

Trial Hearing
WITNESS: DRC-OTP-P-0898

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 3
8 Thursday, 10 November 2016
9 (The trial hearing starts in open session 9.30 a.m.)
10 THE COURT USHER: [9:30:41] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:30:57] Good morning, everybody. Court officer,
14 please call the case.
15 THE COURT OFFICER: [9:31:03] Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case of the Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 PRESIDING JUDGE FREMR: [9:31:19] Thank you, court officer.
19 Now appearances, please, prosecution first.
20 MR IVERSON: [9:31:23] Good morning, your Honours. Appearing today for the
21 Prosecution are Laura Morris, Selam Yirgou, Claudine Umurungi, and myself, Eric
22 Iverson.
23 PRESIDING JUDGE FREMR: [9:31:34] Thank you, Mr Iverson.
24 Defence, please.
25 MR BOURGON: [9:31:37] Good morning, your Honour. No change on the side of

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1 the Defence. Thank you.

2 PRESIDING JUDGE FREMR: [9:31:43] Thank you, Mr Bourgon.

3 Legal Representatives of Victims.

4 MS PELLET: [9:31:51] (Interpretation) Thank you, your Honour. The former child
5 soldiers are represented by Mohamed Abdou and by myself, Sarah Pellet, counsel
6 with the Office of Public Counsel for Victims.

7 MR SUPRUN: [9:32:03] (Interpretation) Good morning, Your Honour, your Honours.
8 For the victims of the attacks today Anne Grabowski and myself, Dmytro Suprun,
9 counsel with the Office of Public Counsel for Victims.

10 PRESIDING JUDGE FREMR: [9:32:16] Thank you, Ms Pellet. Thank you,
11 Mr Suprun.

12 Now let's move directly to the rest of cross-examination of our witness.

13 Mr Witness, good morning. Are you feeling okay today?

14 WITNESS: DRC-OTP-P-0898 (On former oath)

15 (The witness speaks Swahili)

16 THE WITNESS: [9:32:37] Ndiyo.

17 PRESIDING JUDGE FREMR: [9:32:38] Very well. Again my usual duty, I have to
18 remind you that you are still under oath, so it's your duty to speak the truth and
19 nothing but the truth. Do you understand?

20 THE WITNESS: [9:32:50] (Interpretation) Yes.

21 PRESIDING JUDGE FREMR: [9:32:55] So now I'm giving the floor to Mr Bourgon.

22 And Mr Bourgon, a kind reminder, as we decided yesterday, you have at your
23 disposal two morning sessions, so you are expected to finish by 1 o'clock.

24 MR BOURGON: [9:33:09] Thank you, Mr President.

25 QUESTIONED BY MR BOURGON: (Continuing)

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1 Q. [9:33:18] Good morning, Mr Witness

2 A. [9:33:22] Jambo.

3 Q. [9:33:22] (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 PRESIDING JUDGE FREMR: [9:33:55] Excuse me, Mr Bourgon. I understand that
8 Mr Ntaganda has some technical problem. Please verify.

9 MR BOURGON: [9:34:16] I'm informed that he is not able to see the witness on the
10 screen.

11 PRESIDING JUDGE FREMR: [9:34:35] So I would ask the court usher to solve this
12 problem as soon as possible.

13 I was informed now it should be fine.

14 Mr Bourgon, please proceed.

15 MR BOURGON: [9:35:13] Thank you, Mr President.

16 Q. [9:35:18] (Redacted)

17 (Redacted)

18 (Redacted)

19 PRESIDING JUDGE FREMR: [9:35:39] Mr Bourgon, we are in open session so
20 I guess we have to move into private one.

21 MR BOURGON: [9:35:44] Indeed, Mr President.

22 PRESIDING JUDGE FREMR: [9:35:47] So, please, and redact the beginning of
23 Mr Bourgon's question.

24 And in order to inform the public, this witness is a protected one so he was given
25 guarantee that his identity will not be revealed. That is why as soon there is such a

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1 risk we have to move into private session, which is the case just now.

2 (Private session at 9.36 a.m.) *(Reclassified partially in public)

3 THE COURT OFFICER: [9:36:18] Thank you, your Honour. We are in private
4 session

5 PRESIDING JUDGE FREMR: [9:36:24] Thank you, court officer.

6 Mr Bourgon, please proceed.

7 MR BOURGON: [9:36:27] Thank you, Mr President.

8 Q. [9:36:28] So in your (Redacted) statement I refer to document number (Redacted)
9 at paragraph 20. First you say, and we covered that yesterday:

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Do you recall that these are your words, sir?

14 A. Yes.

15 Q. [9:37:10] (Redacted)

16 (Redacted)

17 A. [9:37:38] (Redacted).

18 Q. [9:37:51] You know from (Redacted) or from what you recall in 2002?

19 A. [9:38:06] That's what I saw with my own eyes.

20 Q. [9:38:12] (Redacted)

21 (Redacted)

22 (Redacted)

23 A. [9:38:43] (Redacted).

24 Q. [9:38:44] Now, sir, I refer to your statement, and that is your statement of

25 (Redacted). The number is (Redacted) at paragraph 22 and paragraph 27. In both

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1 paragraphs you say, and I will read from paragraph 22:

2 "My training lasted two weeks in total. (Redacted)

3 (Redacted)"

4 So my question, sir, is are you changing your testimony, are you changing this

5 evidence that you provided in your statement by saying now that it was eight to nine

6 days?

7 A. [9:39:59] Counsel, these are things that happened a very long time ago.

8 Sometimes you can't remember everything.

9 Q. [9:40:20] So what you're telling me is that you don't really know if it was five,
10 eight or nine days; is that correct?

11 A. [9:40:42] It's between the amount of days that you have just stated.

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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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 (Redacted)

23 Q. [9:46:54] Now, with respect (Redacted), you mentioned in your previous answer,

24 and I refer to page 7, and that is on line 14, you say:

25 "He was the person who came to raise our morale."

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1 Now, I understand this to mean that he spoke to the recruits and that he had a role in
2 the training related to morale.

3 A. Well, I'm not saying that he's responsible to raise the morale of the recruits, but
4 (Redacted), he would speak to the recruits and it was -- and on than date he came to
5 speak to us, (Redacted).

6 Q. [9:48:10] Sir, I now refer to your testimony two days ago, transcript 153, page 68,
7 lines 12 to 17, where you say -- well, actually, you were asked on that occasion if you
8 could approximate how many people were there to be trained in total, if you know.

9 And your answer was:

10 "I would put the number of recruits at between 40 and 50."

11 Do you recall this answer, sir?

12 A. [9:48:55] Yes.

13 Q. [9:48:57] Now, sir, between 40 and 50, is that the number of people who trained
14 or the number of people who were there before you arrived?

15 A. [9:49:22] That's the number of recruits.

16 Q. [9:49:33] Now, sir, again transcript 153, page 71, lines 21 to 25, you said the
17 following. The question was:

18 "Where did you go next, if anywhere?"

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Your answer was: "Afterwards, a group of us were sent to Rwampara, another
23 group to Mandro. I was in the group that went to Mandro."

24 Do you recall this answer, sir?

25 A. [9:50:44] Yes.

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1 Q. [9:50:47] Now, sir, the -- based on the information that I have, Rwampara was
2 not an UPC training centre until December of 2002. So does that refresh your
3 memory that you did not see anyone go to Rwampara on that day?

4 A. [9:51:11] That's information that you have, but the information I have is that.

5 Q. [9:51:27] Sir, at page 72, lines 1 to 3 -- this is two days ago -- you said the
6 following concerning your departure. I had the wrong page. Page 72:

7 "How did you get from (Redacted) to Mandro?" Your response was: "We went on
8 a vehicle."

9 You recall this, sir, right?

10 A. [9:52:21] Yes.

11 Q. [9:52:25] Now, in your statement of (Redacted), again the number (Redacted), on
12 page 0239, paragraph 27, you say the following: (Redacted)
13 (Redacted). I do not know who organised the transport. We were told to get into
14 vehicles."

15 So you have no recollection, sir, of who organised the transport to go to Mandro; is
16 that correct?

17 A. [9:53:22] Counsel, in any organisation, there are always people responsible for
18 logistics and other things. If we went there, the recruits, there has to be somebody
19 who is responsible for that organisation. It wasn't my business. I wasn't the one to
20 know who was organising the transport. I could only obey the orders I was given.

21 Q. [9:54:08] (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 A. [9:55:00] (Redacted).

2 Q. [9:55:03] (Redacted)

3 (Redacted)

4 A. [9:55:16] (Redacted).

5 Q. [9:55:19] So your first contact with Mandro, the first person you met officially,
6 was (Redacted)? That's what I understand.

7 A. [9:55:40] No, that doesn't mean that was the first person I met. There were a lot
8 of people in Mandro. That was the first person I could recognise.

9 Q. [9:55:58] Let me take this again to avoid confusion. My question was not
10 precise. When you arrive in Mandro, the first day you arrive in Mandro, you met
11 and you recognise (Redacted); is that correct?

12 A. [9:56:24] Yes, but I also met other people.

13 Q. [9:56:33] I'd like to refer now to your statement of (Redacted). The number is
14 (Redacted), and I will quote from (Redacted) at paragraph 41:

15 "There was no registration of the names of recruits at the time I joined, but at the
16 Mandro training centre the names of new recruits were registered upon arrival,
17 except for (Redacted)."

18 Do you recall that this is what you said in your statement of (Redacted)?

19 A. [9:57:44] If -- could you repeat the question, please? I haven't understood it
20 well.

21 Q. [9:57:52] Yes, indeed. I am simply reading a part of your statement and asking
22 you if you recognise, if you confirm that this is your evidence:

23 "There was no registration of the names of recruits at the time I joined, but at the time
24 Mandro training centre the names of new recruits were registered upon arrival,
25 except for (Redacted)

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1 (Redacted)."

2 Is that correct, or do you wish to change that?

3 A. [9:58:59] I haven't well understood the question. I think you're speaking very
4 quickly.

5 Q. [9:59:07] Sir, I'm not really asking --

6 A. The interpreter is not able to explain it better.

7 Q. [9:59:18] Sir, in (Redacted), you met with the investigators of the Prosecution and
8 you provided a statement. I am reading part of your statement, and it is on (Redacted)
9 at paragraph 41. You saw this statement (Redacted) during your preparation session,
10 and I just want you to confirm the same. And I will read it one more time:

11 "There was no registration of the names of recruits at the time I joined, but at the
12 Mandro training centre the names of new recruits were registered upon arrival,
13 except (Redacted)
14 (Redacted)"

15 Is this information that you provided to the Prosecution correct?

16 A. [10:00:48] Yes.

17 Q. [10:00:52] I understand from this information that you, yourself, were not
18 registered upon arrival in Mandro; is that correct?

19 A. [10:01:13] At first my name was not recorded, but later, at the end of the training,
20 when we were awaiting our weapons, my name was registered then.

21 Q. [10:01:32] Sir, we will get to the after. My only question, and I will take that as
22 an answer, is that you were not registered upon arrival in Mandro; is that right?

23 A. [10:01:55] That's right.

24 Q. [10:01:57] (Redacted)

25 (Redacted):

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [10:03:22] Sir, during your testimony on the first day, (Redacted) lists were
10 shown to you, and on one of them you -- on which you recognised certain names.
11 You recall this part of your testimony?

12 A. [10:03:51] Yes.

13 Q. [10:03:54] Sir, my understanding is that you had never seen these lists before; is
14 that correct?

15 A. [10:04:14] That's right.

16 Q. [10:04:19] But you recall that these (Redacted) lists were shown to you during
17 your preparation session?

18 A. [10:04:36] That is correct.

19 Q. [10:04:39] So to be, for the sake of completeness, I will refer to your preparation
20 session log. There is no number for this document, but it is on page 4, where it says
21 the following, "Witness P-0898 reviewed the following materials." And then there is
22 a list of material that you reviewed. If I go to page 5 of the same preparation session
23 log, the (Redacted) lists are mentioned. (Redacted)
24 (Redacted)."

25 Sir, my first question in this regard is during your preparation session those lists,

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1 when were they given to you? Were they part of a big binder of material given to
2 you at the beginning?

3 A. [10:06:52] When you say that the list was not in the file, how do you explain that?
4 Could you be clearer on that point?

5 Q. [10:07:04] Yes, because I think I was misunderstood or did not express myself
6 clearly. You confirm that you saw those (Redacted) lists during your preparation session,
7 and the lists are mentioned in the log. I just want to know when the lists were given to
8 you, at the beginning of your preparation session, with all the material, or later on?

9 A. [10:07:51] Your question was I was shown the lists while I was working with the
10 investigators or whether I only saw the lists here during the trial? Is that what your
11 question is?

12 Q. [10:08:10] I'll take that from the top and I'll try to be shorter. You recall that (Redacted),
13 while working with the Prosecution, you were shown those (Redacted) lists; right?

14 A. [10:08:26] Yes.

15 Q. [10:08:31] At the beginning, the first day you met with the Prosecution
16 (Redacted), according to the information I have, a number of materials were given to
17 you. Do you recall this, like being given a binder with some material?

18 A. [10:09:05] Yes. Now, I want to know, are you saying was given to me or was
19 shown to me?

20 Q. [10:09:21] Sir, you remember that you saw a number of documents while
21 working with the Prosecution; that's correct?

22 A. [10:09:38] Yes, that's right.

23 Q. [10:09:40] I'm just interested in knowing how and when you were given all this
24 material. Usually they give it at the beginning of the session. Is that what
25 happened?

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1 A. [10:10:16] I don't remember exactly when I was shown the documents, but
2 I know I was shown the documents one at a time, one after another. That's how they
3 proceeded. They showed me the documents one after another, and the documents
4 were in a binder.

5 Q. [10:10:40] And that's exactly my point. Were these documents, that binder you
6 are referring to, is this the binder that you had when you were reading your materials
7 alone?

8 A. [10:11:07] What do you mean by that? There were some people from the office
9 who had the binder and they showed me the documents one after another. I didn't
10 have the binder in my very hands. We were all together, the people from the
11 Prosecution, the interpreters and myself. I didn't have the -- I didn't actually have
12 the binder myself.

13 Q. [10:11:32] Thank you, sir. In your testimony, that's transcript 153, page 76,
14 lines 1 to 7 --

15 PRESIDING JUDGE FREMR: [10:11:47] Sorry, Mr Bourgon.

16 Mr Iverson.

17 MR IVERSON: [10:11:51] I didn't want to interrupt Defence counsel while he was
18 going over this document, but I did just want to identify the document with an ERN
19 number so it's on the record. It's DRC-OTP-2098-0002, and that's the ERN number
20 for the registered witness preparation note.

21 PRESIDING JUDGE FREMR: [10:12:10] All right. Thank you, Mr Iverson.

22 Mr Bourgon, please.

23 MR BOURGON: [10:12:16] Thank you, Mr President.

24 Q. [10:12:18] So, sir, I refer to your testimony, that's two days ago, and a question
25 was put to you, and this is on page 76. The question was, "When you joined the UPC,

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1 did anybody ask you how old you were?"

2 Your answer was the following, "No. There was a list, a register, and you were
3 asked to provide your name, the names of your parents, where you come from, your
4 level of education and your date of birth. That was the information required for the
5 registration list (Redacted)."

6 You recall saying this two days ago?

7 A. [10:13:35] Yes.

8 Q. [10:13:35] Now, sir, I have a number of course material concerning your
9 evidence which was given to us by the Prosecution and this material includes three
10 statements. One is from (Redacted), that's (Redacted). You recall this interview,
11 (Redacted)?

12 A. [10:14:28] That document isn't up on the screen.

13 Q. [10:14:34] Sir, I'm not showing you the document, I'm just asking you if you
14 remember that you met with the Office of the Prosecution, the investigators,
15 (Redacted). Do you recall this, sir?

16 A. [10:14:56] And where did we meet?

17 Q. [10:15:09] I'm not interested in where you met. That's not my point. Do you
18 recall meeting with the investigators and providing a statement which you reviewed
19 (Redacted)?

20 A. [10:15:43] Yes, I remember.

21 Q. [10:15:47] And do you recall, sir, that in (Redacted) the investigators went back
22 to see you, from (Redacted), and you provided a statement which is (Redacted)? Do
23 you recall this, sir?

24 A. [10:16:15] Yes.

25 Q. [10:16:19] And in (Redacted), that's some (Redacted), the investigators again

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1 went back to see you and you provided a statement which is (Redacted). Do you
2 recall this meeting, sir?

3 A. [10:17:08] I don't see any document on the screen, but I remember meeting them.

4 Q. [10:17:15] Sir, I'll show you the first of these three documents. The document is
5 (Redacted) statement and it has a number (Redacted), and I would like to show you
6 the page (Redacted).

7 MR BOURGON:

8 If we can have this page on the screen, please. I would like to focus where it says,
9 "Witness acknowledgement."

10 Q. Do you see the document, sir?

11 A. Yes.

12 Q. [10:18:16] It reads, just below "Witness acknowledgement, "This statement has
13 been read to me in Swahili and is true, to the best of my knowledge and recollection."
14 And there's a signature. That is your signature, correct?

15 A. [10:18:40] Yes.

16 MR BOURGON: [10:18:55] If I can now have page (Redacted) on the screen, please,
17 and I would like to focus on paragraph 4.

18 Q. [10:19:36] Do you see paragraph 4, sir?

19 A. [10:19:42] Yes.

20 Q. [10:19:44] I will read it for the record: "I was told that at the conclusion of the
21 interview I would be asked to sign a written statement, after having had the
22 opportunity to review it and add any corrections or additional information --

23 PRESIDING JUDGE FREMR: [10:20:03] Sorry, Mr Bourgon.

24 THE COURT OFFICER: [10:20:07] Thank you, Your Honour. It is the page 236, just
25 for the record.

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1 MR BOURGON: [10:20:15] Thank you very much, it's 236. My copy is not too clear,
2 but I could see it could be a "6" even. It must be a "6."

3 Q. [10:20:27] So, sir, the (Redacted) you met with the Prosecution, you had the
4 opportunity to make all corrections and clarifications or to put additional information
5 as you wanted; is that correct?

6 A. [10:20:52] Correct.

7 Q. [10:20:52] Now, sir, I -- I will take this again. Sir, the information you provided
8 about the information (Redacted) what I referred to a little earlier, a register, name,
9 parents, level of education, date of birth, sir, I did not find anything that looks or that
10 even comes close to such information in your (Redacted) statements as being
11 something required of recruits upon arrival in Mandro. You recall this, sir? You
12 agree with me?

13 A. [10:22:01] Very well. I understand what you've just said but, you see, it is very
14 difficult for anyone to remember all the details, and that was something that
15 happened a very long time ago. It's not something that happened just yesterday.
16 It's been years, years have gone by since that happened. Today I'm being asked to
17 give testimony. That is why, if you don't see that detail in my statement, well, those
18 are little details that I didn't remember during the interview.

19 Q. Well, sir, I suggest to you that the only reason you mentioned these lists and the
20 information required of the recruits upon arrival is because you saw the lists during
21 your preparation session. Is that correct?

22 A. [10:23:28] Could you please repeat what you just said?

23 Q. [10:23:33] In your testimony you provided information which, according to you,
24 there was information that was required of recruits upon arrival in Mandro. I'm
25 suggesting to you that the only reason you gave this information is because you saw

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1 the lists in your preparation session.

2 PRESIDING JUDGE FREMR: [10:24:06] Hold on, Mr Witness.

3 Mr Iverson.

4 MR IVERSON: [10:24:09] I believe that the question is misleading. I don't believe
5 that the witness talked about registration lists at the arrival, but rather at the
6 departure, so I would ask for a citation to the transcript from Defence counsel.

7 PRESIDING JUDGE FREMR: [10:24:23] Mr Bourgon.

8 MR BOURGON: [10:24:27] Mr President, the question related to what he put in his
9 statement as information being required of recruits upon arrival in Mandro, and I
10 gave the page reference and I gave the exact paragraph. And the question that was
11 put to the witness on that occasion, on page 76, lines 1 to 7, was, and I quoted it earlier,
12 "When you joined the UPC, did anybody ask you how old you were?" And then the
13 answer which I quoted, which is in the transcript, the witness replied that, "No," but
14 then he says, "There was a list, a register, and you were asked to provide your names,
15 the names of your parents, where you come from, your level of education, and your
16 date of birth." And then the witness concludes by saying, "That was the information
17 required from the registration list (Redacted)."

18 My suggestion to the witness is that this answer, this specific answer, the only reason
19 he provided this information is because he saw the lists in his preparation session.
20 But I can move on to a different topic.

21 Q. [10:26:15] Sir, I go back to your statement, and that is (Redacted), at paragraph 41.

22 A. [10:26:33] I beg your pardon, counsel. In relation to what you just said, I think
23 that you are trying to contradict what I've been saying. I don't agree with you when
24 you said that I spoke of that because I had been shown the list.

25 Q. [10:27:03] Thank you, sir. We can move on to my next question, which is on

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1 the same topic. At paragraph 41 of your (Redacted) statements -- just so that we are
2 clear, we covered this earlier this morning. "There was no registrations of the names
3 of recruits at the time I joined, but at the Mandro training centre, the names of new
4 recruits were registered upon arrival, (Redacted)
5 (Redacted)
6 (Redacted)."

7 And you confirmed this information, right?

8 A. [10:28:22] Yes.

9 Q. [10:28:23] Now, I'd like to refer to one of these lists on which you recognize your
10 name, (Redacted). And while this exhibit is being put on the
11 screen, I refer to your testimony two days ago, on page 76, lines 11 to 15, that is
12 transcript 153, where you say the following, "Sir..." this is the question, "...what is this
13 exhibit or document that you see in front of you, if you know?"
14 "Yes, that is the registration form which I just talked about on which we were
15 registered. That register was drawn up and I know it, when we completed our
16 training."

17 You recall giving this answer, sir?

18 A. [10:30:01] Yes.

19 Q. [10:30:01] And further down in your testimony, on page 77, lines 12 to 18, you
20 say the following. The question was, "To the best of your recollection, what was
21 happening when this -- when your information went into this document, if you
22 know?"

23 Your response, "Yes, that's what I said. At the end of our training, we were told that
24 we will be registered so that the registration form would be sent to the general staff
25 and that this document will be proof that we have become soldiers, so that each

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1 person who had undergone the training at the centre was registered on this
2 document."

3 Do you recall this evidence, sir?

4 A. [10:31:22] Yes.

5 Q. [10:31:23] Now, sir, my understanding from your statement, compared to your
6 testimony, is that now you are changing your evidence to information required from
7 recruits upon arrival in Mandro, to information required at the end of the training.

8 Is that what I'm supposed to understand?

9 A. [10:32:10] I haven't changed what I said. Perhaps you're the one who's
10 changing things. I can explain to you, with a lot more detail, if you would like.

11 Q. [10:32:23] Go ahead.

12 A. [10:32:25] Very well. If you see that in the statement, that's a written statement.
13 Now, I'm going to tell you what happened. If I tell you that when we arrived, they
14 didn't register our names, (Redacted)

15 (Redacted)

16 (Redacted) When we

17 arrived in Mandro, they didn't register us, but at the end of our training, everybody
18 was registered. And at that time we didn't have rifles. This was a way of
19 registering everybody, with a view to being able to provide them with guns.

20 Perhaps you didn't follow me well, counsel.

21 Q. [10:33:52] Sir, do you agree with me that at no time during all your meetings
22 with the Prosecution you referred to any type of registration at the end of your
23 training? Is that correct, sir?

24 A. [10:34:17] Counsel, what did I just tell you? There are other details that I just
25 can't think of now, and that's in response to the questions that were put to me. I

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1 answered the questions that were put to me. You know, there are certain details
2 which I could forget or miss.

3 Q. [10:34:44] If I understand your testimony correctly, sir, you are now saying that
4 recruits were registered upon arrival in Mandro and they were registered again after
5 the end of their training. Is that your testimony, sir?

6 A. [10:35:10] Yes, that's correct. So you say there's registration at the beginning.
7 That wasn't just my group. Before us, other recruits came, and after there were other
8 recruits who came to the same centre.

9 Q. [10:35:35] Sir, on the screen before you is the list on which you recognize your
10 name, (Redacted). Do you recall this, sir?

11 A. [10:35:55] You say, which number is it?

12 Q. [10:36:00] My understanding from your testimony is that you recognize your
13 name (Redacted).

14 A. [10:36:18] Yes, that's correct.

15 MR BOURGON: [10:36:22] If I can have on the screen, please, (Redacted)
16 (Redacted)

17 PRESIDING JUDGE FREMR: [10:36:57] Yes.

18 THE COURT OFFICER: [10:36:59] Thank you, your Honour. Do you mean (Redacted)?

19 MR BOURGON: [10:37:03] No, (Redacted). It's the list that was used
20 previously.

21 Q. [10:37:41] You see this list on the screen, sir?

22 A. [10:37:50] Yes.

23 Q. [10:37:53] You see that the list (Redacted)?

24 A. [10:38:07] Yes.

25 Q. [10:38:09] Now, I'd like to focus on the bottom right corner of this document,

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1 and there it says, sir, and I will read for you and you can confirm, "27 August 2002."

2 You see this?

3 A. [10:38:50] Yes.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted). Isn't that the case, sir?

14 A. [10:40:31] Counsel, it depends on the way you think. I'm not the one who

15 reviewed the sheet. Even I, I discovered this list here. I didn't base my testimony

16 on this sheet; that is incorrect.

17 Q. [10:41:07] Sir, I move to a different topic, which is the time you would have

18 spent at Mandro. I've got a lot of questions on Mandro but first I'd like to show you

19 a video and ask you to confirm some of the information you provided the Prosecution

20 concerning this video.

21 This is the video about Mandro. Do you recall being shown this video during your

22 preparation session?

23 A. [10:41:49] Yes.

24 Q. [10:41:50] Do you also recall being shown this video during your (Redacted)

25 interview?

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1 A. I haven't viewed the video yet to confirm that to you. You have to show me
2 the video so I can say if it's the one I saw or not.

3 MR BOURGON: [10:42:22] The video number is 0082-0016. If I can have the
4 control on this side so that my colleague can play bits and pieces of the video.

5 Q. But, sir, that's the video about Mandro. Did you see more than one video
6 about Mandro?

7 A. [10:43:04] I'm sorry, I don't understand.

8 Q. [10:43:06] Sir, I have your statement from (Redacted) and the number, of course,
9 is (Redacted). I refer to paragraph 84, where a number of questions are put to you
10 concerning the Mandro video bearing the number I just mentioned. So we'll just
11 take it from there and I will show you some extracts of this video.

12 MR BOURGON: Mr President, I will show around ten extracts I will begin at
13 (Redacted), going to close to the end of the video, (Redacted), various small extracts.
14 And I will begin the video (Redacted).

15 PRESIDING JUDGE FREMR: [10:44:28] But I will also ask you to indicate each
16 extract, you know, not just to say that it is (Redacted). So always
17 indicate the --

18 MR BOURGON: [10:44:39] Indeed, Mr President, I will.

19 So the first one is (Redacted).

20 I apologise, Mr President, to cut down on time, I'm moving on to a more important
21 extract of this video.

22 PRESIDING JUDGE FREMR: [10:45:32] All right.

23 MR BOURGON: [10:45:32] The first one begins at (Redacted).

24 Q. [10:45:42] Sir, please look at these four seconds and then I will ask you a
25 question.

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1 Sir, when you provided your statement to the Prosecution, and this extract was
2 shown to you, you mentioned that this was a person (Redacted). Do you recall
3 saying this?

4 A. Yes.

5 THE INTERPRETER: Could the witness be asked to repeat the answer? That's a
6 message from the Swahili booth.

7 PRESIDING JUDGE FREMR: [10:46:51] Please, Mr Witness, could you kindly repeat
8 your answer because it was not -- it wasn't captured by the interpreters.

9 THE WITNESS: [10:47:05] (Interpretation) Yes. I said yes, (Redacted), yes, (Redacted)

10 MR BOURGON: [10:47:13]

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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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [10:50:11] We'll move on to the next extract, starting at (Redacted). Sir, look
5 carefully at the video, please. The video is stopped at (Redacted).

6 Do you recognise anyone in this picture, sir?

7 A. [10:51:03] It's dark.

8 Q. [10:51:09] There are (Redacted), but

9 do you recall these (Redacted) individuals? Do you have any recollection of them?

10 A. [10:51:30] It's very blurred. I can't see well. These pictures aren't very clear.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 PRESIDING JUDGE FREMR: [10:52:24] Hold on, Mr Witness.

20 Mr Iverson.

21 MR IVERSON: [10:52:28] I just want to object to -- the photo that he's showing or

22 the -- and I know this may have been an error by Defence, but it's really blurry, it's

23 really hard to make out anything in this picture. But I just want that noted for the

24 record as well that he's asking him to identify people but the image, as far as I can see,

25 is pretty difficult to make out. (Redacted) that's -- and a few

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1 individuals, but that's about it.

2 PRESIDING JUDGE FREMR: [10:52:58] Well noted.

3 Mr Bourgon.

4 MR BOURGON: [10:53:00] Thank you, Mr President. Well noted.

5 Q. [10:53:02] Sir, and just for your information, (Redacted) is called

6 Abelanga. I will move on to my next extract from this video, but before I do so, you

7 know that Abelanga had a leading role in Mandro; isn't it?

8 A. [10:53:46] He was one of the members of the authorities. He wasn't the only

9 one.

10 Q. Well, in your statement, did you not say that he was responsible, that he was in
11 charge of Mandro?

12 A. [10:54:20] When did I say that? When, where?

13 Q. Well, that is in your statement and that is on paragraph 28, your statement from

14 (Redacted), at paragraph 28, and it says, "It was Abelanga who was in charge of

15 Mandro (Redacted)."

16 I will move on to my next extract, unless you want to correct that information that he

17 was in charge of Mandro.

18 PRESIDING JUDGE FREMR: [10:55:21] Mr Witness, any response?

19 THE WITNESS: [10:55:28] (Interpretation) He said that he wanted to show the

20 excerpt so I'm waiting for the next excerpt.

21 MR BOURGON: [10:55:41]

22 Q. [10:55:42] Sir, my question is, do you know who was the commanding officer of

23 Mandro when you would have been there?

24 A. [10:56:00] Yes, that's what I'm saying. If you asked the question about

25 Abelanga, yes, he was one of the persons responsible. (Redacted)

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1 (Redacted). There were several different officers who were there. At that time I
2 wasn't interested in knowing who was responsible for the centre. That wasn't my
3 role to know that.

4 (Redacted)

5 (Redacted)

6 MR BOURGON: [10:56:53]

7 Q. [10:56:53] Sir, let's move on to the next extract, which starts at (Redacted).

8 Sir, in your (Redacted) statement -- first of all, just to confirm that the video has been
9 stopped (Redacted), "I think the soldiers are now paying their respect.

10 The commanders visited Mandro (Redacted) when I was there. I'm not sure I was
11 present this particular time."

12 Do you recall saying this?

13 A. [10:58:01] Yes.

14 Q. [10:58:06] Sir, do you recognise from what you just saw where this scene is
15 filmed?

16 A. [10:58:28] This scene is in Mandro.

17 Q. [10:58:34] Whereabouts in Mandro?

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. [10:59:27] Thank you, sir. Based on our information, this is not the area
23 depicted on the video, but I will come back to this. I will go to my next extract, and
24 this will be the last one before the break, starting at (Redacted).

25 Sir, I'd like you to look at -- first of all, the video was stopped at (Redacted). Look at

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1 the (Redacted). Do you recognise this individual?

2 A. [11:00:34] The picture is very dark, as I said. Nevertheless I recognise the
3 person (Redacted).

4 Q. [11:00:53] So, sir, if I tell you that the man on the right is (Redacted), you're not
5 able to recognize him; is that correct?

6 A. [11:01:11] It's not clear.

7 MR BOURGON: [11:01:16] Mr President, I think we can stop for the break. I can't
8 see the clock from here, but...

9 PRESIDING JUDGE FREMR: [11:01:23] You are precise now, it is just 1 o'clock -- 11
10 o'clock. Okay, so let's move into open session for the rest of the session.
11 (Open session at 11.01 a.m.)

12 THE COURT OFFICER: [11:01:59] We are in open session, your Honour.

13 PRESIDING JUDGE FREMR: [11:02:01] Thank you, court officer.

14 So we will break now for our regular break. And just to indicate what should be the
15 next schedule, so we will resume again at 11.30.

16 Mr Bourgon, just a caveat, we will ask you to finish by 1 o'clock, regardless of the
17 stage of your cross-examination, and then we would like rather then to continue on
18 Friday, rather to prolong this session slightly.

19 Mr Iverson, you still insist that you will need 10 minutes in maximum for your
20 re-direct?

21 MR IVERSON: [11:02:46] I would actually ask for 15 minutes at this point.

22 PRESIDING JUDGE FREMR: [11:02:49] But I think it still will be feasible to finish in
23 30 minutes, we can't go further with your re-direct, and I guess there will be some
24 questions from the Chamber. So it's current plan, we will see whether it's feasible.

25 So now we break and we will resume 11.30.

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1 (Recess taken at 11.03 a.m.)

2 (Upon resuming in open session at 11.32 a.m.)

3 THE COURT USHER: [11:32:19] All rise.

4 Please be seated.

5 PRESIDING JUDGE FREMR: [11:32:44] We will directly continue with

6 cross-examination of our witness, but since the witness is protected one, it means that

7 we will have to continue, because of the character of the questions, we have to

8 continue in private session.

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

10 (Private session at 11.33 a.m.) *(Reclassified partially in public)

11 THE COURT OFFICER: [11:33:15] We are in private session, Mr President.

12 PRESIDING JUDGE FREMR: [11:33:18] Thank you, court officer.

13 Mr Bourgon, please proceed.

14 MR BOURGON: [11:33:21] Thank you, Mr President.

15 Q. [11:33:23] Mr Witness, I have four extracts to show you from this Mandro video,

16 the first one will be starting at (Redacted). Please look carefully and I will then put

17 a question to you.

18 I note that the video has been stopped (Redacted).

19 Sir, I refer to your statement of (Redacted), and this is on (Redacted), where you state

20 the following concerning the extract (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Do you recall saying this, sir?

25 A. [11:35:02] Yes.

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1 Q. [11:35:11] Now in your testimony transcript 153, page 73, lines 15 to 21 you say
2 the following:

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted). That was the very last time I saw Bosco in Mandro."

8 My first question is, what you said in your testimony actually corresponds to what we
9 saw in the video; is that correct?

10 A. [11:36:37] Counsel, would you be so kind as to ask your question again.

11 Q. [11:36:48] Absolutely. I read what you said about the video in your statement.
12 You recall this, correct?

13 A. [11:37:00] Yes.

14 Q. [11:37:06] (Redacted)

15 (Redacted)

16 (Redacted). So I just want to confirm that

17 we are talking about the same event.

18 A. [11:37:42] Yes, Counsel. I can explain: (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [11:38:57] Now, sir, it is our submission that this video, the scene that you saw,

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1 has nothing to do (Redacted)

2 (Redacted). Does that refresh your

3 memory?

4 A. [11:39:28] That's information that you have. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [11:40:04] I move to the next extract. I will start at (Redacted).

9 (Viewing of the video excerpt)

10 MR BOURGON: The video has been stopped at (Redacted).

11 Q. I refer to your (Redacted) statement on (Redacted), where you provide the

12 following comment based on what is seen at (Redacted):

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Do you recall saying this when you saw this part of the video?

18 A. [11:41:50] Yes, Counsel. I am going to make a correction; the day I was shown

19 this picture it wasn't clear. I told them that the person who is there, (Redacted)

20 (Redacted), but I couldn't say it clearly because the picture wasn't clear. (Redacted)

21 (Redacted)

22 Q. [11:42:26] Are you saying that you cannot recognize (Redacted)

23 (Redacted)?

24 A. [11:42:45] The picture isn't clear.

25 Q. [11:42:50] So you don't recognize (Redacted) on this picture?

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1 A. [11:43:08] You know, a long time has passed since then, and the picture here is
2 not of good quality.

3 Q. [11:43:21] Let's try a better picture. I will move directly to (Redacted) specifically
4 and freeze the frame.

5 (Viewing of the video excerpt)

6 MR BOURGON:

7 Q. Sir, in your (Redacted) statement, at (Redacted), you said:

8 (Redacted)

9 (Redacted)"

10 We will play this once again from (Redacted). Here is (Redacted).

11 (Viewing of the video excerpt)

12 MR BOURGON: [11:44:52]

13 Q. [11:44:54] Do you recognize this man today as being (Redacted) or not?

14 A. [11:45:06] Counsel, the quality of the picture isn't good.

15 Q. [11:45:12] I will move on to my next extract, which goes from (Redacted).

16 Please look carefully.

17 (Viewing of the video excerpt)

18 MR BOURGON: [11:46:21]

19 Q. [11:46:22] Do you see that video, sir?

20 A. [11:46:26] Yes.

21 Q. [11:46:28] In your (Redacted) statement you mention on (Redacted):

22 "The soldier in front of the others, (Redacted)

23 (Redacted)."

24 Do you recall saying this to the investigators?

25 A. [11:47:13] Yes.

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1 Q. [11:47:19] Now, sir, it is our submission that this is not (Redacted), and that is
2 a man called (Redacted). Does that refresh
3 your memory, sir?

4 A. [11:47:56] The quality of the picture isn't good.

5 Q. [11:48:02] Sir, do you recall that in your statement you did say that (Redacted)
6 was (Redacted) in Mandro?

7 A. [11:48:20] He was responsible for -- (Redacted)
8 (Redacted).

9 Q. [11:48:35] Now, sir, if I tell you that (Redacted) was not in Mandro, does that
10 change your testimony?

11 A. [11:48:53] That depends on the training that you have, but I am sure that at that
12 time he was.

13 Q. [11:49:00] (Redacted)
14 (Redacted)
15 (Redacted)

16 A. [11:49:18] (Redacted).

17 Q. [11:49:28] Are you insisting, sir, that (Redacted) in Mandro while you
18 were there?

19 A. [11:49:45] Yes.

20 Q. [11:49:46] We will move to the last extract, (Redacted). Sir, please look
21 carefully and we'll go now. Okay, here we start at (Redacted). Please look carefully.
22 (Viewing of the video excerpt)

23 THE WITNESS: [11:50:35] (Interpretation) Very well.

24 MR BOURGON:

25 Q. [11:50:39] You see a man in the middle of the picture?

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1 A. [11:50:42] Yes.

2 Q. [11:50:46] I refer to your (Redacted) statement on (Redacted) where you say the
3 following at (Redacted) Do you
4 recall giving this information and is it correct?

5 A. [11:51:15] Yes.

6 Q. [11:51:18] Sir, this is not (Redacted). This is actually a man
7 called (Redacted). Does that refresh your memory?

8 PRESIDING JUDGE FREMR: [11:51:29] Hold on, Mr Witness.

9 Mr Iverson.

10 MR IVERSON: [11:51:32] I believe that -- I don't know how the Chamber could
11 evaluate this information coming from Defence counsel as it does, so I would object to
12 the relevance and the probative value of this entire line of questioning, simply stating
13 that something is a fact and it is not testimony, it is just something coming from
14 Defence counsel.

15 PRESIDING JUDGE FREMR: [11:51:55] Yes, I can just confirm that we are well
16 aware of that.

17 Mr Bourgon, please proceed.

18 MR BOURGON: [11:52:01] Thank you, Mr President. I forget the word. I suggest
19 that this is (Redacted) and that this is not (Redacted)

20 Q. And I am asking if that refreshes your memory?

21 A. [11:52:30] Counsel, you are giving information about what you know. This
22 person who you have just shown me, this was (Redacted), I didn't know he was
23 called (Redacted). I never heard anyone speak about that. I didn't know
24 the name of all the troops. That wasn't one of my priorities. Doing my job was my
25 main task.

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1 Q. [11:53:07] Sir, I understand this to mean that you are not aware that one of the
2 main instructors in Mandro was (Redacted)

3 A. [11:53:32] We used to calling him (Redacted). That was the name. We didn't
4 have time to ask precisely the names of the officers. We were there to follow training.
5 That's the reason why there is some confusion with regards to the name. That's why
6 I want to explain to you.

7 THE INTERPRETER: The interpreter would also like to point out that interventions
8 are being missed because of overlapping speakers due to working relay. And if we
9 could have a pause, that would greatly facilitate things. Thank you very much.

10 MR BOURGON: [11:54:17]

11 Q. [11:54:17] Sir, last question on this extract. I suggest to you that (Redacted)
12 (Redacted) commander at Mandro, (Redacted).
13 Are you aware of this information?

14 A. [11:54:48] That's information that you have. I knew this person as (Redacted)
15 Furthermore, the other recruits also called him (Redacted) I don't know if there
16 was another (Redacted)

17 Q. [11:55:09] I now move to a few questions I have about Mandro itself. I would
18 like to know, upon your arrival in Mandro, where exactly did you go? Describe to
19 us where you went when you arrived in Mandro.

20 A. [11:55:37] When I arrived in Mandro with my group, when we arrived at the
21 groupement collectivity, recruits went to a collectivity called Kudja, it was called
22 Kudja by the villagers.

23 Q. [11:56:04] And where was this, sir?

24 A. [11:56:15] Kudja is on a hill in Mandro in the Bahema-Banywagi collectivity.

25 Q. [11:56:32] Sir, you are familiar with the place where you refer to in your

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1 testimony as the office of Chef Kahwa, correct?

2 A. [11:56:45] Yes. It was at the same time it was both his office and his residence,
3 I remember.

4 Q. [11:57:07] And where is the place you refer to as Kudja from Kahwa's office or
5 residence?

6 A. [11:57:46] I can't give you an exact distance between the two places. That
7 wasn't mentioned to say between the two places. There's an exact distance, but I
8 would estimate it to be 3 to 4 kilometres.

9 Q. [11:58:10] And, sir, describe for us the place where you trained, because you
10 mentioned in your testimony (Redacted)
11 (Redacted)

12 A. [11:58:47] When we arrived, there were other people who had already arrived.
13 It was a pasture for cows and there was also the source of a stream called Ngezi, it
14 was commonly called Cyeya (phon), known as Cyeya, on a hill.

15 Q. [11:59:22] Describe for us the buildings that you saw in Kudja, if any. Were
16 there any buildings there?

17 A. [11:59:49] There were houses that did not belong to the villagers, rather, these
18 were houses that I referred to as huts.

19 Q. [12:00:08] So there were no, like, concrete buildings, is that your testimony?

20 A. [12:00:17] If my memory serves me correctly, at that time I did not see any
21 buildings, any buildings in concrete there.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. [12:01:32] Sir, you agree with me that the name Kudja was never mentioned in
2 any of your statements, nor during the prep session, right?

3 A. [12:01:53] No, I did not mention him, because -- or I did not mention it, because
4 most people know that locality under the name of Mandro and not Kudja.

5 Q. [12:02:11] I would like to show you a picture now, I would like to have on
6 screen exhibit (Redacted)

7 I'm sorry, we have the wrong document, I am looking for (Redacted) Do
8 you see this picture, sir?

9 A. [12:03:16] I can't see any image whatsoever on my screen.

10 MR BOURGON: [12:03:22] If I can have the assistance of the court usher, please.

11 Q. Do you see the picture now, sir?

12 A. [12:03:44] Yes.

13 Q. [12:03:46] Do you recognise this -- I apologise. Do you recognise this building?
14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. [12:04:28] Sir, are you familiar with this structure at the time you would have
18 been in Mandro?

19 A. [12:04:43] Yes.

20 Q. [12:04:44] And what was it?

21 A. [12:04:52] I do not really remember. I might have to think about it a bit.

22 Q. [12:05:04] Do you know where it is located in Mandro?

23 A. [12:05:09] It's a little bit higher up the hill when you're coming from Bunia.

24 Q. [12:05:27] Is it close to Kudja?

25 A. [12:05:31] It's not very far afield.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. [12:06:29] And if you are familiar with the structure, do you think -- what was
8 put in that structure, if anything?

9 A. [12:06:40] At that moment in time I did not know what that house contained.

10 Q. [12:07:03] I'll show you a new picture sir.

11 MR BOURGON: Mr President, I believe this is already in evidence, but I don't need
12 to have it admitted. Just in case it is not, because we couldn't be sure -- so it's not in
13 evidence, I would like to have this picture admitted in evidence.

14 PRESIDING JUDGE FREMR: [12:07:21] All right. And as concerns --

15 MR BOURGON: [12:07:23] As a Defence exhibit.

16 PRESIDING JUDGE FREMR: [12:07:25] As concerns the previous video excerpt, you
17 haven't.

18 MR BOURGON: [12:07:31] No, Mr President. The video -- all of these excerpts are
19 previously admitted in evidence.

20 PRESIDING JUDGE FREMR: [12:07:36] Okay, fine. So court officer --

21 MR BOURGON: Either by Prosecution or by us.

22 PRESIDING JUDGE FREMR: -- could you just verify whether this picture is already
23 admitted or not.

24 THE COURT USHER: [12:07:42] The document is not uploaded into eCourt so I am
25 not able to check if the document has been admitted or not.

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1 MR BOURGON: [12:07:51] Well, then it's not, then we would like to have it
2 admitted, Mr President.

3 PRESIDING JUDGE FREMR: [12:07:54] Prosecution?

4 MR IVERSON: [12:07:57] Based on Defence counsel's questions I don't entirely
5 understand the relevance. Perhaps Defence counsel could explain because I don't
6 know -- and I'm a bit confused as to --

7 PRESIDING JUDGE FREMR: [12:08:13] But as to the relevance, I find some
8 relevance, so if this is the only ground for objection or do you have any ground for
9 objection?

10 MR IVERSON: [12:08:22] No, I have no other ground for objection. And I wasn't
11 objecting, I was just asking for a clarification.

12 PRESIDING JUDGE FREMR: [12:08:28] In such a case this picture is admitted into
13 evidence as a further Defence exhibit.

14 MR BOURGON: [12:08:40] Thank you, Mr President.

15 Q. [12:08:41] Mr Witness, I would like to show you another picture. The number
16 of this exhibit is (Redacted) Do you see the picture in front of you, sir?

17 A. [12:09:39] I cannot see any image.

18 Q. [12:09:52] Now we have it?

19 A. [12:09:53] Ndiyo.

20 Q. [12:09:55] Do you recognise this facility, sir?

21 (Redacted)

22 Q. [12:10:15] Where is it located?

23 A. [12:10:25] This building is just next to the building that you showed before.

24 The building is up the hill.

25 (Redacted)

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1 A. [12:10:47] This building was very dirty.

2 Q. [12:11:03] Do you mean that it was dirty at the time?

3 A. [12:11:23] As all houses made out of brick in Congo.

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 A. [12:12:04] Well, that's what I just told you.

9 Q. [12:12:10] So what you're saying by dirty, you meant dirty meant destroyed and
10 burnt to the ground. That's the same to you. That's what I understand from your
11 testimony.

12 A. [12:12:26] Everything that is dirty is destroyed and all that is destroyed is dirty.

13 Q. [12:12:41] Thank you, sir.

14 MR BOURGON: Mr President, I would like to have this picture admitted in
15 evidence for the purpose of impeachment based on the answer simply on the
16 contradictions between the questions and answers.

17 PRESIDING JUDGE FREMR: [12:12:54] Mr Iverson.

18 MR IVERSON: [12:12:55] Without prejudice to the Chamber's consideration of the
19 photo, I have no objection.

20 PRESIDING JUDGE FREMR: [12:13:02] So this photo is admitted for the purpose
21 mentioned as a further Defence exhibit.

22 MR BOURGON: [12:13:12]

23 Q. Sir, I move to a different topic in Mandro.

24 In your (Redacted) statement, at paragraph 64, and that is on (Redacted) you say the
25 following: While at -- sorry, "While I was at the Mandro training camp I saw

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1 weapons being airdropped at the camp."

2 Do you remember that this is your information you provided to the investigators?

3 A. [12:13:55] Could you please repeat the question.

4 Q. [12:14:05] Yes. I am quoting from paragraph 64 of your statement, which reads
5 as follows: "While I was at the Mandro training camp I saw weapons being
6 airdropped at the camp."

7 That's your evidence, right?

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 A. [12:15:36] I spoke about an aircraft that was conducting airdrops, that is correct.

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. [12:17:52] Now, sir, I suggest to you that the weapons in fact were airdropped
5 over Mandro, but that this took place in July of 2002 at a time where even, according
6 to your testimony, you were not in Mandro. Does that refresh your memory?

7 A. [12:18:19] (Redacted) that the aircraft airdropped weapons, Counsel, I was in
8 Mandro. (Redacted).

9 Q. [12:18:54] It is our case, sir, that this information is wrong. But I will move on
10 to my next question.

11 I'd like to address now the issue of uniforms, and of course I'm interested into when
12 you obtained your uniform if you were a member of the UPC. In your (Redacted)
13 statement, at paragraph 44, the number of the page is (Redacted) it says here:

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 So that's when, sir, you receive your uniform; is that correct?

18 A. [12:20:03] Yes.

19 Q. [12:20:10] Now, sir, I suggest to you that the UPC received its uniforms (Redacted)
20 (Redacted). Does
21 that refresh your memory?

22 A. [12:20:32] No, I do not agree. (Redacted) we had
23 already been issued with our military uniform. As to what you've just said, well, I
24 would say that I know nothing about it.

25 Q. [12:21:01] Well, I think I agree with that, but that's not for me to say.

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1 The next question is: When and how, or where and how did the uniforms arrive at
2 the UPC?

3 A. [12:21:17] I do not know how the uniforms arrived at the UPC because I was not
4 a logistician. I only saw the manner in which they distributed these uniforms.

5 Q. [12:21:50] So you know nothing about the fact that the uniforms first arrived in
6 (Redacted) is that correct?

7 A. [12:22:05] As I told you, I was not a logistician and it was not my task to know
8 the manner in which they arrived. I just saw when they distributed the uniforms.

9 Q. [12:22:22] So I take it that you did not see either who brought the uniforms
10 where you received yours?

11 A. [12:22:51] I'm not in a position to know precisely who bought the uniform and
12 who brought them. (Redacted)

13 (Redacted) That is the only information that we
14 were privy to.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 PRESIDING JUDGE FREMR: [12:23:37] Hold on, Mr Witness.

19 Mr Iverson.

20 MR IVERSON: [12:23:41] It seems like all of these questions have been asked and
21 answered. The initial question was clear, he didn't have knowledge about the
22 logistics behind the transport of the uniforms. Any subsequent question about the
23 transport of uniforms seems to be irrelevant with regard to this witness.

24 PRESIDING JUDGE FREMR: [12:24:00] Mr Bourgon.

25 MR BOURGON: [12:24:01] There is an additional part of information that people in

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1 Mandro were involved (Redacted)

2 (Redacted)

3 PRESIDING JUDGE FREMR: [12:24:17] All right, objection overruled.

4 THE WITNESS: [12:24:30] (Interpretation) With regard to what you have just said,

5 Counsel, it's not only with regards to the uniforms, there are also other things.

6 (Redacted). This was not anything to do with me

7 and that's why I was not interested in it.

8 MR BOURGON: [12:25:00]

9 Q. Thank you, sir. I move to a different topic.

10 Between the time you would have been in Mandro until -- well, I will strike this

11 because I have a previous question.

12 Sir, I need to put my case to you, and my case is that you were never a UPC recruit

13 who trained at Mandro. So I want to give you a chance to at least make observation

14 on this before I go on.

15 A. [12:25:54] Well, that's your opinion, Counsel. Personally, I have already made

16 my statement and I believe that the truth remains the truth.

17 Q. [12:26:09] Sir, I move to my next question. According to your testimony, you

18 went to train in Mandro and then you took part in a number of operations with UPC

19 (Redacted), when you went back to school. Is that your testimony?

20 A. [12:26:46] I did not say (Redacted). I said that I began my

21 studies again in the month (Redacted) I resumed my studies in the (Redacted)

22 Q. [12:27:03] When did you leave UPC (Redacted) to go back to school?

23 My understanding is that this took place (Redacted); is

24 that correct?

25 A. [12:27:29] Could you put that question again, please, Counsel.

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1 Q. [12:27:34] It's a very easy question. When did you leave UPC before you went
2 back to school?

3 A. [12:27:54] Yes, Counsel. (Redacted)
4 (Redacted)

5 (Redacted). That was the time when I left the UPC for some duration.

6 Q. [12:28:29] We will find the reference but I believe that this is a significant change
7 from your prior evidence, but we will find the reference about this.

8 Now, in between the time you were at Mandro until you left the UPC (Redacted), as
9 you say now, you were involved in a number of operations. We covered that, right?
10 Is that correct?

11 A. [12:29:15] Yes.

12 Q. [12:29:21] I'd like to know when you found the time between the moment you
13 would have joined UPC (Redacted) in school.

14 A. [12:29:51] Would you please put that question in a far clearer manner.

15 Q. [12:29:55] Yes, I will. I refer to (Redacted) statement on paragraph 26, this is on
16 (Redacted). The statement is (Redacted). You said here: "The investigators
17 asked me if I attended school between the period of (Redacted). I

18 explained that it was a very disturbed year, very disorganised. After I joined UPC, I
19 remember that other parents were doing their best to take their children to school.

20 My parents enrolled me in school. I attended for (Redacted) and went back to
21 my friends. After that, I did not attend school. I returned to school in (Redacted)
22 Sir, this (Redacted) that you attended school when your parents enrolled you,
23 when did that take place?

24 A. [12:31:32] That was in the month (Redacted)
25 (Redacted)

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1 Q. [12:31:55] Well, sir, I just read to you your statement and it says: "After I joined
2 the UPC, my parents enrolled me in school."

3 Now, you just said a few minutes ago you quit UPC (Redacted). So explain to us
4 this (Redacted) When did this take place that your parents enrolled you in
5 school and that you went there for (Redacted); UPC, (Redacted), UPC?
6 When did that take place?

7 A. [12:32:42] Yes, Counsel. As I said, (Redacted)
8 (Redacted). I was in the UPC. It was
9 after the UPC that my parents registered me at school. And once I had been
10 registered, I studied (Redacted) and then I gave up school, and then I came back to
11 school again in the month of (Redacted)

12 Q. [12:33:22] Explain to us, sir, how you obtained permission from UPC to leave
13 (Redacted) before joining back.

14 A. [12:33:46] My permission? The authorisation, you mean?

15 Q. [12:33:57] Yes, sir, how did that take place?

16 A. [12:34:15] Yes, Counsel. As I tried to tell you, I think it would be better for you
17 to know the story of Ituri. At that time, I told you, I entered the UPC, and after the
18 UPC I left the UPC and my parents signed me up for school. (Redacted)
19 (Redacted), after that I left school, and I went
20 back to school later in (Redacted)

21 Q. [12:35:03] Sir, I will move on to a different question, and I would like to go back
22 to the issue of the school records.

23 And I would like to have on the screen (Redacted)

24 Now, before we look at this document, you recall that during your testimony you said
25 that you did not attend school (Redacted); is that correct?

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1 A. [12:35:54] Yes, I remember.

2 Q. [12:35:58] And you also said, I refer to page 55, that,

3 (Redacted)

4 (Redacted)

5 So you recall this, sir?

6 A. [12:36:33] Yes. Yes, Counsel.

7 Q. [12:36:39] Now, looking at the document that is now before you on the screen,

8 you were already asked some questions but I would like to have some clarification.

9 If we can focus on the top of the document, where we have the headings for the

10 columns. You will agree with me, because this is what can be understood from your

11 testimony, (Redacted)

12 correct?

13 A. [12:37:29] Yes.

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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1 (Redacted) it's your testimony that you were in school and that you obtained these
2 marks; is that correct?

3 A. [12:38:56] What are you saying, Counsel?

4 Q. [12:39:06] These marks are your marks that you obtained when attending school
5 (Redacted), according to your testimony; is that correct?

6 A. [12:39:21] That's correct, Counsel.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted) are marks that were put there to allow you to

14 pass your year; is that correct?

15 A. [12:40:45] Yes, that's correct.

16 Q. [12:40:54] And you don't know how these marks were calculated, do you?

17 A. [12:41:13] The criteria in order to calculate the marks? What did you say?

18 Q. [12:41:28] How or what is the basis for the marks that appear (Redacted)

19 (Redacted) when you are not attending school?

20 A. [12:41:53] Okay, now I understand. When I went to school during that period,
21 the criteria was to see how the student or pupil studied (Redacted)

22 They themselves, they know how to make the calculation to give points throughout
23 the year. They are pedagogical specialists, they know how to do it. Myself, I don't.

24 Q. [12:42:31] So, sir, would I be correct in saying that, you know, the person who
25 signed the form at the end when this school record was obtained, he said, "You know,

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1 (Redacted) you're a good kid. You didn't come to school, but we'll put all these
2 marks here and we'll validate your year because you're a good kid and you're a child
3 soldier." So this was explained to you?

4 A. [12:43:20] At that time most of the young people going to school were helped by
5 the teachers so that they could pass certain classes. That wasn't just a favour done to
6 me. This was something done to all the children who entered the school. It wasn't
7 because I was a good child that a favour was done to me. That was done for all
8 children who returned to school and showed the will to study, and that's how the
9 teachers looked at the level of each and every one and did this favour for us.

10 Q. [12:44:11] Sir, I refer to paragraph 24 of your (Redacted) statement, (Redacted), on
11 (Redacted) It says:

12 "I was favoured. Children who came from the armed groups were encouraged to
13 study. They wanted to push us forward because, if we failed, we risk returning to
14 the militia. In normal circumstances, I would have failed. That year my placement
15 in the class was low, (Redacted)

16 That's the information you gave to the investigators, correct?

17 A. [12:44:58] Some of what you said I didn't understand. Please, could you take it
18 again.

19 Q. [12:45:21] I was just reading from your statement.

20 MR BOURGON: And Mr President, I would ask simply that this statement is on the
21 record and I read it. I am not going to ask again.

22 Q. I move to a different question.

23 It says here that, "In normal circumstances, I would have failed."

24 (Redacted)

25 (Redacted)

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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 Q. [12:47:24] Sir, we have obtained information and from someone who was very

12 well aware of the schooling system, or appears to be very well aware, and this

13 information comes in part from the Prosecution, (Redacted)

14 (Redacted)

15 (Redacted)

16 Now, according to this individual, when a student is absent for more than 30 days, he

17 automatically repeats the year.

18 And I say that if you had been absent as you say (Redacted), you would have

19 repeated this year. Do you agree with me?

20 A. [12:48:33] Counsel, this rule is followed in normal times. But in 2002 I don't

21 think that rule could be followed. That would have been difficult.

22 (Redacted)

23 (Redacted)

24 THE WITNESS: [12:49:14] (Interpretation) To be much more clear, it would have

25 been necessary to ask this inspector whether this rule is followed at all times or

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1 whether there are exceptions thereto. For example, taking into account the
2 prevailing circumstances in 2002 during the school year 2002-2003. You would have
3 had to have asked somebody if this person really was a school inspector at that time.

4 That person could tell you the truth. Ask him what happened at that time.

5 MR BOURGON: [12:49:52]

6 Q. Sir, in 2002 in your class, did other students obtain the same favourable
7 treatment despite their absence and passing the year, to your knowledge?

8 A. [12:50:08] Correct.

9 Q. [12:50:23] I would like to call exhibit (Redacted)

10 Sir, this document will appear on your screen. And this is the palmarès for the year
11 2002-2003 in your school. We will see the first page of this document. It is the same
12 person who signed your school report, (Redacted) it is from your school from the year
13 2002-2003. (Redacted)

14 (Redacted)

15 (Redacted) And the title of this

16 section is (Interpretation) "Have passed and shall continue to the class after the exam

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 A. [12:52:41] That's indeed me.

21 Q. [12:52:44] And section (Redacted) of this document is (Redacted) students who
22 failed the year, "Sont admin à redoubler leur classe;" that's correct?

23 A. [12:52:56] Correct.

24 Q. [12:53:01] And section (Redacted) of this document refers to (Redacted) students in
25 your class who abandoned school during the year. Do you see this?

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1 A. [12:53:22] Correct.

2 Q. [12:53:24] Now, I suggest to you, sir, that if you had been absent (Redacted)

3 (Redacted), as you say, you would not have appeared in the section (Redacted), but

4 you would have appeared in the section (Redacted) "Ont abandonné au cours de

5 l'année" and you would not have passed that academic year; do you agree with me?

6 A. [12:54:05] Counsel, as I stated to you, what you see here is the palmarès of the

7 school year. That's established at the beginning of the school year, in the middle and

8 at the end of the school year.

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 PRESIDING JUDGE FREMR: [12:56:41] Sorry, hold on, Mr Witness.

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1 Mr Iverson.

2 MR IVERSON: [12:56:44] Just as a preliminary matter, I would appreciate out of

3 professional courtesy, I do the same thing, if Defence counsel stands, I stop.

4 Defence counsel saw that I stood, and he continued. So I would ask that he pay me

5 that professional courtesy.

6 Second of all, it is not for Defence counsel to testify. It is for him to ask questions.

7 And right now we have a testimony from Defence counsel that is several lines long in

8 the transcript.

9 PRESIDING JUDGE FREMR: [12:57:14] As to the first issue, I guess Mr Bourgon was

10 reading, so I think he really hasn't seen you. But otherwise I would strongly

11 encourage you to keep this rule.

12 Mr Bourgon, as concerns the second issue, any comment?

13 MR BOURGON: [12:57:29] Well, the second issue, Mr President, I put the

14 information I have to the witness, and I would suggest to him that the fact that he did

15 not attend school in 2002-2003 (Redacted) is an entire fabrication and a lie,

16 and I would like to have his observation on my suggestion.

17 PRESIDING JUDGE FREMR: [12:57:50] All right. I -- it will probably be the last

18 issue because at 1 o'clock I will have to break -- to finish, sorry, to finish

19 cross-examination.

20 Mr Witness, do you insist on your testimony or are you ready to change it in light of

21 the last comment or last proposal made by Mr Bourgon?

22 THE WITNESS: [12:58:36] (Interpretation) Yes, your Honour, I would like to answer

23 the question put by counsel.

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted), it is certain that he only said

3 good things about me because he wasn't -- he didn't know why all these questions

4 were being put to him. And that is why I am asking counsel -- well, I'm saying to

5 him that he should have been aware of the ethnic group of this gentleman. I am not

6 surprised that he answered him in such a manner in my absence. I am really not

7 surprised at all.

8 PRESIDING JUDGE FREMR: [13:00:05] All right, it is 1 o'clock.

9 MR BOURGON: [13:00:07] Would you allow one last question, please,

10 Mr President?

11 PRESIDING JUDGE FREMR: [13:00:10] But just one.

12 MR BOURGON: [13:00:10] One, I promise.

13 Q. [13:00:15] (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 MR BOURGON: [13:01:22] Thank you, sir. I have no more questions.

22 PRESIDING JUDGE FREMR: [13:01:25] Thank you.

23 Now, Mr Iverson, it is your turn. So you still request 15 minutes?

24 MR IVERSON: [13:01:37] Yes, Mr President.

25 PRESIDING JUDGE FREMR: [13:01:39] Okay. You, as we deliberated in advance,

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1 you are granted 15 minutes sharp.

2 QUESTIONED BY MR IVERSON:

3 MR IVERSON: [13:01:46]

4 Q. Okay, sir, we have limited time, I only have a few questions.

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 Q. [13:04:08] And then on two occasions, yesterday and then today, the Defence

19 accused you of never being a UPC recruit at Mandro?

20 PRESIDING JUDGE FREMR: [13:04:32] Hold on, Mr Witness.

21 Mr Bourgon.

22 MR BOURGON: [13:04:35] Well, I just take issue with the word "accused".

23 PRESIDING JUDGE FREMR: [13:04:38] But I think the sense is clear.

24 Please proceed.

25 MR IVERSON: [13:04:42]

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1 Q. [13:04:42] Well, in any case, Defence -- it was the Defence's position, as
2 the Defence counsel made clear, that he thinks that you were never a UPC recruit at
3 Mandro. So I would like to ask you, and I realise it is a bit, maybe a bit awkward or
4 unusual, but I want to ask you an intimate question about being at Mandro. Do you
5 recall any of the songs that you would sing at Mandro?

6 A. [13:05:26] Yes, I know many of the songs that we would sing.

7 Q. [13:05:33] And I assure you I don't intend on testing your singing voice or
8 your -- grade you on your ability to sing well, but I would ask if you could sing one of
9 those songs for the Chamber, please. And I realise it's unusual and a bit awkward,
10 but I would ask you to do that, if you would.

11 A. [13:06:00] Do you want me to start now?

12 Q. [13:06:05] Yes, please.

13 A. [13:06:09] (Witness sings)

14 PRESIDING JUDGE FREMR: [13:06:51] I think it's fine, thank you, Mr Witness, to
15 prove that you know the lyrics.

16 MR IVERSON: [13:06:58] Okay.

17 Q. Thank you. And actually you have a very nice singing voice, actually. And I
18 wanted to ask you, could you summarise the meaning of that song, the text of that
19 song, for the Chamber.

20 A. [13:07:11] Yes. This is a song that calls upon young people to enter the maquis
21 or to enter the bush in order to go and liberate the country. And in that song it is
22 said that if two die and if three remain alive, those three people will go on to
23 construct or build Congo. And then the parents ask the question where their
24 children went, and then we who went into the bush reply by saying to our parents
25 that we are advancing. That is the gist of this song. Would you like me to sing one

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1 or two others? I could do so if you want me to.

2 MR IVERSON: [13:08:10] I would ask that -- could you just sing briefly one other
3 song.

4 PRESIDING JUDGE FREMR: [13:08:13] Hold on, Mr Witness.
5 Mr Bourgon.

6 MR BOURGON: [13:08:14] Mr President, I did not object the first time but this is
7 improper re-examination. My colleague had all the time in the world to establish
8 that he was in Mandro. I had the opportunity to establish that he was not in Mandro.
9 This is just going over, it's not something that was raised that was new in
10 cross-examination. If he wants to ask about my palmarès, if he wants to ask about
11 the witness I met, (Redacted), that's
12 okay, but not to come back on the main testimony.

13 Thank you, Mr President.

14 PRESIDING JUDGE FREMR: [13:08:48] Objection overruled.
15 Just briefly please continue.

16 MR IVERSON: [13:08:54]

17 Q. [13:08:54] So, sir, just briefly, if I could ask you to sing yet another song.

18 A. [13:09:05] Ndiyo. (Witness sings)

19 Q. [13:09:27] And again could I ask you just to briefly summarise the meaning of
20 that song.

21 A. [13:09:37] This song is a manner of consoling those young people who had
22 entered the bush. They are saying that they want to advance. And in the song the
23 various names of the commanders of the party are given. And those commanders
24 were saying, or they were saying that the troops should not be afraid, Afande Bosco
25 and Afande Mugisa is fond of them. That's what's being said in those songs and in

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1 others.

2 Q. [13:10:24] All right, thank you very much, sir.

3 MR IVERSON: I have no further questions. Thank you, your Honours.

4 PRESIDING JUDGE FREMR: [13:10:29] Very well. I guess that for my questions,
5 because I also will have two questions, or two issues, we can move into open session.
6 (Open session at 1.10 p.m.)

7 THE COURT OFFICER: [13:10:53] We are in open session, Mr President.

8 PRESIDING JUDGE FREMR: [13:10:56] Thank you.

9 Mr Witness, you have mentioned in your testimony cases of sexual relationships
10 between the UPC commanders and female soldiers. Have you ever observed any
11 sign of resistance or disagreement or dissatisfaction on the part of those female
12 soldiers?

13 THE WITNESS: [13:11:26] (Interpretation) At that time I was not in a position to
14 know what those young girls were really thinking about, but I believe that if
15 a commander wants your favours it's very difficult to turn them down. Those girls
16 were not in a position to do so.

17 PRESIDING JUDGE FREMR: [13:12:06] And my second question: You also
18 testified, and please correct me if I am wrong, about looting committed by civilian
19 combatants but, if I am not wrong, you haven't testified about looting committed
20 either by UPC soldier or neither by UPC commanders; am I right?

21 THE WITNESS: [13:12:40] (Interpretation) Mr President, yes, there were UPC troops
22 who looted, but they didn't loot as much as the civilians. The civilians looted, they
23 took away chairs, spoons, everything they would find. But with regard to the troops,
24 we would use the term 'Kushugulika' (phon), which meant that some of the troops
25 looted, but I was not an eyewitness to that.

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1 PRESIDING JUDGE FREMR: [13:13:21] And my last question concerns

2 Mr Ntaganda. Do you have any knowledge whether he was in any way involved in
3 looting?

4 THE WITNESS: [13:13:54] (Interpretation) Looting where?

5 PRESIDING JUDGE FREMR: [13:13:59] Anywhere. If you have, if you have no
6 knowledge then that is fine. I am just asking whether do you have any knowledge
7 that would lead to a conclusion that Mr Ntaganda was involved in any kind of
8 looting or pillaging?

9 THE WITNESS: [13:14:26] (Interpretation) Yes, Mr President. Mr Bosco himself
10 said that a good soldier is somebody who does not loot, that the army was not there
11 to loot. From a personal standpoint, I never saw him looting because he was a major,
12 high-ranking commander, but there were rumours being mongered that he only
13 looted vehicles and cows, but I was not an eyewitness to this.

14 PRESIDING JUDGE FREMR: [13:15:13] Thank you, Mr Witness. I don't have
15 further questions for you. What about my colleagues? Judge Ozaki? No.
16 Judge Chung? Please.

17 JUDGE CHUNG: [13:15:23] Thank you. For my questions, private session, please.

18 PRESIDING JUDGE FREMR: [13:15:29] All right, let's move into private session,
19 court officer, please.

20 (Private session at 1.15 p.m.) *(Reclassified partially in public)

21 THE COURT OFFICER: [13:15:43] We are back in private session.

22 JUDGE CHUNG: [13:15:46] Thank you.

23 Mr Witness, you testified that in (Redacted), you were left alone and you made
24 a decision to become a soldier by yourself. Can you recall this?

25 THE WITNESS: [13:16:01] (Interpretation) Yes, I did say that I went of my own

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1 volition.

2 JUDGE CHUNG: [13:16:11] But before you make decision to be a soldier, or during

3 your -- (Redacted), had your parents (Redacted)

4 (Redacted) ever recommended you or encouraged you to be a soldier?

5 THE WITNESS: [13:16:34] (Interpretation) At that moment in time there were

6 rumours saying that young Hema people were going to enrol in the army. And they

7 said that if you go you will learn through the training and then you'll come back and

8 protect your villages. Young people went, but none of my relatives encouraged me

9 to go. Nor were any of my relatives happy that I was going to do such a job.

10 JUDGE CHUNG: [13:17:16] Thank you.

11 My next question is something similar asked by Defence counsel this morning, but I

12 want to ask this way: So when did you give your personal information, including

13 your age, to the UPC for the first time? (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 JUDGE CHUNG: [13:18:11] Then how did you ask them to give such information?

19 Did they talk about for registration purpose as well?

20 THE WITNESS: [13:18:28] (Interpretation) Which registration are you referring to, or

21 are you talking about recruitment, rather?

22 JUDGE CHUNG: [13:18:38] Recruitment registration for UPC.

23 THE WITNESS: [13:18:43] (Interpretation) Do you want to know how I found out

24 that they were recruiting (Redacted)

25 JUDGE CHUNG: [13:19:04] So you just said that you gave for the first time your age

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1 and information to UPC at the Mandro camp -- (Redacted)

2 THE WITNESS: [13:19:28] (Interpretation) (Redacted)

3 (Redacted) We started

4 out as recruits, and we were then put through a number of exercises. But I

5 registered in Mandro.

6 JUDGE CHUNG: [13:20:01] So you gave for the first time your information

7 (Redacted). But formal registration was done at the Mandro camp; is it correct?

8 THE WITNESS: [13:20:25] (Interpretation) I presented myself (Redacted), yes.

9 JUDGE CHUNG: [13:20:33] So then why, why did you give that presentation about
10 yourself (Redacted)? Did they ask some questions or how did they approach
11 you to get such information?

12 THE WITNESS: [13:20:58] (Interpretation) This was how things happened: You
13 would arrive and for those of us who were a little bit more tough or portly, you were
14 asked whether you wanted to become a soldier and you would say yes and then there
15 were some of those soldiers who already knew us so not many questions were put to
16 us. However, another recruit who might be a bit older would be asked for their
17 identity card and that identity card was kept and a lot of further questions were put
18 to them.

19 JUDGE CHUNG: [13:21:47] Then what was your case? First one or second one,
20 what was your case at the time?

21 THE WITNESS: [13:22:03] (Interpretation) As I told you, I arrived and I said that I
22 wanted to become a soldier (Redacted), so not many
23 questions were put to me. And that was the group that I was in, not many questions
24 were put to me.

25 JUDGE CHUNG: [13:22:21] Okay, thank you, Mr Witness.

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1 That's it from me.

2 PRESIDING JUDGE FREMR: [13:22:25] My apology to Mr Bourgon. Mr Bourgon, I
3 completely forgot to ask whether you want to recross, Mr Witness. So I am doing
4 that now.

5 MR BOURGON: [13:22:36] Only one question, Mr President.

6 PRESIDING JUDGE FREMR: [13:22:38] Please.

7 QUESTIONED BY MR BOURGON:

8 MR BOURGON: [13:22:38] But I also have a question arising from
9 Honourable Judge Chung's question, but the question I would like to ask the witness
10 is the following, and it is very simple.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE FREMR: [13:23:49] Mr Iverson.

18 MR IVERSON: [13:23:50] I don't see how this question arises out of my questions or
19 your Honour's questions.

20 PRESIDING JUDGE FREMR: Exactly, Mr Bourgon. It has nothing to do with
21 Judge Chung's questions.

22 MR BOURGON: [13:24:01] Mr President, the link has to do with whether he was
23 with the UPC or not, which is what my colleague raised in his re-examination,
24 because I would like to know if he can confirm this paragraph in his statement
25 because it is --

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1 PRESIDING JUDGE FREMR: [13:24:17] Objection sustained. It's too general, too
2 general a relationship. So please proceed with the second question, if you have any.

3 MR BOURGON: [13:24:25] Second question, Mr President, has to do with whether
4 he was a member of the UPC and I will leave it at that.

5 Q. And the question is the following. I would just like you -- my colleague put
6 a question to the witness to confirm that he was a member of the UPC, contrary to our
7 submission, and my question is the following. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 PRESIDING JUDGE FREMR: [13:25:56] Mr Bourgon, I have to, I have to interrupt
14 you because I also guess what will the objection again, this is nothing to do with
15 redirect.

16 MR BOURGON: [13:26:08] I understand, Mr President. But my colleague was
17 authorised to --

18 PRESIDING JUDGE FREMR: [13:26:12] No. I think I was clear. Mr Bourgon, I
19 think I was clear on that. If you -- the last chance for you, question which concerns
20 questions put to the witness by Judge Chung, as you indicate. If you don't have such
21 a question, please we will move on.

22 MR BOURGON: [13:26:32] I just have one question for the witness.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 MR BOURGON: [13:27:25] I will stop here, Mr President. Thank you.

5 PRESIDING JUDGE FREMR: [13:27:29] All right. Let's move into open session
6 because we are still in private.

7 (Open session at 1.27 p.m.)

8 THE COURT OFFICER: [13:27:46] We are in open session, Mr President.

9 PRESIDING JUDGE FREMR: [13:27:50] Mr Bourgon, why are you now --

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE FREMR: [13:27:58] Go ahead.

13 MR BOURGON: [13:27:58] And the number of the exhibit is (Redacted)

14 PRESIDING JUDGE FREMR: [13:28:05] To be clear, it was what, in fact?

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE FREMR: [13:28:13] Mr Iverson, any objection to that request?

18 MR IVERSON: [13:28:21] Could you just give me one moment, your Honour?

19 Thank you.

20 PRESIDING JUDGE FREMR: [13:28:30] In the meantime, Mr Witness, I would like
21 to thank you very much because your testimony is concluded. It was very long time
22 you spent with us, so thank you very much. We really appreciate that you patiently
23 responded all those questions and I believe that your testimony will assist us in our
24 effort to find the truth. So thank you very much and we wish you safe journey
25 home.

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1 Now, court officer, you may assist -- Mr Witness, please.

2 THE WITNESS: [13:29:00] (Interpretation) I would also like to thank you. And

3 after these words of thanks, well, I am saying thank you to you because I really

4 wanted the truth to be told with regard to what occurred in my country.

5 And apart from that, I did raise a question before the OTP. I said that behind me

6 there were those --

7 PRESIDING JUDGE FREMR: Mr Witness --

8 THE WITNESS: (Interpretation) -- people who were --

9 PRESIDING JUDGE FREMR: Mr Witness, hold on.

10 THE WITNESS: (Interpretation) -- looking for my record of --

11 PRESIDING JUDGE FREMR: [13:29:50] It would be safer to, for the rest of your

12 speech to move into private session.

13 Court officer, let's move into private.

14 (Private session at 1.29 p.m.) *(Reclassified partially in public)

15 THE COURT OFFICER: [13:30:12] We are in private session, Mr President.

16 PRESIDING JUDGE FREMR: [13:30:16] And now please go on, Mr Witness.

17 THE WITNESS: [13:30:19] (Interpretation) Very well. I was saying as follows:

18 That I am thanking you for your work. I am congratulating you because you are

19 doing something that will mean that what happened in my country will be made

20 public to everybody.

21 (Redacted)

22 (Redacted). I put that

23 question to the Office of the Prosecutor, who said to me that it was not the OTP that

24 was doing this.

25 Those people presented themselves as two individuals coming from the

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1 Office of the Prosecutor. So I wanted to know, as the Defence team is present here,
2 they said that they had been looking on my Facebook platform and that they even
3 know how many friends I have. I wanted to know whether it was the Defence team
4 that conducted research into me. (Redacted)

5 PRESIDING JUDGE FREMR: [13:31:41] I have to admit I have no information about
6 that.

7 Mr Bourgon, do you want to rebut any doubts.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 PRESIDING JUDGE FREMR: [13:32:24] Thank you, Mr Bourgon.

16 So once more, thank you very much, Mr Witness.

17 And now, court officer, please assist Mr Witness to leave the courtroom.

18 (The witness is excused)

19 PRESIDING JUDGE FREMR: [13:32:42] And now, Mr Iverson, you may proceed.

20 MR IVERSON: [13:32:45] Thank you for the Court's indulgence. I just asked for
21 a moment because I had to ask a question about the document. The Prosecution has
22 no objection.

23 PRESIDING JUDGE FREMR: [13:32:54] Very well. So this document is admitted
24 into evidence as a further Prosecution exhibit.

25 And I am very sorry, I have to also deliver one very short, brief decision, orally. So

1 please be patient because it should be made now.

2 So it's decision on protective measures and I guess we can move to the open session,
3 into open session for at least the beginning, but we will have to jump.

4 (Open session at 1.33 p.m.)

5 THE COURT OFFICER: [13:33:40] We are in open session, Mr President.

6 PRESIDING JUDGE FREMR: [13:33:42] Thank you, court officer.

7 It is a decision on protective measures for Witness P-911. Before proceeding with the
8 testimony of the next witness, the Chamber shall deliver its decision on
9 the Prosecution request for protective measures for Witness P-0911 contained in filing
10 number 1579.

11 The Defence opposed the measures requested in filing 1593.

12 I note for the record that the protective measures assessment for this witness was
13 transmitted to the Chamber by the VWU on 8 November 2016. In assessing whether
14 there exist an objectively justifiable risk, the Chamber has previously held that the
15 general security situation in the region may be a relevant consideration in respect of
16 specific witnesses.

17 In this instance, it is noted that the witness and his family currently reside in areas
18 that former UPC, FPLC militia members and supporters of the accused are present, or
19 continue to have influence.

20 The Chamber further recalls that there are reported instances where other witnesses,
21 including crime base and inside witnesses, were allegedly threatened as a result of
22 their involvement with the Court.

23 Now we will have to go into private session.

24 (Private session at 1.35 p.m.) *(Reclassified partially in public)

25 THE COURT OFFICER: [13:35:28] We're in private session, Mr President.

1 PRESIDING JUDGE FREMR: [13:35:32] Thank you. And I continue.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Open session at 1.36 p.m.)

9 THE COURT OFFICER: [13:36:23] We are back in open session, Mr President.

10 PRESIDING JUDGE FREMR: [13:36:27] Thank you. In relation to the Defence

11 argument that the Prosecution has not produced any investigation notes to justify the

12 measures requested, the Chamber notes that no specific incidents or threats in relation

13 to Witness P-0911 have been alleged by the Prosecution and that indeed the existence

14 of such threats, it is not a prerequisite to finding that there is an objectively justifiable

15 risk.

16 Having regard to the nature of the anticipated testimony of the witness and to the

17 content of the VWU assessment on protective measures which recommends granting

18 the same measures requested by the Prosecution, the Chamber is satisfied that the

19 request is sufficiently supported.

20 In light of the above, the Chamber is satisfied that there exists an objectively

21 justifiable risk with respect to the security and well-being of the witness and related

22 persons warranting the protection of his identity from the public.

23 The Chamber further finds that the in-court protective measures sought do not

24 unduly infringe upon the rights of the accused, given that the accused and

25 the Defence will be able to see the witness give evidence at trial and hear his voice

1 without distortion. Accordingly, and pursuant to Rule 87, the Chamber grants the
2 measures of use of a pseudonym for the purposes of the trial and voice and face
3 distortion during testimony for Witness 0911.

4 This concludes the Chamber's ruling.

5 So we will break now and I would like to thank you, all of you, including interpreters,
6 guards and recorders, that you supported us in this very, very long session, but the
7 idea was -- because maybe Mr Iverson may confirm, but I understood that Witness
8 0911 will not be able to testify tomorrow morning.

9 MR IVERSON: [13:38:42] That's correct, Mr President.

10 PRESIDING JUDGE FREMR: [13:38:44] So we will not be sitting tomorrow morning,
11 but I would like to just remind you that we will have this video witness today from
12 four to six and tomorrow from four to five.

13 Now court is adjourned.

14 THE COURT USHER: [13:39:04] All rise.

15 (Recess taken at 1.39 p.m.)

16 (Upon resuming in open session at 4.02 p.m.)

17 THE COURT USHER: [16:02:51] All rise.

18 Please be seated.

19 PRESIDING JUDGE FREMR: [16:03:15] Good afternoon, everybody. Since I see
20 some important changes in appearances, I would like to ask for update.

21 Prosecution first.

22 MS SOLANO: [16:03:32] Good afternoon, your Honours. The Prosecution is
23 represented by Ms Nicole Samson, senior trial lawyer; Ms Kristy Sim, assistant trial
24 lawyer; Selam Yirgou, case manager; and I'm Julieta Solano, trial lawyer.

25 PRESIDING JUDGE FREMR: [16:03:49] Thank you, Ms Solano.

1 Defence.

2 MR BOURGON: [16:03:52] (Interpretation) Good afternoon, your Honour. For
3 the Defence, Margaux Portier and myself, Stéphane Bourgon. Thank you.

4 PRESIDING JUDGE FREMR: [16:04:03] And as concerns Legal Representatives for
5 Victims, I see no changes, am I correct?

6 I see nodding. Okay.

7 So the Chamber recalls that in its request number 1579, the Prosecution has sought
8 that certain special measures be put in place for the testimony of our next witness.

9 In its response number 1593, the Defence did not oppose these measures, and having
10 now received the related VWU vulnerability assessment, the Chamber directs that the
11 parties adapt their questioning to the needs of the witness including by keeping
12 questions short and straightforward and giving adequate time for responses.

13 The Chamber will continue to monitor the situation in relation to any further
14 assistance which may be needed.

15 The Chamber has also taken note of the Defence notice of objections to the use of -- or
16 admission of certain documents received yesterday via email and it will address any
17 such objections if and when they arise.

18 So now we can turn to the scheduled testimony. In this regard, the Chamber recalls
19 that in line with decision number 1612, the witness will testify by way of video link.

20 So, court officer, can you please connect the video link.

21 I see they are already connected. Fine.

22 So, Madam Witness, good evening. Can you hear me?

23 WITNESS: DRC-OTP-P-0918

24 (The witness speaks Swahili)

25 (The witness gives evidence via video link)

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WITNESS: DRC-OTP-P-0918

1 THE WITNESS: [16:06:02] (Interpretation) Yes, I can hear you.

2 PRESIDING JUDGE FREMR: [16:06:04] Very well. Madam Witness, I'm Robert
3 Fremr, Judge of the International Criminal Court, and my colleagues are Judge Ozaki
4 and Judge Chung. They are beside me here in the courtroom. So I can confirm that
5 we can fully see and hear you by way of video link. Can you please confirm that
6 you can hear and see us.

7 THE WITNESS: [16:06:40] (Interpretation) For the moment, I only see one Judge,
8 but I can hear your voice.

9 THE INTERPRETER: [16:06:55] The English booth would also like to point out the
10 50 cycle hum on the line. There's a noise on the line, your Honour.

11 PRESIDING JUDGE FREMR: [16:07:07] All right, the Judge, it's me. And now
12 I would like to give you some guidance, Madam Witness.

13 You are called to testify in the case of against Mr Bosco Ntaganda and you will be
14 soon asked questions both by the Judges and lawyers here in the courtroom, and in
15 addition to the Judges, the -- you can't see them at the moment, but there are also
16 lawyers for the Prosecution, there is Mr Ntaganda and his lawyers, and there are also
17 Legal Representatives of Victims.

18 And I would like to provide you with some further guidance, especially as concerns
19 answering the questions. So, Madam Witness, please listen carefully to the questions,
20 and if you don't understand, feel free to ask for the question to be repeated.

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

22 If you didn't see or hear it yourself but you found out some other way, then you
23 should explain how. Please testify just on that which you really remember. Don't
24 guess. Don't make things up. There is nothing wrong in saying, "I don't know" or
25 "I don't remember."

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WITNESS: DRC-OTP-P-0918

1 So, Madam Witness, do you understand all this?

2 THE WITNESS: [16:08:55] (Interpretation) I have understood what you said. And

3 I would say that what I say to you is something that's already written and all the

4 things that you're going to ask me about have already been written. Are you going

5 to give me some guidance with regards to the document that's already written?

6 PRESIDING JUDGE FREMR: [16:09:24] Madam Witness, we are aware of the fact

7 that you have already testified and that your previous statement is recorded in

8 writing, but then lawyers in the courtroom will put to you questions that will concern

9 your previous testimony.

10 And now, Madam Witness, I would like to provide you with further piece of

11 guidance concerning protective measures. Because protective --

12 THE WITNESS: (No interpretation)

13 PRESIDING JUDGE FREMR: -- because protective measures -- because protective

14 measures are put in place to ensure that your identity is not revealed to the public. It

15 means that the public cannot see your face and that your voice is even being

16 disguised so that the public cannot recognize it. We will refer to you only as

17 "Madam Witness," so without mentioning your name, and ensure that your name and

18 any other information that risks revealing who you are is not broadcast to the public.

19 Therefore, whenever you need to describe anything in giving your testimony that

20 might reveal your identity or that of your family members, we will do so in private

21 session so that no one outside the courtroom can hear your answer.

22 Madam Witness, have you understood this guidance?

23 THE WITNESS: [16:11:28] (Interpretation) I have understood well. I'd like to add

24 something. Is there somebody here that doesn't know my identity? In that case,

25 how can I remember all these people?

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(Open Session)

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1 PRESIDING JUDGE FREMR: [16:11:51] Sorry, Madam Witness. I probably didn't
2 understand. Could you repeat that?

3 THE WITNESS: [16:12:12] (Interpretation) Well, I was asking a question. In my
4 statement there are times when I'm told not to reveal my identity, but how can I
5 remember not to reveal my identity? How am I going to remember that I can't
6 reveal my identity? I trust you, I'm going to answer the questions that you ask.

7 PRESIDING JUDGE FREMR: [16:12:41] Madam Witness, it's easy. Most of your
8 testimony probably will be conducted in private session, which means that nobody
9 from public can even hear what you are saying, only those people who are present in
10 the courtroom, which means Prosecution lawyers, the accused and his lawyers. And
11 if we would be in open session, we will just deal with some general matters, but as
12 soon we would be in open session and you would approach some fact that could
13 reveal your identity, just stop your answering and say, "Judge, please, I would like to
14 move into private session because otherwise I would reveal my identity." But I am
15 afraid -- I believe that most of your testimony will be done in private session so there's
16 no risk that your identity will be revealed.

17 Now, Madam Witness, I would like you to make solemn undertaking, so you should
18 have somewhere in front of you paper, piece of paper with the text of solemn
19 undertaking.

20 Do you have it?

21 THE WITNESS: [16:14:13] (Interpretation) Yes. So can I start?

22 PRESIDING JUDGE FREMR: [16:14:18] Yes, please read out this solemn
23 undertaking.

24 THE WITNESS: [16:14:45] (Interpretation) I solemnly declare that I will tell the
25 truth, the whole truth and nothing but the truth.

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1 PRESIDING JUDGE FREMR: [16:14:56] Very well, Madam Witness. It means that
2 you are now under oath so you need to be aware that it's an offence within the
3 jurisdiction of this Court to give false testimony. Do you understand that?

4 THE WITNESS: [16:15:27] (Interpretation) I didn't know, but I'll tell you exactly
5 what I said before.

6 PRESIDING JUDGE FREMR: [16:15:37] Exactly. So make it simple. If you are
7 speaking true, you shouldn't be concerned about any possible consequences, is the
8 main thing, just to speak to the truth.

9 And now, finally, Madam Witness, a few practical matters you should have in mind
10 when giving your testimony. First, it's important to speak into the microphone.
11 You are doing it well so far. To stay in view of the camera, to speak clearly, to speak
12 at a slow pace. And what is also very important, not to respond to any question at
13 once immediately. Please always just wait at least 3 seconds and only then please
14 give your response because this break, this pause between the question and your
15 answer is important for us to translate and record everything properly. So do you
16 understand?

17 Main thing, wait always a few seconds and only then respond to the question. And
18 if you have any question during your testimony or if you feel that you need a break,
19 do not hesitate to let us know and we will then give you the opportunity to speak.
20 So I know it was a lot of information, but have you understood all that, Madam
21 Witness?

22 THE WITNESS: [16:17:27] (Interpretation) I've understood.

23 PRESIDING JUDGE FREMR: [16:17:30] Very good, Madam Witness. So now I
24 will hand over the floor to one of the Prosecutors who will be conducting your
25 examination.

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(Private Session)

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1 I see it will be Ms Solano. Ms Solano, you have the floor and I have to remind you
2 that we are in open session.

3 MS SOLANO: [16:17:49] Thank you, your Honour.

4 QUESTIONED BY MS SOLANO:

5 Q. [16:17:58] Good afternoon, madam. Can you hear me?

6 A. [16:18:03] Yes, I can hear you.

7 Q. [16:18:05] I am Julieta Solano. We've met before by video link. I will ask
8 you questions on behalf of the Prosecution.

9 MS SOLANO: [16:18:19] Your Honour, may we go to private session, please.

10 PRESIDING JUDGE FREMR: [16:18:23] Understandably.

11 And to inform the public, as I already indicated, this witness is protected one, and she
12 was given guarantee that her identity will not be revealed and since question,
13 upcoming questions could result in that, that is why we have to move in private
14 session and it's very likely that most of this examination will be for that purpose
15 conducted in the regime of private session.

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

17 (Private session at 4.18 p.m.) *(Reclassified partially in public)

18 THE COURT OFFICER: [16:19:04] (Interpretation) We're in private session, your
19 Honour.

20 PRESIDING JUDGE FREMR: [16:19:15] So, Madam Witness, as I already
21 mentioned, now we are in the regime of private session, so except of people present in
22 the courtroom, which is Prosecutor lawyers, Defence lawyers, the accused and the
23 Chamber, nobody else now can hear you. So you can be, you can be calm, there's no
24 risk that your identity will be at this moment revealed to the public.

25 Now I am giving floor to Prosecutor, Ms Solano.

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- 1 MS SOLANO: [16:19:48] Thank you, your Honour.
- 2 Q. [16:19:50] Madam, please state your full name.
- 3 A. [16:20:09] My name is (Redacted)
- 4 Q. [16:20:18] Were you born (Redacted)
- 5 A. [16:20:32] That's correct.
- 6 Q. [16:20:40] Do you speak (Redacted)
- 7 A. [16:20:55] Correct.
- 8 Q. [16:20:57] What is your ethnicity?
- 9 A. [16:21:08] I am (Redacted)
- 10 Q. [16:21:16] (Redacted)
- 11 A. [16:21:35] (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
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(Private Session)

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10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. [16:31:40] Madam, I would like to speak with you about the year 2002.

19 Where were you living in 2002?

20 A. [16:32:05] I'm sorry, I didn't quite grasp the question.

21 Q. [16:32:10] Where did you live in the year 2002?

22 A. [16:32:26] I was living (Redacted)

23 Q. [16:32:32] And what part of (Redacted) did you live in?

24 A. [16:32:47] I was living in (Redacted)

25 Q. [16:32:54] (Redacted)

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- 1 A. [16:33:12] (Redacted)
- 2 Q. [16:33:19] Madam, was there peace in Bunia in 2002?
- 3 A. [16:33:46] In the year 2002, there was no peace. There was a tribal or ethnic
- 4 war going on in the town and it went on into 2003 even.
- 5 Q. [16:34:01] Who was fighting in this ethnic war?
- 6 A. [16:34:20] I'm sorry?
- 7 Q. [16:34:24] Who was fighting in this ethnic war?
- 8 A. [16:34:44] It was an ethnic war between the Lendus and the Hema.
- 9 Q. [16:34:55] Were you personally affected by this war?
- 10 A. [16:35:07] Yes, I did suffer the consequences, because when there is war in a
- 11 place, well, we had to flee on a daily basis, and sometimes, well, there was a great
- 12 deal of disorder and we would fly -- we would flee in all directions and we all felt
- 13 that we were at the risk of losing our lives.
- 14 Q. [16:36:01] Do you remember when in the year 2002 you had to flee?
- 15 A. [16:36:27] We fled from the beginning of the war and this happened every day.
- 16 On the war -- on the day when war broke out in Mudzipela, we fled towards the town.
- 17 In fact, when we fled, we would go to wherever we could find some measure of
- 18 tranquility. We might flee to a location that was more peaceful for a few moments
- 19 and then we would continue our flight to another location that we thought would be
- 20 even more peaceful. And on the day of the attack we also fled the town.
- 21 Q. [16:37:16] The day the war broke out in Mudzipela, who was in control of
- 22 Bunia? Who were the authorities?
- 23 A. [16:37:57] It was difficult to say who the authorities were because there were
- 24 the Ugandans, there were the people from the UPC. We, the civilians, were not
- 25 concerned by all that because we were afraid. Sometimes we would see the

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1 Ugandans coming to drive people out; and when the UPC arrived, it drove the Lendu
2 out. It's very difficult for me to say precisely who the authorities were at that
3 moment in time.

4 Q. [16:38:50] At that moment when the war broke out in Mudzipela, were the
5 Ugandans and the UPC on the same side or were they on different sides of the war?

6 A. [16:39:24] It's difficult for me to say whether they were in the same group
7 because at a given moment in time the Ugandans supported the Lendus and also at a
8 given moment in time they supported the Hemas. So it's difficult for me to say
9 whether they were one and the same group. I could say that the Ugandans were
10 neutral. On occasion they would support the Lendu and on occasion they would
11 support the Hema. But the members of the UPC supported the Hema.

12 Q. [16:40:06] What was the UPC?

13 A. [16:40:24] The UPC, well, it stands for Union patriotique congolaise. I don't
14 really know how to translate that. But I think it means the Congolese Patriotic
15 Union. I think that's more or less what it means.

16 Q. [16:40:57] Do you know whether when the war came to Mudzipela the UPC
17 had a leader?

18 A. [16:41:20] At the outset, the chief of the UPC was Thomas Lubanga, and the
19 armed wing was headed up by Bosco Ntaganda. On one occasion Ntaganda came to
20 Mudzipela and he held a rally. He said that the young people had to go and follow
21 training in order to be able to defend themselves.

22 Q. [16:41:56] And how do you know about this? How do you know that
23 Bosco Ntaganda came to Mudzipela and held a rally?

24 A. [16:42:19] I was on my way to the centre. He came, I didn't know who he was.
25 I saw him when he was on top of a vehicle addressing the civilians and people were

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1 following what he was saying. He was saying: "It is not enough to flee, we should
2 all hold together, and that those who are old enough can go and follow training in
3 order to be able to defend themselves against the Lendu."

4 Q. [16:43:03] What kind of training was Mr Ntaganda talking about?

5 A. [16:43:20] In fact, he was calling upon them to follow some training in
6 weapons handling. He wanted them to learn how to handle weapons and also be
7 able to conduct all the exercises that all soldiers should be able to conduct. He did
8 not specify what weapons he meant. He just talked about a training course in
9 general.

10 Q. [16:44:05] Did Mr Ntaganda say where this training would take place?

11 A. [16:44:24] On that day he just mentioned training, but later we heard that the
12 training took place in Mandro.

13 Q. [16:44:48] And who did you hear that from?

14 A. [16:45:12] You mean the information according to which the training was
15 underway in Mandro, are you asking me who told me that?

16 Q. [16:45:27] Yes, I am.

17 A. [16:45:45] Are you asking me who told me the location where the training was
18 ongoing, or is it another question you're putting to me?

19 Q. [16:45:58] That's the question. You have understood me well.

20 A. [16:46:13] I am aware of this because we fled towards the town, (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [16:47:04] Madam, what kind of vehicle was Mr Ntaganda on during his
25 speech?

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1 A. [16:47:37] I do not know the make of vehicle. It might be a vehicle that we
2 refer to as a pickup. I wouldn't be able to say, but it was a vehicle with a single cabin
3 and that has an open area in the back. He was standing upright and I wasn't -- well,
4 I did not follow what he was saying.

5 Q. [16:48:26] What language was Mr Ntaganda speaking?

6 A. [16:48:41] On that day he was speaking Swahili. On that day he was
7 speaking Swahili.

8 Q. [16:48:56] Did he speak the same Swahili as you?

9 A. [16:49:14] I heard him speaking Swahili, and the main thing is that I could
10 understand what he was saying, and he said that the parents should send their
11 children for training so that they would be able to protect themselves against the
12 Lendu rather than fleeing. And that was the brunt of what he was saying. I was
13 not able to note whether it was standard Swahili that he was speaking or whether it
14 was Kingwana Swahili that we speak.

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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1 THE WITNESS: [16:52:20] (Interpretation) So it was in the centre of Bunia.

2 MS SOLANO: [16:52:24]

3 Q. [16:52:25] Does that mean that it was not in Bunia? What is the name --

4 A. [16:52:46] Sorry? I didn't understand you.

5 Q. [16:52:50] What is the name of the town that this building was in?

6 A. [16:53:08] It is located in the town of Bunia. That means that the commercial
7 centre is right in the middle of Bunia, and the people refer to this commercial centre
8 as being in town.

9 Q. [16:53:44] And what was the group that was assembling children in this
10 building?

11 A. [16:54:19] On occasion, the children would come themselves. They wanted to
12 go into the military service. Most of these children were children of parents who
13 had been killed and they wanted to join the ranks, with a view to being able to eat.
14 In the military there were also children who liked military service because they
15 thought that it was a good service.

16 Q. [16:55:00] And what was the group that was providing this training in this
17 building?

18 A. [16:55:33] Well, this was the group that was fighting, that is to say the group
19 that had already had training. They grouped those children together, took them to
20 the training location and supported them throughout the training process, with a
21 view to going to war so that when the Lendu came, they would send those young
22 people to fight against the Lendu.

23 Q. [16:56:03] What was the name of the group, madam?

24 A. [16:56:17] We called them the UPC.

25 Q. [16:56:30] And you say that children were being grouped for this training.

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1 What do you mean by "children"? What ages were these children?

2 A. [16:57:06] Well, I am not able to know the age of each child, but (Redacted)

3 (Redacted) children aged 12, 13, 14, and some even of 16. But this is an estimation on

4 my part.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [17:01:48] Did you see any of the people who were in training at that house?

6 A. [17:02:12] There were some of them who were singing, yes. They were

7 singing their common songs. And there were others who were kneeling down

8 conducting physical exercises, they were kneeling down like toads, and there were

9 others who were doing press-ups. There was an instructor standing before them

10 and they were to follow the instructions that he was giving them. I was afraid and I

11 couldn't stay there for very long, (Redacted)

12 And I didn't want to stay around for very long so that I didn't have any difficulties

13 with them.

14 Q. [17:03:05] Could you hear the songs that they were singing?

15 A. [17:03:21] Yes, I did hear them singing, but it wasn't anything that was familiar

16 to me.

17 Q. [17:03:32] Do you remember what they were singing about?

18 A. [17:03:59] I wouldn't be able to tell you what type of singing this was, but

19 I think that it was a morale-boosting singing exercise.

20 (Redacted)

21 (Redacted)

22 A. [17:04:41] (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted) You know, this was a long time ago and I was not

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1 aware that one day somebody would put questions to me with regard to these events.

2 That's why I cannot give you any further details.

3 Q. [17:05:27] That's understandable. What I want to know is if you remember

4 how many days passed between (Redacted) had disappeared and you

5 going (Redacted)

6 A. [17:06:01] (Redacted)

7 (Redacted), so I went to that location where there was a group of children gathered

8 and I thought to myself, are those the friends with whom he goes out and about, who

9 took him somewhere possibly? (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted) I could not go to that location on a

15 regular basis because I was afraid. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 A. [17:08:23] The people who I spoke to, they had already received training. He

24 was among the ones who was giving instructions to the recruits. It was therefore

25 before going to Mandro.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 A. [17:09:56] (Redacted) I was told that his group had

7 been transferred to Mandro to continue with training. (Redacted)

8 (Redacted)

9 Q. [17:10:24] Have you heard the name Molondo Lompondo?

10 A. [17:10:43] Lompondo? Yes, Lompondo was in Bunia.

11 Q. [17:10:49] And who was this man, Lompondo?

12 A. [17:11:00] Now, I wouldn't be able to say who he is, but I know that at the time

13 when the war started he was there, but afterwards he was driven out of Bunia.

14 Q. [17:11:37] Did --

15 A. [17:11:38] He fled.

16 (Redacted)

17 PRESIDING JUDGE FREMR: [17:12:13] For the record, it seems that we lost

18 connection.

19 So it took only short time so we can continue.

20 MS SOLANO:

21 Q. [17:12:45] Madam, I will repeat my question. (Redacted)

22 (Redacted)

23 A. [17:13:10] It was at the time that Lompondo had already been driven out.

24 You know, I'm confused because of all the details regarding these events. But I think

25 it was at the time that Lompondo had already fled. (Redacted)

26

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1 (Redacted). As for Lompondo, I didn't pay much attention to that, but I think he had
2 already fled. Because at time we were fighting because he had fled with our money
3 when the UPC started -- or, rather, when (Redacted) joined the UPC, Lompondo had
4 already left. But I'm not sure because that's a lot of information at the same time I've
5 got in my head. So I don't remember it well.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. [17:15:49] Why were you afraid to go (Redacted) Mandro?

16 A. [17:16:09] Yes, I was afraid. I thought, well, I could fall into a Lendu ambush
17 before getting to the destination on the road and that's why I was afraid. There was
18 a lot of danger.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted). However, later,

23 when he started to tell me the way in which he carried out the exercises (Redacted),

24 (Redacted) and

25 he was telling me what was happening. But he did not tell me the substance of the

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1 training that he had undergone there. What he told me about was more of the
2 pleasant things rather than the unpleasant things.

3 Q. [17:18:10] And what were the pleasant things that he told you about?

4 A. [17:18:19] He told me about the way in which they learnt the basic training
5 exercises (Redacted).

6 Q. [17:18:41] Did he describe these exercises to you?

7 A. [17:18:55] Yes. He told me how the exercises were carried out, which
8 consisted of blowing out your cheeks. He also told me how you did press-ups and
9 other exercises as well, and you had to sit down and then get up as quickly as
10 possible, doing that as fast as possible.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

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23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

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10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 THE INTERPRETER: [17:24:37] We fled into the bush, corrects the interpreter.

21 MS SOLANO: [17:24:48]

22 Q. [17:24:48] So did you flee into the bush with (Redacted) after he came back
23 from Mandro?

24 A. [17:25:10] Yes. He returned from Mandro. (Redacted)

25 (Redacted) then we had to flee

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1 and so we fled together with him, and as he had already left this armed group, he
2 could no longer come back. I didn't want him to come back.

3 Q. [17:25:56] What do you mean that you didn't want him to come back?

4 A. [17:26:09] I didn't want (Redacted) to return, to go back into that group,
5 because he had deserted it. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [17:27:54] Did (Redacted) tell you who he met in the UPC?

14 A. [17:28:24] He didn't give me a lot of details, but he told me about (Redacted),
15 with whom he was right at the beginning. (Redacted) He was in

16 the same group. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [17:31:19] And do you know whether (Redacted) met -- do you know where
6 they met in the UPC? (Redacted)

7 (Redacted)

8 A. [17:31:52] According to what he told me, they met in Mandro at the location
9 where the training was taking place.

10 Q. [17:32:09] Madam, was (Redacted) in school before he joined the UPC?

11 A. [17:32:19] Yes, he did go to school, but because of the war, the war meant that
12 the children were on holiday from school.

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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(Private Session)

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1 A. [17:35:21] Yes. He studied in the (Redacted) years at (Redacted) and (Redacted)
2 (Redacted), he studied there again, but he stopped his studies in the middle of the
3 year, (Redacted)

4 Q. [17:36:06] Do you know whether any records exist for (Redacted) schooling?

5 A. [17:36:33] He did have school reports. Yes, there were such reports.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 PRESIDING JUDGE FREMR: [17:37:31] All right. Please take a break. No
11 problem.

12 THE WITNESS: [17:37:44] (Interpretation) Thank you.

13 (Pause in proceedings)

14 PRESIDING JUDGE FREMR: [17:40:58] All right. We can continue.

15 Ms Solano, you have the floor.

16 MS SOLANO: [17:41:02] Thank you, your Honour.

17 Can the court officer please display (Redacted)

18 And can the person assisting the witness at the video link location please place a hard
19 copy of that document in front of her.

20 REGISTRY REPRESENTATIVE: [17:41:40] (Via video link) (No interpretation)

21 MS SOLANO: [17:41:43] I believe I've been asked to repeat the number, so I will,
22 (Redacted)

23 REGISTRY REPRESENTATIVE: [17:42:20] (Via video link) Hello? I've just been
24 given the number (Redacted)

25 THE INTERPRETER: [17:42:35] Says the person at the remote location.

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1 MS SOLANO: [17:43:15]

2 Q. [17:43:16] Madam.

3 A. [17:43:24] Yes.

4 Q. [17:43:27] Do you recognize this document?

5 A. [17:43:39] Yes, I can see it. What is your question?

6 Q. [17:43:46] What is this document?

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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1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
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17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)

25 A. [17:51:44] Yes. Sometimes he would go to school. Sometimes he would flee.

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1 And when things returned to calm, he would go back to school. That's how things
2 unfolded. And the teachers took all of that into account.

3 Q. [17:52:13] And can you explain that, how did the teachers take that into
4 account? (Redacted)

5 A. [17:52:42] Whenever such cases arose, sometimes the pupils could take the
6 notes of the classes that other pupils had followed in order to catch up, and the
7 teacher could make an average of the results obtained by the child and take that into
8 account so that the child did not have to stop the school year. (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. [17:53:56] Thank you.

12 Can the court officer please display DRC-OTP-2082-0572.

13 REGISTRY REPRESENTATIVE: (Via video link) (Interpretation) What number did
14 you say, DRC-OTP-2082-0572?

15 MS SOLANO: [17:54:34] That's correct. I can see the document, the paper copy
16 that is being shown from the video link location. I cannot read it from here, but I can
17 see that it has the correct number written across the top. It ends in 0572.

18 So can the court officer confirm that there is an evidence registration number on the
19 document that ends in 0572?

20 THE COURT OFFICER: [17:55:42] Ms Solano, we had forwarded the document
21 that we had received from the Prosecution.

22 MS SOLANO: [17:55:47] Thank you. I have just confirmed that the documents
23 we sent normally should have had the evidence registration number visible, but
24 unless there are any objections I will proceed to ask the witness questions about the
25 document so that we can verify that we're looking at the same one.

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1 PRESIDING JUDGE FREMR: [17:56:07] Defence, any objection?

2 MR BOURGON: [17:56:10] None, Mr President.

3 PRESIDING JUDGE FREMR: [17:56:12] Thank you, Mr Bourgon.

4 MS SOLANO: [17:56:17] Thank you.

5 Q. [17:56:17] Madam, can you please take a moment to look at this document.

6 A. [17:56:34] Yes.

7 Q. [17:57:13] Do you recognize this document?

8 A. [17:57:21] Yes, I recognize this document. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 MS SOLANO: [17:59:23] Your Honours, I'm looking at the time. I do have more

19 questions on this document for the witness, but I don't think I can finish today, so I'm

20 at your Honours' disposal.

21 PRESIDING JUDGE FREMR: [17:59:35] You are right. We will have to break.

22 Madam Witness, at the moment I would like to thank you. We will have to break

23 now. We will continue tomorrow at the same time. But just for one hour because

24 tomorrow we do have some other commitments, so we will just --

25 THE WITNESS: [17:59:58] Ndiyo.

26 PRESIDING JUDGE FREMR: [18:00:00] And I have one important guidance for

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1 you. I have to remind you that in the meantime till tomorrow you must not discuss
2 your testimony with anybody else, including with family members or friends who
3 you may be in contact with tonight. So no discussion about this testimony. Do you
4 understand?

5 THE WITNESS: [18:00:31] (Interpretation) I have understood you.

6 PRESIDING JUDGE FREMR: [18:00:33] So thank you very much, Madam Witness.

7 Take some rest and we are looking forward to see you tomorrow again. Thank you.

8 THE WITNESS: [18:00:48] (Interpretation) I also thank you.

9 PRESIDING JUDGE FREMR: [18:00:52] Appreciate it.

10 Now we can cut video link and then move into open session for the rest of the
11 session.

12 (Open session at 6.01 p.m.)

13 THE COURT OFFICER: [18:01:19] The video link is cut and we are in open session,
14 Mr President.

15 PRESIDING JUDGE FREMR: [18:01:24] Thank you very much. So for your
16 information, Ms Solano, so far according our measuring you exhausted 1 hour
17 36 minutes, so for tomorrow you still have 54 minutes, if I am counting well, yes.

18 And please be careful, because we really need to finish at 5 o'clock sharp tomorrow
19 because of further commitments of all the Judges. And I would also like to thank
20 you that you really perfectly adjust the way of questioning to the capability of this
21 concrete witness which, in my view, fundamentally contributed to the smooth course
22 of examination.

23 So now we will break and we will resume because, as we said, tomorrow morning we
24 have no witness ready, so we will continue with this witness tomorrow at 4 o'clock till

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1 5 o'clock.

2 Now court is adjourned.

3 THE COURT USHER: [18:02:30] All rise.

4 (The hearing ends in open session at 6.02 p.m.)

5 RECLASSIFICATION REPORT

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

7 the public reclassified and lesser redacted version of this transcript is filed in the case.