. It was one of Roger's
8 bodyguards.

9 Q. Were there any other children of around the same age?

10 A. Roger had two young bodyguards. He had two others as well who were
11 adults.

12 Q. What was the age of the other bodyguard who was not an adult?

13 A. Could you ask your question again?

14 Q. Of course. You told us one of Roger's bodyguards was 12 or 13 years old.
15 How old was his other young bodyguard?

16 A. He was about 14 or 15. The youngest one was called Fiston and the other one
17 you see was a bit older than Fiston.

18 Q. What was the other one's name?

19 A. Héritier.

20 Q. Were they both boys?

21 A. Yes.

22 Q. How do you know how old they were?

23 A. You could see. They were very young. You could see by the appearance of
24 their bodies.

25 Q. How were they dressed?

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(Open Session)

ICC-01/04-02/06

1 A. They were wearing military uniforms.

2 Q. And were they armed?

3 A. Yes.

4 Q. You say they were bodyguards. What did they do as bodyguards?

5 A. They were already -- correction, they were always with the commander, no
6 matter where he went.

7 Q. What kind of weapons did they carry?

8 A. They had SMGs.

9 Q. Apart from these two children, were there other child soldiers at the
10 Apartments camp?

11 A. There were some others, but I would see those two quite often.

12 Q. And what were the ages of the others?

13 A. I really couldn't estimate their age, but you could tell that they were very young.

14 Q. How could you tell? Did you speak with them?

15 A. Was I talking to those young soldiers? Is that what you're asking?

16 Q. Yes.

17 (Redacted)

18 (Redacted)

19 PRESIDING JUDGE FREMR: Sorry I have to interrupt you. I think it would be
20 safer to redact the last answer because there are some problematic information.

21 Could we remain in open session, Ms Solano, what do you think,
22 regarding -- depending on your upcoming questions?

23 MS SOLANO: Your Honour, for the next questions we should go into private
24 session.

25 PRESIDING JUDGE FREMR: All right. So let's move into private session.

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(Private Session)

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1 (Private session at 3.14 p.m.) * Reclassified partially into public

2 THE COURT OFFICER: (Interpretation) We are in private session, your Honour.

3 PRESIDING JUDGE FREMR: Thank you.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 MS SOLANO:

11 Q. What kind of house did Fiston and Héritier live in?

12 A. Fiston and Héritier were Roy's bodyguards, and so they lived in the same house
13 as Roy.

14 Q. Is Roy the same person you referred to as Roger before?

15 A. Yes.

16 Q. Do you know his full name?

17 A. There were two Roys. There was Roy Ndim Christ and then there was
18 another one called Roy. That was all, just Roy. I was talking about Roy, not Roy
19 Ndim Christ.

20 Q. Do you know what his job was?

21 A. You're asking me about Roy's work? I don't know what he did, but I do know
22 that he was called Afande. That's all I know.

23 Q. Among the other child soldiers that you saw at the Apartments, were there any
24 girls?

25 A. I saw one girl, just one girl.

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(Private Session)

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1 Q. How old was she?

2 A. She was still very young. Her breasts hadn't even started to develop. She
3 was very young.

4 Q. What was her name?

5 A. (Redacted)

6 Q. Can you tell us what you know about (Redacted) experience as a child soldier in the
7 UPC?

8 A. Well, what I know about (Redacted) is that, well, many soldiers took her as their
9 wife.

10 Q. What do you mean when you say that many soldiers took her?

11 A. Well, what I meant was many soldiers slept with her and treated her as a
12 woman, as if she were -- she was the soldier's woman.

13 Q. Did they have sexual relations with her?

14 A. Yes.

15 Q. Did she agree to that?

16 A. I'm not in a position to know that.

17 PRESIDING JUDGE FREMR: And sorry, Madam Witness, how is it that you are in
18 position to know that she slept with soldiers?

19 THE WITNESS: (Interpretation) When we were at the camp, each soldier would
20 talk about it and would say, "Do you see that girl over there? I've already slept with
21 her." The soldiers would talk about it amongst themselves. They would say that
22 she was no longer a young child because they had already slept with her.

23 PRESIDING JUDGE FREMR: Thank you, Madam Witness.

24 MS SOLANO:

25 Q. Did the UPC commanders know about this?

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(Private Session)

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1 A. I don't know if they knew. I don't know.

2 Q. What ethnicity was (Redacted)

3 A. She was from the Hema ethnic group.

4 Q. Did you talk to (Redacted) about this?

5 A. (Redacted) I had conversations
6 with her.

7 Q. What would she tell you?

8 A. Her state, well, we all felt sorry for her, because we saw what state she was in.
9 And when we talked to her, she would talk to you as if she had mental troubles,
10 mental problems. She looked like someone who had been traumatised. When we
11 asked her where her parents were, her answers didn't make sense.

12 Q. Do you know what (Redacted) job was?

13 A. I just know that she was a child soldier. I can't -- well, I'm not in a position to
14 know what her work was or her job. She was a child soldier.

15 Q. Before lunch you told us that you fled Mongbwalu for Mamedì and that you
16 went with all the UPC soldiers and Hema civilians who were there. Did these child
17 soldiers also come with you to Mamedì?

18 A. Yes.

19 Q. Do you know whether these children received any training in the UPC?

20 A. I don't know whether they had training or not. When I met them at the camp,
21 they were already soldiers. I don't know where they were trained.

22 Q. Did you ever see the older soldiers in the UPC receiving training?

23 A. No, I never saw them in the middle of training because they had had their
24 training in Mandro, and I wasn't there.

25 Q. Madam, what did you do at Mamedì the two months you were there?

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- 1 A. We didn't do anything in particular.
- 2 Q. Did you ever meet a person in the UPC called Safari?
- 3 A. I saw him when they were in Dhego because they came on a plane that was
- 4 bringing in some ammunition.
- 5 Q. Who was with Safari at this time?
- 6 A. I saw two white people who were along with Safari.
- 7 Q. Who were these white people? Where were they from?
- 8 A. They were the pilots of the plane, the plane that had just landed.
- 9 Q. How did you know that there was ammunition in the plane?
- 10 A. The plane did not land at the airport directly. It turned in the air and we all
- 11 went to see the plane, and we could see it dropping off, we could see how the plane
- 12 landed.
- 13 Q. What kind of an airport did it land in?
- 14 A. It was a landing strip at Dhego.
- 15 Q. Do you know who had built that landing strip?
- 16 A. The local people.
- 17 Q. What happened after the plane landed? Did you get to see what was inside the
- 18 plane?
- 19 A. I saw some metal cases being offloaded from the plane, and it was said that
- 20 there were ammunitions in those cases.
- 21 Q. Do you know what happened with this ammunition, whether it was taken
- 22 anywhere else?
- 23 A. The cases were taken towards the camp. They were kept in a depot and there
- 24 was a plan to attack Bunia.
- 25 Q. At what camp were they kept?

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1 A. There was a camp in Dhego for the soldiers, in Dhego itself.

2 Q. How did the soldiers react to the arrival of the ammunition?

3 A. The soldiers offloaded the cases from the plane.

4 Q. Madam, just so we have your chronology right, you told us that you had been
5 to Mamedì. Did you go to Dhego after Mamedì or before Mamedì?

6 A. We first went to Mamedì and then to Dhego.

7 Q. What happened with Kisembo, where was he when you went to Dhego?

8 A. We left Mamedì with Kisembo on our way to Dhego. When the ammunitions
9 were offloaded from the plane, Kisembo and the others then proceeded to attack
10 Bunia, but some of the soldiers remained at the airport or at the airstrip in order to
11 guard the aircraft.

12 Q. How did you find out that there was a plan to attack Bunia?

13 A. The planning to attack Bunia did not start in Dhego. The preparatory work
14 actually started in Mamedì, and it is from that time that I became aware of the plan.

15 Q. Who told you that Bunia would be attacked?

16 A. The soldiers were talking about it.

17 Q. Did you hear any commanders talking about it?

18 A. Yes.

19 Q. Which commanders?

20 A. Roger, Sisko and others.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. Did you hear what happened in Bunia when the UPC soldiers went there?

5 A. I don't know what happened, but later we learnt that Bunia had fallen. But I
6 did not know exactly what had actually happened.

7 Q. How did the soldiers who had stayed behind in Dhego feel about not having
8 gone to Bunia?

9 A. Some of the soldiers who had remained felt that they were not happy because
10 they learnt that *those who had gone to Bunia had looted valuable property, so they
11 weren't happy because they hadn't gone to Bunia.

12 Q. Did you see Bosco Ntaganda at this time?

13 A. During the attack on Bunia?

14 Q. During the attack or before the attack or after the attack.

15 A. No.

16 Q. Where did you go after Dhego?

17 A. When we left Dhego, the UPC again attacked Mongbwalu.

18 Q. How long had you been at Dhego before the UPC attacked Mongbwalu again?

19 A. I don't -- I don't remember. I have forgotten all of that.

20 Q. Did (Redacted) go to this other attack in Mongbwalu?

21 A. Yes.

22 Q. How about you, what did you do?

23 A. We all went.

24 Q. Do you remember which route you took to get from Dhego to Mongbwalu?

25 A. I remember that the soldiers went on two roads. One on the

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1 Dala-Damblo-Mongbwalu road while the other went on the

2 Mbidjo-Pili-Pili-Mongbwalu axis.

3 Q. Which way did you go?

4 A. We went on the Mbidjo road.

5 Q. Who else was in your group?

6 A. Bosco and other Afandes were part of the Mbidjo group.

7 Q. Which Bosco? Do you know his full name?

8 A. His names were Afande Tango Romeo and Bosco was also one name by which
9 he was called.

10 Q. Do you know what his role was in relation to this next attack on Mongbwalu?

11 A. He was the commander in charge of the operations in Mbidjo. And Roy
12 Ndimba Christ was the commander on the other axis.

13 Q. Do you know whether -- had you heard of this attack before you arrived at
14 Mongbwalu?

15 A. Please can you repeat your question?

16 Q. Do you know whether this attack had been planned?

17 A. When Bosco arrived in Dhego, I heard talk about the planning of that attack, but
18 apart from that, I did not have any other information in that regard. Some soldiers
19 who had remained in Dhego were guarding the plane, and it is then that Bosco came
20 and there was talk about the attack.

21 Q. Did you hear this yourself or did you hear this from others?

22 A. I heard it myself. Soldiers were talking about it.

23 MS SOLANO: Your Honour, I can ask a few questions in open session.

24 PRESIDING JUDGE FREMR: Very well.

25 Court officer, let's move into open session now.

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1 (Open session at 3.47 p.m.)

2 THE COURT OFFICER: (Interpretation) We are in open session, Mr President.

3 PRESIDING JUDGE FREMR: Thank you, court officer.

4 Prosecution, you may proceed.

5 MS SOLANO:

6 Q. Was Bosco armed?

7 A. No.

8 Q. Was he carrying anything?

9 A. He was carrying a small stick and he had a revolver.

10 Q. And where was he positioned in the group?

11 A. In Dhego.

12 Q. No. I mean on the way to Mongbwalu, on the way between Dhego and

13 Mongbwalu.

14 A. He was in the group of soldiers that was in front of us, in front of the civilians,

15 and we were behind the soldiers.

16 Q. Can you describe what happened when you arrived in Mongbwalu?

17 A. When we arrived in Mongbwalu, we were there and then 48 hours later we

18 were attacked by the Lendus and we fled.

19 Q. Where did you flee to?

20 A. We fled towards Damblo and then on to Dala. Once we got to Dala, one group

21 went towards Damblo -- rather, Mabanga and another towards --

22 THE INTERPRETER: Another direction, which the interpreter didn't get.

23 MS SOLANO:

24 Q. Madam, the transcript didn't catch what you said. One group went towards

25 Mabanga and the other group, where did it go?

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1 A. One group stopped at Dala and another went towards Dhego, Lalo and other
2 villages in that area.

3 Q. Did you see in which direction Mr Bosco went?

4 A. No.

5 Q. Did you go to the Mongbwalu airport before advancing towards Dala?

6 A. Yes.

7 Q. Can you describe who was at the airport and what was happening there?

8 A. We found many, many soldiers there, but other soldiers had already fled. I am
9 not able to say what happened before. We arrived with a number of soldiers, but
10 there was also a large number of soldiers there when we arrived.

11 Q. Were there any commanders there?

12 A. Yes.

13 Q. Which ones?

14 A. Bosco was there, STK and other commanders.

15 Q. Which direction did you flee in?

16 A. We went through the airport, Damblo, and then onward.

17 Q. Onwards to where? Where did you go after Damblo?

18 A. You see, when you leave Mongbwalu airport, you go through Damblo, Dala
19 and a number of other villages.

20 MS SOLANO: Your Honour, can I ask a question in private session, please?

21 PRESIDING JUDGE FREMR: Certainly.

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

23 (Private session at 3.56 p.m.) * Reclassified partially into public

24 THE COURT OFFICER: (Interpretation) Mr President, we're in private session.

25 PRESIDING JUDGE FREMR: Thank you, court officer.

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1 Ms Solano, you may proceed.

2 MS SOLANO: Thank you, your Honour.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. And what happened after that? Where did you go next?

10 A. While we were in Mabanga, the Lendus attacked again, and so we fled to Bunia.

11 Q. Who did you flee to Bunia with?

12 A. (Redacted) There was another group of soldiers
13 which joined us as we fled towards Bunia, and all of them were coming from
14 Mabanga.

15 Q. And what did you do in Bunia when you got there?

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 Q. Madam, you've told us a few times about the Hema civilians who were with the
22 UPC, for example, when you fled Mongbwalu and you went to Mamedi and again
23 when you went from Dhego to Mongbwalu.

24 What were these civilians doing with the UPC?

25 A. Those were civilians who were not living within the soldiers' camp. They were

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1 living outside, but they were working for the soldiers.

2 Q. What kind of work did they do for the soldiers?

3 A. For example, drawing water for the soldiers. They used to use civilians and
4 have them draw water for them or having -- they would have them go and get
5 firewood. In all the places where there were camps they dug trenches and it was
6 civilians who were forced to dig the trenches.

7 Q. Did these civilians help the UPC when there was fighting?

8 A. Yes, yes. They would help them during the fighting.

9 Q. How would they help? What did the civilians do during fighting?

10 A. For example, when the UPC wanted to go to battle, the UPC would use civilians
11 to carry the heavy weaponry.

12 Q. And why do you say that they were forced?

13 A. No, most of them did not agree. For example, when they wanted to go to
14 Mamedi, they had -- you see, we had surrounded the market. And we took all the
15 men and the women were crying, their wives. Those men were captured at the
16 market, and they were used to carry the heavy weapons.

17 Q. What ethnic group did the civilians, this group of civilians belong to?

18 A. The ones that we left Mamedi with were from that area, but in other places they
19 were Hema *and Gegere people.

20 Q. And what happened if they refused to do what the soldiers said?

21 A. No one could refuse.

22 Q. Can you please explain why, why they couldn't refuse? What would happen if
23 they refused?

24 A. Well, I don't know what they would have done, but the civilians were afraid of
25 the armed soldiers. Each time they gave an order, everyone was obliged to comply.

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1 And since it was during the war, the soldiers were running the show. They were
2 all-powerful.

3 Q. Madam, I need to ask you a question again about (Redacted) How was (Redacted)
4 dressed when you saw her in the UPC?

5 A. Well, she had clothes kind of like the other soldiers, a treillis, a kind of
6 camouflage clothing.

7 Q. Was she armed?

8 A. Yes.

9 Q. You've referred to the civilians carrying heavy weapons for the soldiers. Did
10 you know the UPC to use those heavy weapons anywhere?

11 A. Could you please repeat your question?

12 Q. Did you -- do you know whether the UPC used its heavy weapons? Did it
13 shoot its heavy weapons?

14 A. Yes.

15 Q. Do you remember where they did that?

16 A. Yes.

17 Q. Please tell us?

18 A. The heavy weaponry was used in the fighting. *For example, when we left Mamedi,
19 the V12s were used. When we got to Mongbwalu, we used the weapon called 48 hours.

20 Q. And was that -- and why do you know -- why do you know that the UPC used
21 those weapons? How do you know that?

22 A. I would see them being used. I had been living in the camps. I saw.

23 Q. Madam, do you remember filling out a victim participation application form for
24 this case?

25 A. Yes.

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1 THE INTERPRETER: Interpreter correction: In the previous reply the witness
2 made mention of a weapon called the 48 hours.

3 MS SOLANO:

4 Q. Do you remember what you said in your victim participation application form
5 about the (Redacted) year-old boy who was killed when he was on (Redacted) back?

6 A. Yes.

7 Q. What did you say? What does the form say?

8 A. I said that that child was called (Redacted)

9 Q. Do you remember according to the form who that child belonged to?

10 A. The child was (Redacted) child.

11 Q. Do you remember what it says on the form?

12 A. Yes.

13 Q. And what does it say?

14 A. In the first form, when we filled out the first form, the person who was asking
15 me questions filled out the form, and I answered his questions. Now, when we met
16 the second time I met with another group, and when I read over the form I noticed
17 that there was a mistake and I wanted to make corrections. I said to them that I
18 hadn't said this or I hadn't said that.

19 Q. Do you remember which corrections you wanted to make?

20 A. Yes.

21 Q. Please tell us.

22 A. For example, the name of my father was erroneous. (Redacted)
23 (Redacted)

24 (Redacted)

25 THE INTERPRETER: Interpreter correction: (Redacted)

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1 (Redacted)

2 MS SOLANO:

3 Q. Were there other corrections?

4 A. Yes.

5 Q. Please tell us all the corrections that you can remember.

6 A. Well, the first correction to make was the names. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 MS SOLANO: Your Honour, would I be able to show, I would like to show the
20 witness the victim participation form.

21 PRESIDING JUDGE FREMR: Defence, any objection?

22 MR BOURGON: No, Mr President. But I'd like to make an observation. I mean
23 I've been leaving this series of questions being put to the witness. Usually the
24 Prosecution should not be asking these questions unless she's trying to lead evidence
25 or incriminatory evidence. So I'm letting the questions go because of the status of

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1 the witness that we have before the Chamber, and we have no objection if she wants
2 to use the victim participation form.

3 But of course I ask for at least for some -- to refrain from going too far in this type of
4 exercise at this point in time. Thank you, Mr President.

5 PRESIDING JUDGE FREMR: Ms Samson, no objection, but any reaction on this
6 comment made by Defence?

7 MS SOLANO: Your Honour, I can also try to ask her the question without showing
8 her the form and we'll see if that gets us there.

9 PRESIDING JUDGE FREMR: It was not core of the objection. Okay. Let's
10 proceed.

11 MR BOURGON: I don't mind, Mr President. She can be shown the form.

12 MS SOLANO: Can the court officer please display DRC-OTP-2090-0089.

13 PRESIDING JUDGE FREMR: And just one correction of the transcript. I didn't say
14 it when I talked to Defence Ms Samson, but I said Defence.

15 Please proceed.

16 MS SOLANO: Thank you, your Honour.

17 Can the court officer please display the form?

18 Q. Madam, do you see a document in front of you?

19 A. Yes.

20 Q. Is this your victim participation application form?

21 A. Mmm.

22 Q. Madam, can you please speak your answer into the microphone. Is this your
23 victim participation application form?

24 A. Yes.

25 Q. Can you see, madam, just above the number 2, where there is some handwriting,

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1 where it says: (Interpretation) (Redacted)

2 A. Mmm.

3 Q. Is that information correct?

4 A. No. I didn't say that (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 PRESIDING JUDGE FREMR: Mr Bourgon.

12 MR BOURGON: Thank you, Mr President. At this point in time I would like the
13 witness to take off her earphones, please.

14 PRESIDING JUDGE FREMR: Court officer, please.

15 Mr Bourgon, you may proceed.

16 MR BOURGON: Thank you, Mr President. Mr President, my colleague knows
17 very well that the event she's about to -- she's trying to elicit evidence from the
18 witness happened in 2004. And in 2004 we are beyond the period, the time period
19 covered by the updated Document Containing the Charges, so I think, Mr President,
20 that no evidence should be elicited on this event. Of course, we could ask the
21 witness, but my colleague knows. I quote here from the preparation session, the
22 document here is Witness preparation session log and disclosure note, which we
23 received, this is a session that was conducted on 28 and 29 April. It is indicated in
24 the list of documents or items we intend to use in cross-examination. There is no
25 DRC number yet, or maybe there's one now, but this morning there wasn't because it

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1 had not yet been officially disclosed.

2 But I quote from paragraph 4 of this document, page 4, sorry, where it says "Witness
3 statement." And there the witness is making, bringing corrections. And it says
4 here at 0314, paragraph 81, (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted) and then she goes on to describe the event. I'll stop here for now, but

8 clearly this is an event that took place beyond the relevant time frame of the charges

9 laid against the accused.

10 PRESIDING JUDGE FREMR: Mr Bourgon, I'm afraid you are too fast. Am I right?

11 Court officer indicating slow down a bit. Thank you.

12 MR BOURGON: Sorry. I will, I will. So my objection at this time, Mr President, is

13 clearly that this is an event that took place after the updated Document Containing

14 the Charges and that no questions should be asked about this time period. Thank

15 you, Mr President.

16 PRESIDING JUDGE FREMR: Ms Solano.

17 MS SOLANO: Your Honour, the Prosecution's position is that although this event

18 did -- does appear to fall outside the scope of the charges, your Honours have

19 allowed evidence of facts occurred outside the scope of the charges before, and we

20 submit that it is relevant as pattern evidence.

21 PRESIDING JUDGE FREMR: Could you explain us, because this is really more than

22 one year after the time covered by charges, what relevance is in incident that

23 allegedly occurred in 2004.

24 MS SOLANO: Your Honours, in the Prosecution's submission, the UPC -- UPC

25 elements were still active in the city of Bunia in this period in 2003, as well as in 2004,

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1 and this includes the period while the accused had been promoted to chief of staff of
2 the *UPC.

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

4 Mr Bourgon.

5 MR BOURGON: Well, Mr President, there is a big difference between events which
6 are outside of the temporal scope of the charges. Sometimes an event will happen
7 before the charges and it can be relevant to establishing the mens rea of the accused or
8 even the intentions beyond -- that apply to the armed group. In this case we are
9 talking about an event that takes place after the charges.

10 Had the Prosecution wished to cover this time period, they -- then they should have
11 extended the period of the accusations. The charges end on December 2003.

12 Moreover, if there was something about a lot, the quantity, or if it was an event that
13 could be relevant to really control or discipline inside the forces, maybe it could have
14 a little relevance, but even there it would have no probative value whatsoever. In
15 this case we are talking about an isolated incident from an isolated person who is
16 allegedly, and not even -- we don't even know if that person was a member of the
17 armed forces at that time or not. All we know he is in Bunia and in Bunia there are
18 no armed forces at that time, officially. The international community has intervened
19 and now we have an isolated incident (Redacted) and this has nothing
20 to do with the charges laid against the accused.

21 Thank you, Mr President.

22 PRESIDING JUDGE FREMR: Ms Solano, please briefly.

23 MS SOLANO: Your Honour, we have other witnesses who speak of UPC elements
24 being active in the town of Bunia; for example, perhaps dressed in civilian clothes
25 during the day, but going out on patrol in the evenings and committing crimes,

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1 (Redacted)

2 And as to this being an isolated incident, your Honour, what I can say is that in the

3 witness preparation session she explained that (Redacted) And

4 she mentioned the (Redacted)

5 (Redacted)

6 (Redacted)

7 PRESIDING JUDGE FREMR: All right. I think it's enough for us. Let's move into

8 open session.

9 (Open session at 4.27 p.m.)

10 THE COURT OFFICER: (Interpretation) We are in open session.

11 PRESIDING JUDGE FREMR: Thank you.

12 This issue requires some, it's not so simple, it requires some deliberation of the

13 Chamber, but we are at the moment at the end of our session. So we will adjourn for

14 today. We will deliver our ruling on that orally tomorrow morning. And

15 tomorrow we will sit in our currently normal regime, which means five hours a day

16 starting at 9.30.

17 So now Court is adjourned.

18 THE COURT OFFICER: All rise.

19 (The hearing ends in open session at 4.28 p.m.)

20 RECLASSIFICATION REPORT

21 Pursuant to the Trial Chamber' IX's instructions, ICC-02/04-01/15-497, dated 13 July

22 2016, the public reclassified and lesser redacted version of this transcript is filed in the

23 case.