

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 2  
8 Monday, 23 January 2017  
9 (The hearing starts in open session at 9.32 a.m.)  
10 THE COURT USHER: [9:32:15] All rise.  
11 The International Criminal Court is now in session.  
12 Please be seated.  
13 PRESIDING JUDGE FREMR: [9:32:49] Good morning, everybody.  
14 Court officer, please call the case.  
15 THE COURT OFFICER: [9:32:53] Thank you, Mr President.  
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor  
17 versus Bosco Ntaganda, ICC case reference ICC-01/04-02/06.  
18 We are in open session.  
19 PRESIDING JUDGE FREMR: [9:33:07] Thank you, court officer.  
20 Now appearances in habitual order, starting with Prosecution.  
21 MS SAMSON: [9:33:15] Good morning, Mr President and your Honours.  
22 The Prosecution team is the same as it was last week.  
23 PRESIDING JUDGE FREMR: [9:33:22] Thank you, Ms Samson.  
24 Defence, please.  
25 MR BOURGON: [9:33:29] (Interpretation) Good morning, your Honour.

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Open Session)

ICC-01/04-02/06

1 Representing Bosco Ntaganda, who is present this morning, Margaux Portier and  
2 myself, Stéphane Bourgon. My colleague Sara Levac is absent this morning.

3 Thank you, your Honour.

4 PRESIDING JUDGE FREMR: [9:33:41] Thank you, Mr Bourgon.

5 And Legal Representative of Victims, please.

6 MS PELLET: [9:33:48] (Interpretation) Thank you, your Honour. The former child  
7 soldiers are represented by myself, Sarah Pellet, counsel with the OPCV.

8 MR SUPRUN: [9:34:01] Good morning, your Honour. Your Honours, the victims of  
9 the attacks are represented by myself Dmytro Suprun, counsel with the OPCV.

10 PRESIDING JUDGE FREMR: [9:34:11] Thank you.

11 And before we move to the next part of examination of our witness, one  
12 announcement: On Friday I indicated possibility that we could have just, in the  
13 afternoon just one session for two hours, but in the light of the recent VWU  
14 assessment and report, we decided to return back to the original schedule, which  
15 means that in the afternoon the next witness will be examined for two sessions, one  
16 hour each.

17 Now, Mr Witness, good morning. Are you feeling okay to continue in giving your  
18 testimony?

19 WITNESS: DRC-OTP-P-0005 (On former oath)

20 (The witness speaks French)

21 (The witness gives evidence via video link)

22 THE WITNESS: [9:35:04] (Interpretation) Yes, madam.

23 PRESIDING JUDGE FREMR: [9:35:15] Mr Witness, as I -- as we did it last week or as  
24 we did it on Friday, if I am not wrong, we will -- or, rather, Prosecution will examine  
25 you in two sessions and each of those sessions will take one hour, so we will have

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0005

1 just two sessions, one hour each, this morning.

2 Before I give floor to Ms Samson, I am afraid that, at least at the moment, the volume  
3 of voice from field office is too strong. Now it is a bit better.

4 Okay, Ms Samson, please -- and sorry, before you start, Mr Witness, regular  
5 reminder, you are still under oath, which means that you have to speak the truth and  
6 nothing but the truth.

7 Now, Ms Samson, floor is yours.

8 MS SAMSON: [9:36:24] Thank you, Mr President, and for the time being I have  
9 questions that could be asked in open session.

10 PRESIDING JUDGE FREMR: [9:36:29] All right. Well noted.

11 QUESTIONED BY MS SAMSON: (Continuing)

12 Q. [9:36:37] Good morning, Mr Witness.

13 A. [9:36:41] Good morning.

14 Q. [9:36:42] Sir, last week you testified that Kisembo was commander in chief of  
15 the UPC military and Bosco Ntaganda was the deputy in charge of operations. And  
16 I'm --

17 A. [9:37:03] Yes.

18 Q. [9:37:04] I'm referring to the transcript T-184, page 18, lines 4 to 15. Do you  
19 know who was in charge of recruitment in the UPC?

20 A. [9:37:28] \*Recruitment, I wouldn't be able to tell you why, when and how  
21 people were recruited, I didn't know.

22 Q. [9:37:42] Did you have any information about how people were recruited,  
23 how they came to join the UPC on the military side?

24 A. [9:38:05] \*Well let's say that the UPC started in 2002. But from the outset the  
25 Hema fighters and the Lendu fighters were always there, keeping a close eye on

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Open Session)

ICC-01/04-02/06

1 each other at all times.

2 THE INTERPRETER: [9:38:32] Could something be done about the sound - request  
3 from the interpreters - it's difficult to understand what is being said.

4 PRESIDING JUDGE FREMR: [9:38:41] Sorry, court officer, I think you have heard the  
5 troubles the interpreters are facing. Could we maybe -- could you contact the field  
6 to make something with the volume.

7 So please hold on, Ms Samson, we will try to improve or to fix this issue.

8 (Pause in proceedings)

9 PRESIDING JUDGE FREMR: [9:39:45] I think try to go and we will see whether we  
10 really got some improvement, Ms Samson, please.

11 MS SAMSON: [9:39:57]

12 Q. [9:39:57] Sir, before the UPC military was officially created, what do you  
13 know about the Hema fighters that you were just speaking about who were opposed  
14 to the Lendu fighters?

15 A. [9:40:30] I'm sorry, could you repeat the question.

16 PRESIDING JUDGE FREMR: [9:40:33] Hold on.

17 Mr Bourgon.

18 MR BOURGON: [9:40:35] Thank you, Mr President. The question from my  
19 colleague requires at least a date as to when the UPC would have been officially  
20 created so that we know what period the witness is talking about. Thank you.

21 PRESIDING JUDGE FREMR: [9:40:51] Ms Samson.

22 MS SAMSON: [9:40:56] I am going to phrase my question a bit differently since the  
23 witness didn't understand it well.

24 PRESIDING JUDGE FREMR: [9:41:03] All right.

25 MS SAMSON: [9:41:03]

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Open Session)

ICC-01/04-02/06

1 Q. [9:41:04] Sir, are you familiar with Hema or Lendu self-defence forces?

2 A. [9:41:19] Yes.

3 Q. [9:41:22] Can you explain to the Chamber what -- let's start with the Hema,  
4 what the Hema self-defence forces were and when they existed.

5 A. [9:41:49] The problem between Lendu and Hema started in '99. And that  
6 started with land issues. And it was from that year that the Lendu and the Hema  
7 were making preparations. They needed to have people who could defend them.  
8 That's how they got the combatants. \*And, as I was saying, the Lendu and Hema  
9 were keeping a close eye on each other. These are two ethnic groups, they live  
10 together in the same territory, but they were enemies since 1999. When the UPC  
11 was set up, its structure, the military wing, was something we didn't know about.  
12 And that's why I couldn't tell you who, how, when there was recruitment.

13 Q. [9:43:07] And do you know how the Hema self-defence groups operated after  
14 the UPC took control of Bunia in August 2002?

15 A. [9:43:40] \*Well, in the hinterland, in Bunia the self-defence groups were called  
16 the UPC. The UPC had its military wing, the Lendu also were organising  
17 themselves. At the beginning they had nothing by way of weapons, they had  
18 bladed weapons. Over time, with the intervention of neighbouring countries, the  
19 Lendu also got weapons. As I was saying, they were keeping a close watch on each  
20 other. Of course there were attacks on one side and the other.

21 Q. [9:44:24] Did the Hema self-defence forces continue to exist independent of  
22 the UPC military after August 2002 or even before?

23 A. [9:44:55] I don't know. In Bunia, the UPC had its military wing. And I don't  
24 know if you can call the soldiers combatants, but they were soldiers because they  
25 had weapons and they were in Bunia. Now, the Lendu inside them, inside that

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 group, I don't know. I didn't work with them. I was working with the UPC, so it  
2 was difficult to know what was happening.

3 Q. [9:45:36] I am only interested at the moment about your knowledge regarding  
4 the Hema self-defence forces. And taking Bunia's, do you know whether Hema  
5 self-defence forces in Bunia continued to exist separately from the UPC after  
6 August 2002?

7 A. [9:46:26] I don't know, exactly.

8 MS SAMSON: [9:46:35] Mr President, may we move into private session for one or  
9 two of my questions.

10 PRESIDING JUDGE FREMR: [9:46:41] Certainly.

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

12 (Private session at 9.46 a.m.) \*(Reclassified partially in public)

13 THE COURT OFFICER: [9:46:53] We are in private session, Mr President.

14 PRESIDING JUDGE FREMR: [9:46:55] Thank you.

15 Ms Samson, please proceed.

16 MS SAMSON: [9:46:59]

17 Q. [9:47:00] (Redacted)

18 (Redacted)

19 (Redacted)

20 A. [9:47:24] (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. [9:48:25] (Redacted)

24 (Redacted)

25 A. [9:48:53] (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 Q. [9:49:17] (Redacted)

4 (Redacted)

5 A. [9:49:32] (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [9:51:26] And you have mentioned in the French transcript, page 9, lines 2 to

15 3, it is not in the English, but you said, and I will read in French: (Interpretation)

16 "If there were young people in the UPC, it is because it was forced."

17 (Speaks English) I would like to ask you, in 2002 and 2003, what was the

18 approximate age range of these young persons recruited into the UPC?

19 PRESIDING JUDGE FREMR: [9:52:26] Hold on, Mr Witness.

20 Mr Bourgon.

21 MR BOURGON: [9:52:29] Thank you, Mr President. I object to that question, which

22 is leading, because the witness has said that he doesn't know. He said "if there was

23 recruitment," so he doesn't know about the recruitment. So to ask him whether

24 there was an age range, if he doesn't even know that there was recruitment, is

25 inappropriate, Mr President. Thank you.

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [9:52:49] Ms Samson.

2 MS SAMSON: [9:52:50] The witness has said that he knows of recruitment in the

3 UPC, giving the example in particular of Mahagi - excuse me - and he says that there

4 was forced recruitment. And then he said "if there were young people in the UPC,"

5 which I don't take it to mean was there or wasn't there, but that such cases were

6 forced. It's the terminology of "s'il y a eu," meaning that there were ...

7 PRESIDING JUDGE FREMR: [9:53:26] We will see.

8 Objection is overruled. Please proceed.

9 MS SAMSON: [9:53:32]

10 Q. [9:53:32] Sir, I will repeat my question, which was --

11 MS SAMSON: [9:53:43] And actually I have to apologise to the interpreter because

12 indeed it was captured in the English, page 8, line 20, where it was said -- where the

13 witness said: "If there were young people within the UPC, that's because it was

14 forced." And I hadn't seen that when I was looking at the French.

15 Q. [9:54:05] But, sir, my question to you is: In 2002 and 2003 what was the age

16 range of the young persons recruited into the UPC?

17 A. [9:54:30] I wouldn't be able to tell you, because I wasn't part of these forces or

18 with these forces. But visibly you could see young people from almost all -- almost

19 all ages, but it is difficult to determine whether they are under 18 or not.

20 Q. [9:55:15] (Redacted)

21 A. [9:55:30] (Redacted)

22 Q. [9:55:32] (Redacted)

23 A. [9:55:36] (Redacted)

24 (Redacted)

25 Q. [9:55:54] (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

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

Page redacted – Private session

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 A. [9:59:28] No, I don't remember any more.

3 Q. [9:59:34] Do you remember providing information about (Redacted) to the  
4 Office of the Prosecutor when you met with investigators in (Redacted)?

5 A. [9:59:55] Yes, I remember.

6 Q. [9:59:58] And would it assist you to look at what you told them in relation to  
7 Kisembo's age?

8 A. [10:00:19] I no longer remember what I said.

9 Q. [10:00:26] Would it help if you could look at your statement to see what you  
10 said before?

11 A. [10:00:42] Yes, I think that would be a good thing.

12 MS SAMSON: [10:00:46] Mr President, I would like to show a paragraph of the  
13 witness's statement to him on this topic.

14 PRESIDING JUDGE FREMR: [10:00:58] All right.

15 MS SAMSON: [10:01:05] The statement is the first item in the Prosecution's binders.  
16 It is (Redacted). I understand that we cannot broadcast it.

17 THE COURT OFFICER: [10:01:27] The problem has been fixed, so we can publish it  
18 now.

19 MS SAMSON: [10:02:08] Mr Registrar in the field, are you able to -- do you have  
20 a hard copy of that document or not?

21 PRESIDING JUDGE FREMR: [10:02:17] Ms Samson, sorry.

22 THE COURT OFFICER: (Via video link) (Interpretation) [10:02:19] Yes, I do have  
23 a paper copy here in my hand.

24 PRESIDING JUDGE FREMR: [10:02:28] Mr Bourgon, would you object if, instead of  
25 reading by Mr Witness, Ms Samson would read out this paragraph? I think it

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0005

1 would be technically easier.

2 MR BOURGON: [10:02:38] I think it would be much preferable, Mr President. And  
3 even if the registrar in the field might be able to read French and he has a copy, that's  
4 another solution, but absolutely not.

5 PRESIDING JUDGE FREMR: [10:02:50] So, Ms Samson, I would prefer with  
6 you - and with the agreement of Defence - if you would read out. I think it would  
7 be easier and less time-consuming.

8 MS SAMSON: [10:03:01] Thank you, Mr President.

9 And thank you to Defence counsel.

10 Q. [10:03:06] Sir, I am going to read one line from your statement signed in (Redacted),  
11 it is paragraph 261, which is on page ERN ending in (Redacted).

12 And in this paragraph you are describing (Redacted)

13 (Redacted). And this is the sentence I want to read to you from your statement  
14 signed in (Redacted) where you say, quote, and I am going to read in French:

15 (Interpretation) "(Redacted) was certainly under 15 at the time. He had not yet  
16 completed primary school, which means that he was about 10 years old."

17 (Speaks English) end of quote.

18 Sir, does that refresh your memory about the approximate age of (Redacted) at the  
19 time he was in the UPC?

20 A. [10:04:40] I think that was what he said. He said -- he complained that his  
21 son had left school to go to the UPC camp.

22 THE INTERPRETER: [10:04:54] I'm sorry, the interpreter did not catch the last part of  
23 the statement.

24 MS SAMSON: [10:05:01]

25 Q. [10:05:04] Sir, the interpreters did not catch the last part of your answer, could

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0005

1 you please repeat the last part of your answer.

2 A. [10:05:19] I said that that's what he said, because he complained a lot about  
3 the fact that his son had gone to the UPC camp and that he was undertaking training  
4 there.

5 Q. [10:05:42] (Redacted) did you get to know what the  
6 international community was saying about the enrolment of minors into armed  
7 groups, including potentially the UPC?

8 A. [10:06:17] (Redacted), we had meetings with people from the  
9 international community regularly and they talked about this.

10 Q. [10:06:40] Who were you meeting from the international community?

11 A. [10:06:53] \*It was, rather, members of the international community who came  
12 when we had meetings with the UPC. (Redacted)

13 (Redacted)

14 (Redacted) These were the people who often came to meet with

15 the UPC, of course to meet with Thomas Lubanga (Redacted)

16 (Redacted). \*We followed them.

17 Q. [10:07:57] Do you know which organisation these people represented, (Redacted)  
18 (Redacted)?

19 A. [10:08:21] I don't know. I don't know.

20 Q. [10:08:22] Did the UPC, (Redacted), ever meet with  
21 representatives from MONUC?

22 A. [10:08:36] \*I think so. I think they did.

23 Q. [10:08:44] (Redacted)

24 A. [10:09:08] (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 Q. [10:09:25] And coming back now to the meetings that you mentioned where  
2 (Redacted) and a person, (Redacted) came  
3 to discuss the presence of minors in armed groups. Do you remember what  
4 message they were conveying, what they were saying? Can you help us help  
5 the Chamber understand what those meetings were about?

6 A. [10:10:10] \*No. There was discussion of the ongoing insecurity in Ituri, and  
7 the recruitment of child soldiers and the fact that they should be demobilised.

8 Q. [10:10:31] Just a quick correction. At the beginning of your last answer, this  
9 last answer did you say "bon" or "non"?

10 A. [10:10:47] What question was that?

11 Q. [10:10:51] No, it's fine. It's fine. Thank you.  
12 So what exactly -- which armed groups were they meeting about? I mean, you were  
13 having meetings with these individuals about demobilising child soldiers. Why  
14 were they coming to the UPC meeting to discuss that?

15 A. [10:11:29] I think this is a problem which they were much concerned about in  
16 the international community, because in the -- they went to the military groups.

17 THE INTERPRETER: [10:11:48] The interpreter corrects: Because children should  
18 not be part of military groups.

19 MS SAMSON: [10:11:54]

20 Q. [10:11:54] And were there children in the UPC? Did these groups ever  
21 suggest that there were children in the UPC that needed to be demobilised?

22 A. [10:12:23] In the UPC we didn't talk of this.

23 Q. [10:12:30] Perhaps you didn't discuss it in the UPC, but I would like you to  
24 explain to the Chamber why the international community was coming to the UPC to  
25 discuss demobilising children in its ranks. What did they say to the UPC in your

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0005

1 presence about whether or not the UPC had children in its ranks?

2 PRESIDING JUDGE FREMR: [10:13:03] Hold on, Mr Witness.

3 Mr Bourgon.

4 MR BOURGON: [10:13:08] Thank you, Mr President.

5 Obviously my colleague is trying to put words in the witness's mouth. The witness

6 said that he did not attend these meetings. He said there were a number of

7 meetings, they would come, they would discuss; he did not say that he was present.

8 He spoke about the topic of the meeting. We are trying to get him to say something

9 to which he was not privy to. Whether he heard later (Redacted),

10 he said it wasn't discussed to his knowledge. So I think we can move on to

11 a different topic, Mr President.

12 PRESIDING JUDGE FREMR: [10:13:44] Ms Samson.

13 MS SAMSON: [10:13:45] Yes, your Honour, I understood that the witness said (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted) To me it was clear. However, if it is not clear for

20 the Chamber, I am certainly willing to have the witness clarify whether or not he

21 was present in these meetings.

22 PRESIDING JUDGE FREMR: [10:14:27] All right. Objection is overruled. Please

23 proceed.

24 MS SAMSON: [10:14:32]

25 Q. Sir, so my question was about what these individuals - (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0005

1 and the other person - said to the UPC about whether -- the presence of children in  
2 the UPC itself?

3 A. [10:15:09] \*Yes. (Redacted)

4 (Redacted)

5 (Redacted) And we spoke about children

6 within armed groups and the fact that they should be demobilised. (Redacted)

7 (Redacted) That was not discussed.

8 Q. [10:16:01] Thereafter -- well, first of all, how frequently did international  
9 organisations meet with the UPC to discuss child soldiers in armed groups?

10 A. [10:16:27] \*These meetings were rare, because they did not come... I think  
11 they came from Kinshasa. They were not in Bunia as far as I know.

12 Q. [10:16:44] To your knowledge --

13 A. [10:16:46] -- to my knowledge.

14 Q. [10:16:47] And to your knowledge, (Redacted) did the UPC  
15 ever demobilise children from its ranks? Did you hear of that?

16 A. [10:17:15] I didn't hear them speak of demobilisation. And, as I said last  
17 time, that was the military side. And it was difficult to give an opinion because we  
18 were not working \*together with them. That was a matter for the presidency.

19 Q. [10:17:45] (Redacted)

20 (Redacted)

21 A. [10:18:16] (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 Q. [10:19:05] (Redacted) did you ever see orders from  
2 Mr Lubanga or anybody else to demobilise children from the UPC military? And  
3 I'm referring to written orders.

4 A. [10:19:48] Unfortunately, I didn't have any copy, no copy of this.

5 Q. [10:20:11] So, I just want to be clear, did you ever see written orders from  
6 Lubanga to demobilise child soldiers from the UPC military?

7 PRESIDING JUDGE FREMR: [10:20:33] Hold on, Mr Witness.

8 Mr Bourgon.

9 MR BOURGON: [10:20:36] I believe the question was asked and answered,  
10 Mr President. We are repeating again the same question whether there were  
11 written orders about demobilisation.

12 PRESIDING JUDGE FREMR: [10:20:47] Mr Bourgon, according my understanding  
13 Mr Witness responded that he hadn't had any copies of that, but he didn't in fact  
14 answer the question as was put.

15 So, Ms Samson, please proceed.

16 MS SAMSON: [10:21:05]

17 Q. [10:21:05] Sir, I'll ask the question again because I just want it to be clear  
18 whether or not, when you were in the UPC, did you ever see copies of  
19 demobilisation orders by Mr Lubanga to demobilise children from the UPC military?

20 A. [10:21:48] \*No, (Redacted). There  
21 was never any clearly established copy referring to that matter, unless it was kept  
22 secret.

23 Q. [10:22:54] Now, sir, I would like to show you a document. It is number 25 in  
24 the Prosecution's list. The registration number is DRC-OTP-0113-0070.

25 THE COURT OFFICER: (Via video link) (Interpretation) [10:23:47] Yes, this is the

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 document, DRC-OTP-0113-0070.

2 MS SAMSON: [10:24:02] Yes, thank you. That's the document.

3 THE COURT OFFICER: (Via video link) (Interpretation) [10:24:15] I will give the  
4 document to the witness.

5 MS SAMSON: [10:24:20]

6 Q. [10:24:21] (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 A. [10:25:09] (Redacted)

11 (Redacted)

12 Q. [10:25:13] Now, I know that the print on this document is not perfectly clear,  
13 but can you see on the first page that the object or subject line says, in French:

14 (Interpretation) "Nomination of 13 officers as trainers for DDRRR child soldiers"?

15 A. [10:26:00] \*Yes, I'm looking at this. This military side was kept separate (Redacted)  
16 (Redacted). It was secret.

17 Q. [10:26:21] And if you turn to the second page, it is a letter authored by  
18 Adubango Biri Marcel. Do you know him?

19 A. [10:26:42] Yes, he was in charge of education. He was responsible for  
20 education.

21 Q. [10:26:54] And if you look at the first page once again, Mr Adubango Biri  
22 writes, and I will read it in French:

23 (Interpretation) "I have the honour and advantage to bring to your attention that the  
24 national secretariat for national education on behalf of the UPC/RP and its president  
25 has \*initiated a programme of demobilisation, disarmament, re-education,

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0005

1 resettlement and reinsertion into the community. For a child soldier's age between  
2 10 -- from 10 to 15/16 years who accept of their own freewill to return to civilian life  
3 in order to restructure appropriately their future."

4 (Speaks English) And if you look at the addressee of this letter, it is, in French  
5 (Interpretation) --

6 THE INTERPRETER: [10:28:47] I'm sorry, Ms Samson, could you repeat that.

7 MS SAMSON: [10:28:52] Yes.

8 Q. The letter is addressed on the first page to (Interpretation) the commander G5  
9 of the Forces patriotiques pour la libération du Congo, the FPLC.

10 (Speaks English) Sir, do you have any knowledge as to whether or not this  
11 programme of demobilisation of children from 10 to 15/16 years ever took place in  
12 the UPC in or about 12 February 2003, which is the date of this letter?

13 A. [10:29:53] \*Yes, 12 February 2003, this was a period when the security  
14 situation was difficult, and two or three weeks later the UPC was chased out of  
15 Bunia. So I think that this letter would have been noted (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. [10:30:54] (Redacted)

20 (Redacted)

21 A. [10:31:12] (Redacted) the issue of

22 demobilisation, that is. It was a critical and serious problem that affected

23 everybody, (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 Q. [10:31:43] If this was such a critical issue, why did you not discuss it at your

2 (Redacted)?

3 A. [10:32:02] (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [10:32:31] (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. [10:33:23] (Redacted)

13 (Redacted)

14 MS SAMSON: [10:33:38] Mr President, I seek to tender this document as a further

15 Prosecution exhibit.

16 PRESIDING JUDGE FREMR: [10:33:45] Defence.

17 MR BOURGON: [10:33:48] No objection, Mr President.

18 PRESIDING JUDGE FREMR: [10:33:51] All right. So document specified by

19 Ms Samson is admitted into evidence as a further Prosecution exhibit, and now let's

20 move into open session for reminder of the session.

21 (Open session at 10.34 a.m.)

22 THE COURT OFFICER: [10:34:15] We are back into open session, Mr President.

23 PRESIDING JUDGE FREMR: [10:34:19] Thank you, court officer.

24 Now we take our regular break and we will reconvene at 11 o'clock.

25 THE COURT USHER: [10:34:28] All rise.

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0005

1 (Recess taken at 10.34 a.m.)

2 (Upon resuming in open session at 11.00 a.m.)

3 THE COURT USHER: [11:00:12] All rise.

4 Please be seated.

5 PRESIDING JUDGE FREMR: [11:00:29] Welcome back, Mr Witness.

6 We will continue with the last part of your testimony for today, which is going to

7 last one hour. And before I give the floor to Ms Samson, habitual question, private

8 or open session, Ms Samson?

9 MS SAMSON: [11:00:54] Private session, please, your Honour.

10 PRESIDING JUDGE FREMR: [11:00:58] All right.

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

12 (Private session at 11.01 a.m.) \*(Reclassified partially in public)

13 THE COURT OFFICER: [11:01:08] We are in private session, Mr President.

14 PRESIDING JUDGE FREMR: [11:01:10] Thank you.

15 Ms Samson, please proceed.

16 MS SAMSON: [11:01:14] Thank you.

17 And I note that my first question may appear general, but the next question

18 immediately will require the basis of knowledge and that's why I went into private

19 session for the whole thing.

20 Q. Mr Witness, last week you were testifying about the takeover of Bunia by the

21 UPC around 9 August 2002 (Redacted). To your knowledge, how

22 did the UPC troops treat Lendu civilians during the takeover operation in Bunia

23 2002, August?

24 THE INTERPRETER: [11:02:23] The microphone is cut at the far end.

25 MS SAMSON: [11:02:31]

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 Q. Excuse me, sir. I don't think your microphone is activated.

2 I'm sorry, but you will have to repeat your answer, because the microphone was not  
3 activated and we couldn't hear you.

4 A. [11:03:02] \*The UPC, the UPC took Bunia from the Lendu associated with the  
5 APC. The APC was supported because it's the armée populaire congolaise, that's  
6 the military wing of the RCD-K/ML. Mbusa at a given moment sent Jean-Pierre  
7 Lompondo as governor of Ituri. Ituri was given to Mbusa, RCD-K/ML.

8 Now, the day when the UPC took Bunia, the Lendu were going to be mistreated,  
9 because when the Lendu fell in the centre guarded by the Hema, it's the same thing,  
10 there were reprisals. There were some Lendu who fell in that war and, as both  
11 ethnic groups didn't get on with each other, what you saw were massacres.

12 Q. [11:04:47] (Redacted)

13 (Redacted) What were the most common types of abuses  
14 that you learned about that had been allegedly committed by UPC troops?

15 A. [11:05:18] (Redacted)

16 (Redacted)

17 (Redacted) But on 9 August, it

18 was really localised, the UPC took Bunia. And of course there were \*checks. There  
19 were Lendu who complained that they were being \*massacred in town and in  
20 certain neighbourhoods.

21 Q. What was the most common types of complaints or abuses? You referred  
22 last week to killings. Were there any other types of abuses that (Redacted)  
23 (Redacted) committed specifically, they alleged, by UPC soldiers?

24 A. [11:07:04] \*There were complaints against women or civilians being used as  
25 porters. There were women who were also taken in order to help the combatants

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0005

1 on both sides, Hema and Lendu.

2 Q. [11:07:50] (Redacted) complaints of rape or other forms of sexual  
3 violence having been committed, allegedly, by UPC soldiers against civilian women,  
4 or not?

5 A. [11:08:11] \*These complaints were also made. (Redacted)  
6 because when the UPC takes a centre they become masters of that centre. When  
7 Lendu combatants take a centre, they become the chiefs in that centre and so  
8 anything can happen.

9 Q. [11:08:52] (Redacted)  
10 (Redacted)

11 (Redacted)

12 A. [11:09:16] (Redacted)  
13 (Redacted)

14 Q. [11:09:33] (Redacted)  
15 (Redacted)  
16 (Redacted)

17 A. [11:09:54] (Redacted)  
18 (Redacted)  
19 (Redacted)

20 Q. [11:10:12] (Redacted)  
21 (Redacted)

22 A. [11:10:34] (Redacted)  
23 (Redacted)  
24 (Redacted)

25 Q. [11:10:55] (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 A. [11:11:16] (Redacted)

3 Q. [11:11:19] (Redacted)

4 (Redacted)

5 (Redacted)

6 A. [11:11:44] (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. [11:12:14] (Redacted)

11 (Redacted)

12 A. [11:12:32] (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 Q. [11:13:05] (Redacted)

17 (Redacted)

18 (Redacted) Can you tell us who decided when and where the UPC

19 would attack or launch operations?

20 A. [11:13:47] \*Well that's a military matter. (Redacted)

21 it was difficult to know where we were going to strike or where we were coming

22 from.

23 Q. [11:14:07] Can you recall any of the locations in which the UPC launched

24 attacks while you were a national secretary?

25 A. [11:14:31] Yes. I remember a centre in Lipri. Lipri is about 20 kilometres

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0005

1 from Bunia periphery. Some Lendu (Redacted) put forward the problem that  
2 the UPC had attacked the centre of Lipri (Redacted). As Lubanga  
3 regretted that, he sent a team into the field to go and see. \*In the team there was  
4 a Lendu, Lilo, who was present. There was Amboko I remember and Tinanzabo,  
5 and they were members of that group who went to see the situation in the field and  
6 they made a report. That report was given to Lubanga, but the information on one  
7 hand spoke of a massacre which had been perpetrated in Lipri. The number of  
8 people who had been killed in this Lendu centre wasn't given.

9 Q. [11:16:19] Can you recall the date, approximately, when this UPC attack  
10 purportedly took place, the month or the year?

11 A. [11:16:37] I don't remember. It could have been between  
12 October-December 2002, if I am not mistaken, but I don't remember very precisely.  
13 I don't remember the date very precisely.

14 Q. [11:17:01] (Redacted)  
15 (Redacted)

16 A. [11:17:15] (Redacted)

17 Q. [11:17:18] Did you get any further details about that UPC attack and the  
18 alleged massacre of people?

19 A. [11:17:31] Not exactly.

20 Q. [11:17:36] Did you get any information about it?

21 A. [11:17:46] I'm sorry?

22 Q. [11:17:48] You said that you didn't exactly get any further details or  
23 information about the attack, and I would like to know if you had any further  
24 information about it because your answer suggested that you had some information.  
25 Perhaps I misunderstood your answer.

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 A. [11:18:20] We were informed, you know, in the group, the UPC. (Redacted)

2 (Redacted) Now, there were Lendu (Redacted)

3 (Redacted). And so when their brothers informed them, they would

4 bring that information (Redacted) and see Lubanga about it.

5 (Redacted) But there wasn't a precise report. No precise reports

6 with how many people were killed. There wasn't that. (Redacted)

7 (Redacted) \*Fortunately, he put a team together which went into the field to go and

8 check on this.

9 Q. [11:19:13] And you mentioned that this attack took place on Lipri, which you  
10 said was a Lendu centre. What was the ethnicity of the persons allegedly killed?

11 THE INTERPRETER: [11:19:29] The English interpreter didn't hear the response.

12 THE WITNESS: [11:19:35] (Interpretation) Lipri was a Lendu centre and still today

13 it's a Lendu centre, just Lendu live there. And it's certain that this massacre affected

14 the Lendu, it was a massacre of the Lendu.

15 MS SAMSON: [11:19:59]

16 Q. [11:19:59] Did you know whether the persons killed were combatants or  
17 civilian?

18 A. [11:20:13] No, the report was not made. As I said, there were these two

19 ethnic groups which were keeping a close watch on each other and when they

20 managed to catch a centre and they controlled it seriously, the Lendu as much as the

21 Hema, the enemy were killed -- the enemy ethnic group were killed.

22 Q. [11:21:00] And you have mentioned certain Lendu persons, (Redacted), I believe  
23 you mentioned (Redacted), and did you ever have an opportunity to discuss --

24 A. [11:21:23] Yes.

25 Q. [11:21:24] Did you ever discuss with them how they viewed their own group,

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0005

1 the UPC, that they were members of, attacking a Lendu centre?

2 A. [11:21:56] Sometimes they themselves gave the information, because they

3 were informed by their people, and we had to speak about it with the president.

4 That was an authorised action to go and see the president. All these people, they

5 were living like a wet chicken.

6 Q. [11:22:44] Sir, what does it mean when you said in French

7 (Speaks French) -- what does that mean?

8 THE INTERPRETER: [11:23:03] The interpreter says it could be "wimp" in English.

9 THE WITNESS: (Interpretation) [11:23:10] Well, it was horrible, (Redacted)

10 (Redacted). You couldn't say that in a loud voice, just to say \*it was

11 horrific.

12 MS. SAMSON: [11:23:23]

13 Q. [11:23:24] (Redacted)

14 A. [11:23:36] (Redacted)

15 (Redacted)

16 (Redacted)

17 Q. [11:24:15] Why couldn't the Lendu representatives in the UPC such as (Redacted)

18 (Redacted) represent the problems to the executive, why not?

19 A. [11:24:37] Well it's, as I told you, they were afraid. They were directly

20 concerned if their brothers would die. They couldn't speak about it loudly.

21 Q. [11:24:58] How much influence in decision-making about attacks did (Redacted)

22 the Lendu representatives of the UPC have?

23 A. [11:25:23] In the decision-making on the attacks, (Redacted)

24 concerned the president himself and the military wing, because \*when it comes to

25 military matters, nobody spoke about them. (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 Q. [11:26:13] What was your view about the UPC attacks and crimes allegedly  
3 committed by the UPC (Redacted)?

4 A. [11:26:35] (Redacted) I thought  
5 peace was fundamental during this period, but as in everywhere, there were fires.  
6 It made your heart bleed, (Redacted).

7 Q. [11:27:08] Do you know someone named Adriko Johnson?

8 A. [11:27:20] Adriko Johnson, at the beginning he was there at the creation of the  
9 UPC. Adriko, he was the vice-president of the UPC.

10 Q. [11:27:39] What happened to Adriko Johnson?

11 A. [11:27:48] Adriko Johnson, well it was his father, (Redacted)  
12 (Redacted) He was looking for his  
13 son who had disappeared. Sometime before, his son had disappeared. I also  
14 regretted, \*I couldn't understand how the son could have disappeared. \*After all,  
15 this was an adult, the president of the UPC at its creation.

16 Q. [11:28:55] Was he vice-president or president of the UPC at its creation?

17 A. [11:29:01] To the best of my knowledge, he was a vice-president of the UPC at  
18 that time.

19 Q. [11:29:10] Are you aware of the circumstances of his disappearance?

20 A. [11:29:21] No, I don't know, But he disappeared. All his family were  
21 complaining a lot. They were trying to find him. Unfortunately, still today, don't  
22 know where he is.

23 Q. [11:29:41] Do you know if he agreed or disagreed with UPC policies?

24 A. [11:29:59] Going by the information which I received, information which I  
25 gathered, Adriko was not entirely in agreement with what was happening in the

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 Ituri because there was fire everywhere, villages were being burnt down, people  
2 were being killed, so he was unhappy about it. That's what \*I was told.

3 Q. [11:30:37] Do you know whether Adriko Johnson ever voiced his concerns to  
4 UPC leadership?

5 A. [11:30:54] No, no.

6 Q. [11:31:01] What was the UPC's policy regarding non-Iturians?

7 A. [11:31:18] When it came to the non-Iturians, I did not notice much. I don't  
8 know whether their thoughts were kept secret and held in their hearts, but I didn't  
9 notice anything openly.

10 Q. [11:31:44] Have you heard the expression "Kivu holding"?

11 A. [11:32:03] "Kivu holding" yes. By the way, all the dignitaries of Ituri were  
12 opposed to Kivu holding, because all important positions in the Ituri were held by  
13 people from Kivu. So Iturians, without distinction, were unhappy about that.  
14 Where were they going to work? (Redacted)  
15 (Redacted)  
16 (Redacted) And this was happening when  
17 the RCD-K/ML was on -- in power and it was led by Mbusa who of course was from  
18 the north Kivu.

19 Q. [11:32:59] And have you ever heard the slogan (Interpretation) "Ituri for the  
20 Iturians"?

21 A. [11:33:24] Yes, the reality on the ground at the time was such that all the  
22 positions were held by people from the Kivu so it was therefore normal for such  
23 a slogan to birth in people's minds.

24 Q. [11:33:40] Which group used this slogan?

25 A. [11:33:56] It was mainly the Hema because the Hema had occupied the area.

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0005

1 And the Lendus at the time were a minority and so they couldn't be talked about  
2 much at that time.

3 Q. [11:34:14] And was it a term used within the UPC?

4 A. [11:34:36] No, it wasn't even mentioned within the UPC. "Ituri for Iturians"  
5 no, it wasn't talked about within the UPC. However, in the hearts of the people, in  
6 the hearts of the people of the Ituri, that was the case not only within the UPC. (Redacted)  
7 (Redacted)

8 Q. [11:35:00] (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 A. [11:35:36] (Redacted)

13 (Redacted)

14 (Redacted)

15 Q. [11:36:01] (Redacted)

16 A. [11:36:10] (Redacted)

17 Q. [11:36:19] (Redacted)

18 A. [11:36:26] (Redacted)

19 Q. [11:36:42] (Redacted)

20 A. [11:36:58] (Redacted)

21 Q. [11:37:00] (Redacted)

22 (Redacted)

23 A. [11:37:16] (Redacted)

24 Q. [11:37:31] (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 A. [11:37:35] (Redacted)

2

3

4

5

6

7

8

9

10

11

12

13

14 Page redacted – Private session

15

16

17

18

19

20

21

22

23

24

25

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 Q. [11:41:46] (Redacted)

3 A. [11:41:48] (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [11:42:46] And which ethnic groups did the UPC consider pro-Lendu?

9 A. [11:42:53] The groups considered as pro-Lendu? I cannot remember any.

10 Q. [11:43:21] Do you know a person named Félix Ntumba?

11 A. [11:43:35] Ah, Félix Ntumba, I know him, I knew him very well. He used to  
12 work for an international organisation, OCHA, I believe --

13 THE INTERPRETER: [11:43:52] Said the witness.

14 THE WITNESS: [11:43:55] (Interpretation) -- if I am not mistaken.

15 MS SAMSON: [11:44:00]

16 Q. [11:44:00] Did Mr Ntumba have any interactions or dealings with the UPC?

17 A. [11:44:19] Yes. Ntumba was suspected by the UPC of having deals with the  
18 Lendu. He was detained by the military security. Ntumba is someone whom I  
19 knew very well and I had discussions with him, given that he was of the  
20 international community. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. [11:45:42] And I would like to show you a document, it is number 49 in  
25 the Prosecution's list, ERN DRC-OTP-0159-0438.

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 THE COURT OFFICER: (Via video link) (Interpretation) [11:46:28] Yes, madam, I  
2 now show you the document which will be displayed DRC-OTP-0159-0438.

3 MS SAMSON: [11:46:39] Thank you. That is the document.

4 PRESIDING JUDGE FREMR: [11:46:40] Hold on, Ms Samson.

5 Mr Bourgon.

6 MR BOURGON: [11:46:44] Thank you, Mr President. As we indicated in our notice  
7 of objection to the use of certain documents, a proper material relationship needs to  
8 be established between the witness and the document before it is shown to him. In  
9 this respect, my colleague started to ask some questions about a man called Ntumba  
10 and we did get some answers, but the answers we have from the witness so far do  
11 not establish any knowledge of what is indicated in this document. So my  
12 colleague should maybe establish a more firmer basis before moving on to the  
13 document, or else it will be leading the witness. Thank you.

14 PRESIDING JUDGE FREMR: [11:47:24] Ms Samson.

15 MS SAMSON: [11:47:25] I will ask one additional question, your Honour, if that can  
16 be of assistance. But there is a connection between this witness and the document  
17 but I will ask one further question.

18 PRESIDING JUDGE FREMR: [11:47:37] But please establish that.

19 MS SAMSON: [11:47:40]

20 Q. [11:47:41] Sir, you indicated that Félix Ntumba was released from detention.  
21 Did he remain in Ituri, to your knowledge?

22 A. [11:47:52] No. Shortly after, he, he left. He didn't remain in the Ituri. He  
23 left immediately.

24 Q. [11:48:12] (Redacted) Do you  
25 know under what circumstances he left immediately, what caused him to leave

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 immediately?

2 A. [11:48:39] It is because I -- I believe that he felt very bad about having been  
3 detained by the military security. As a human being, that was only normal.  
4 Maybe he felt that after the detention something else might happen. That is why for  
5 him, he deemed it proper to leave the Ituri, to go away.

6 Q. [11:49:13] And what information do you have as to whether Mr Ntumba  
7 working for OCHA was assisting the Lendu?

8 A. [11:49:35] Personally, personally, I knew Ntumba, Félix, and I knew him to be  
9 someone who couldn't be like that. He had good contact with everybody, Hema  
10 and Lendu alike. So he probably was discouraged by the fact that he -- the services  
11 he had provided had not been appreciated so he decided to leave.

12 Q. [11:50:15] (Redacted)

13 (Redacted)

14 A. [11:50:40] (Redacted)

15 (Redacted)

16 MS SAMSON: [11:51:00] (Redacted)

17 (Redacted)

18 (Redacted)

19 PRESIDING JUDGE FREMR: [11:51:18] Defence, your position? At the moment  
20 you are fine, okay.

21 MR BOURGON: [11:51:22] No objection, Mr President.

22 PRESIDING JUDGE FREMR: [11:51:24] Okay, go ahead.

23 MS SAMSON: [11:51:25] Now, Mr Registrar if you still have a copy of that document  
24 handy, you can provide it to Mr Witness, please.

25 THE COURT OFFICER: (Via video link) (Interpretation) [11:51:45] Yes, madam, the

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 document is still displayed and, with your permission, I now give it to the witness.

2 MS SAMSON: [11:51:57]

3 Q. [11:51:57] Mr Witness, could you please turn to the second page. Can you

4 confirm whether the entity and copy, (Redacted)

5 (Redacted)?

6 A. [11:52:39] (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [11:53:12] (Redacted)

10 (Redacted) Now, if you turn to the first page, you will see

11 that the letter is addressed to Mr Félix Ntumba, who is listed as the, in French,

12 "coordinateur d'OCHA UN, a Bunia."

13 A. [11:53:47] Yes.

14 Q. [11:53:48] And in the third paragraph, Mr Lubanga who you have referred to

15 as having signed the letter, declares Mr Ntumba persona non grata and expels him

16 within 48 hours from the territory under the control of the UPC/RP. Do you recall

17 that Mr Ntumba's departure was, in fact, ordered by the UPC?

18 A. [11:54:41] Yes, because the letter is signed by the president himself.

19 MS SAMSON: [11:54:48] Mr President, I seek to tender this letter as a Prosecution

20 exhibit.

21 PRESIDING JUDGE FREMR: [11:54:54] Defence?

22 MR BOURGON: [11:54:57] No objection, Mr President.

23 PRESIDING JUDGE FREMR: [11:55:00] So this document is admitted into evidence

24 as a further Prosecution exhibit.

25 Ms Samson, please proceed.

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 MS SAMSON: [11:55:11]

2 Q. [11:55:12] Sir, do you recall an individual named Kabasele?

3 A. [11:55:30] Kabasele, if I am not mistaken, was the national secretary for justice.

4 Q. [11:55:49] Do you recall another individual by the name of Kabasele who was  
5 not a member of the UPC?

6 A. [11:56:09] No.

7 Q. [11:56:09] Can you recall an individual named Father Denecker?

8 A. [11:56:24] Father Denecker, yes, he was a Catholic father.

9 Q. [11:56:35] And do you have any information as to how he was viewed by  
10 Mr Lubanga or other persons in the UPC?

11 A. [11:57:00] If I am not mistaken, he was somewhat also considered as a persona  
12 non grata because he received some refugees, some Lendu, who had fled and who  
13 were here and there in the city but who had come to him and he had assisted them  
14 with accommodation in a Catholic house -- in a house belonging to the Catholic  
15 mission, rather.

16 Q. [11:57:38] (Redacted)

17 (Redacted)

18 A. [11:57:53] Meeting with Father Denecker, no. I saw him. I saw him when  
19 information got to the president's ears that Father Denecker was housing some  
20 Lendus at his place. (Redacted)

21 (Redacted)

22 Q.[11:58:42] Can you recall approximately when that took place, the year or the  
23 month?

24 A. [11:58:58] No, I don't remember. I forget.

25 Q. [11:59:03] (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Private Session)

ICC-01/04-02/06

1 A. [11:59:17] (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. [12:00:24] (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 A. [12:01:15] (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 MS SAMSON: [12:01:41] Mr President, I see the time.

19 PRESIDING JUDGE FREMR: [12:01:45] If you want just to wrap up the issue.

20 MS SAMSON: [12:01:48] No, I am done with this topic.

21 PRESIDING JUDGE FREMR: [12:01:51] Okay.

22 Now, court officer, let's move into open session.

23 (Open session at 12.02 p.m.)

24 THE COURT OFFICER: [12:02:13] We are in open session, Mr President.

25 PRESIDING JUDGE FREMR: [12:02:15] Thank you, court officer.

Trial Hearing  
WITNESS: DRC-OTP-P-0005

(Open Session)

ICC-01/04-02/06

1 So, Mr Witness, again thank you very much for patiently responding all the  
2 questions. It concludes your testimony, this part, for today. We will continue  
3 tomorrow at the same time again for two sessions, one hour each. And as usually,  
4 it is my duty to remind you that you must not discuss your testimony until  
5 tomorrow with anybody else. Have you understood all that, Mr Witness?

6 THE WITNESS: [12:02:53] (Interpretation) Thank you. I have understood,  
7 Mr President.

8 PRESIDING JUDGE FREMR: [12:03:00] Thank you, and see you tomorrow. And  
9 now connection with the field could be disconnected.

10 And before we break, may I ask for update on time used by -- the exact time used by  
11 Ms Samson so far.

12 THE COURT OFFICER: [12:03:31] Yes, Mr President, the Prosecution has used so far  
13 five hours and 26 minutes.

14 PRESIDING JUDGE FREMR: [12:03:37] So it means, Ms Samson, that you still have  
15 30-something minutes. I guess you will need all that time?

16 MS SAMSON: [12:03:45] I will, your Honour. I didn't go through as many  
17 documents today as I expect. I will try to do tomorrow.

18 PRESIDING JUDGE FREMR: [12:03:52] All right. Which means that, anyway,  
19 Defence should be ready to hand over the floor to the -- yes, it should be during the  
20 first session tomorrow.

21 That is for the moment and we will continue at half past 1 with the next witness.

22 THE COURT USHER: [12:04:10] All rise.

23 (Recess taken at 12.04 p.m.)

24 (Upon resuming in open session at 1.32 p.m.)

25 THE COURT USHER: [13:32:25] All rise.

1 Please be seated.

2 PRESIDING JUDGE FREMR: [13:32:58] Good afternoon, everybody. Since I see  
3 some fundamental changes in composition of the parties, I ask for update on  
4 appearances, starting with Prosecution.

5 MS MORRIS: [13:33:13] Good afternoon, Mr President. Good afternoon, your  
6 Honours. My name is Laura Morris on behalf of the Prosecution. With me today  
7 is Selam Yirgou, case manager, and senior trial lawyer, Nicole Samson.

8 PRESIDING JUDGE FREMR: [13:33:26] Thank you, Ms Morris.

9 Now, Defence, please.

10 MR GOSNELL: [13:33:30] Good afternoon, Mr President, your Honours.

11 Christopher Gosnell for Mr Ntaganda this afternoon, assisted by

12 Marlene Yahya Haage. Thank you.

13 PRESIDING JUDGE FREMR: [13:33:40] Thank you, Mr Gosnell.

14 As concerns Legal Representatives of Victims, I know that the composition remains  
15 the same like in the morning.

16 Now, before we start with the testimony of the upcoming witness, I note first of all  
17 for the purpose of timing, as was indicated in the Chamber's emails of 19 August  
18 and 12 December 2016, both parties shall each have two hours for their respective  
19 examinations. As indicated this morning, the adjusted sitting hours that are  
20 planned for the coming three days mean that the witness will testify for two  
21 one-hour court session per day with a 30-minute break in between. These sessions  
22 will take place during the afternoon.

23 In view of the specific schedule and in light of the VWU's vulnerability assessment  
24 with regard to the witness's ability to concentrate, the Chamber encourages the  
25 parties and participants to endeavour to minimise any interruptions to the witness's

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

1 testimony. The VWU also recommends that a psychologist be present to monitor

2 the witness in the remote location and that reading assistance is provided.

3 The Chamber orders, accordingly, the special measures be implemented and

4 confirms that the required assistance is available on standby should this be

5 necessary.

6 The Chamber further directs the parties to adapt the mode of questioning

7 appropriately to the capability of the witness, and I really strongly highlight this

8 recommendation. You all had a chance to read VWU report and, if not, simply, I

9 would really focus your attention on that requirement. I also recommend

10 maintaining a slow pace and using short, really short and really simple questions.

11 And I am also reminding you that the witness cannot read. Now we can turn to the

12 scheduled testimony.

13 So, court officer, please turn on the video link connection.

14 (The witness enters the video link room)

15 PRESIDING JUDGE FREMR: [13:38:20] Mr Witness, good afternoon. Can you hear

16 and see me?

17 WITNESS: DRC-OTP-P-0108

18 (The witness speaks Swahili)

19 (The witness gives evidence via video link)

20 THE WITNESS: [13:38:31] (Interpretation) I can hear you.

21 PRESIDING JUDGE FREMR: [13:38:41] Good.

22 Mr Witness, on behalf of the Chamber I would like to welcome you. You are called

23 to testify in the case against Mr Bosco Ntaganda. You will be asked questions both

24 by the judges and lawyers here in our courtroom. In this connection, I would like

25 you -- I would like to guide you as follows: Please listen carefully to those

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Open Session)

ICC-01/04-02/06

1 questions. If you do not understand any question, feel free to ask to be repeated.  
2 We want you to tell the truth and tell us what you saw, heard, and sensed yourself.  
3 If you didn't see or hear it yourself but you found out some other way, then you  
4 should explain how. You may not remember all details and it does not matter.  
5 Please testify just on that which you really remember. Don't guess, don't make  
6 things up. There is nothing wrong in saying "I don't know" or "I don't remember."  
7 Do you understand all this, Mr Witness?

8 THE WITNESS: [13:40:22] (Interpretation) Yes, I understand.

9 PRESIDING JUDGE FREMR: [13:40:29] Very well.

10 Mr Witness, protective measures are put in place to ensure that your identity is not  
11 revealed to the public. It means that the public cannot see your face during  
12 testimony and that the public cannot hear your real voice. We will refer to you as  
13 "Mr Witness" only and ensure that your name and any other information that risks  
14 revealing who you are is not broadcast to the public. Therefore, whenever you  
15 need to describe anything that might reveal your identity, we will do so in private  
16 session so that no one outside the courtroom can hear your answer. Do you  
17 understand, Mr Witness?

18 THE WITNESS: [13:41:43] (Interpretation) Yes, I understand.

19 PRESIDING JUDGE FREMR: [13:41:48] Mr Witness, I am now going to ask you to  
20 make the solemn declaration that you will speak the truth. We will do it in such  
21 a way that I will read out the text of the declaration slowly and you should please  
22 repeat it after me.

23 Are you ready for that, Mr Witness?

24 THE WITNESS: [13:42:17] (No interpretation)

25 PRESIDING JUDGE FREMR: [13:42:32] So I start, Mr Witness, and please repeat after

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Open Session)

ICC-01/04-02/06

1 me. I solemnly declare.

2 I can repeat it again, Mr Witness. Mr Witness, can you hear me?

3 THE WITNESS: [13:43:03] (Interpretation) Yes, I hear you.

4 PRESIDING JUDGE FREMR: [13:43:08] So please repeat after me.

5 I solemnly declare.

6 THE WITNESS: [13:43:41] (Interpretation) I solemnly declare -- do you want me to  
7 read this?

8 PRESIDING JUDGE FREMR: [13:44:01] If you are able to read it, it is even better. So  
9 please, if you can, please read it out.

10 THE WITNESS: [13:44:17] (Interpretation) I declare solemnly that I will speak the  
11 truth, the whole truth, and nothing but the truth.

12 PRESIDING JUDGE FREMR: [13:44:55] Thank you, Mr Witness.

13 This means that now you are under oath, so you need to be aware that it is an  
14 offence within the jurisdiction of this Court to lie, to give false testimony. Do you  
15 understand that?

16 THE WITNESS: [13:45:29] (Interpretation) Yes.

17 PRESIDING JUDGE FREMR: [13:45:32] Very good. And finally, a few practical  
18 matters you should have in mind when giving your testimony. It is important to  
19 speak into the microphone, to speak clearly, and to speak at a slow pace to allow the  
20 interpreters in our court to translate everything. You should only start speaking  
21 when the person asking you the question has finished. So when a question is asked,  
22 please do not respond immediately, please count in your head to three, one, two,  
23 three, and only then give your answer. This pause of at least three seconds is  
24 essential for us to properly hear, translate, and record what you are saying.

25 If you, Mr Witness, have any questions during your testimony, do not hesitate to let

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Open Session)

ICC-01/04-02/06

1 us know by raising your hand. We will then give you the opportunity to speak and  
2 if you cannot hear us well or need to take a break, please let the court officer who is  
3 with you in the courtroom know. Have you understood all that, Mr Witness?

4 THE WITNESS: [13:47:30] (Interpretation) Yes, I have understood.

5 PRESIDING JUDGE FREMR: [13:47:35] All right, Mr Witness. So I thank you for  
6 the moment and now I will give the floor to Madam Prosecutor who will examine  
7 you.

8 So now, Prosecution, you have the floor.

9 MS MORRIS: [13:47:49] Thank you, Mr President.

10 QUESTIONED BY MS MORRIS:

11 Q. [13:47:54] Good afternoon, Mr Witness. We have met before, but I will  
12 remind you that my name is Laura Morris and I will be asking you questions on  
13 behalf of the Office of the Prosecutor.

14 Before I begin, I just want to say, if you don't understand any of my questions, please  
15 tell me and I will ask them in a way that you understand.

16 MS MORRIS: [13:48:18] Since my first questions are identifying in nature, I wish to  
17 go into private session, Mr President.

18 PRESIDING JUDGE FREMR: [13:48:28] Certainly, Ms Morris.

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

20 (Private session at 1.48 p.m.) \*(Reclassified partially in public)

21 THE COURT OFFICER: [13:48:37] We are in private session, Mr President.

22 PRESIDING JUDGE FREMR: [13:48:41] So again, Mr Witness, now nobody outside  
23 of the courtroom can hear anything what you are saying, so it is no problem to  
24 mention your name or name of your relatives, nobody outside of the courtroom will  
25 realise that.

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

1 Now, Ms Morris, please proceed.

2 MS MORRIS: [13:49:04] Thank you, Mr President.

3 Q. [13:49:05] Mr Witness, what is your full name?

4 A. [13:49:27] Don't you have my names with you there?

5 Q. [13:49:30] Yes, Mr Witness. I may ask you some questions that appear  
6 obvious, but we need all the answers for the record of the Court. So can you please  
7 tell me your full name?

8 A. [13:49:56] My names are (Redacted)

9 PRESIDING JUDGE FREMR: [13:49:59] Sorry to interrupt, Ms Morris.

10 Defence, would there be any problem if Ms Morris would use leading questions for  
11 those personal details?

12 MR GOSNELL: [13:50:10] No, Mr President.

13 PRESIDING JUDGE FREMR: [13:50:11] So, Ms Morris, I would recommend that.

14 MS MORRIS: [13:50:14] Thank you, Mr President.

15 Q. [13:50:17] Mr Witness, were you born on (Redacted)

16 A. [13:50:43] Yes. I was born in (Redacted) but I do not know the exact date.

17 Q. [13:50:57] Were you born in (Redacted)

18 A. [13:51:13] Yes, (Redacted) is a territory.

19 Q. [13:51:28] Thank you. And is this in Ituri, Democratic Republic of the  
20 Congo?

21 A. [13:51:56] The (Redacted) territory is a territory in our area, in the (Red.) area.

22 Q. [13:52:12] Are you Lendu?

23 A. [13:52:21] Yes, I am Lendu.

24 Q. [13:52:25] Were you a (Redacted) in 2003?

25 A. [13:52:38] Did you say 2000? Please repeat your question.

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

- 1 Q. [13:52:53] Certainly. Mr Witness, in 2003 were you a (Redacted)
- 2 A. [13:53:08] Yes, I was a (Redacted)
- 3 Q. [13:53:16] Now don't tell me their names, but did you have children in 2003?
- 4 A. [13:53:31] Yes, I had children.
- 5 Q. [13:53:36] In 2003 were you taking care of these children?
- 6 A. [13:53:51] What did you say? Well, those children were born before 2003,
- 7 (Redacted) children.
- 8 Q. [13:54:08] And were you taking care of them, were you providing for them in
- 9 2003?
- 10 A. [13:54:13] One of them died.
- 11 Q. [13:54:17] I see that the question --
- 12 A. [13:54:32] Yes.
- 13 Q. [13:54:35] Mr Witness, where did you live in 2003?
- 14 A. [13:54:51] I was in our area.
- 15 Q. [13:54:57] Can you state the name of the village you lived in in 2003?
- 16 A. [13:55:18] The village is (Redacted)
- 17 Q. [13:55:39] What major area was around it?
- 18 A. [13:56:09] Jitchu.
- 19 Q. [13:56:11] What ethnic groups lived in Jitchu in 2003?
- 20 A. [13:56:31] The Lendu people.
- 21 Q. [13:56:35] In 2003 did the Hema and the Lendu get along?
- 22 A. [13:56:54] No, they did not get along well. Well, those conflicts met up with
- 23 us where we were, but it all started further north.
- 24 Q. [13:57:26] Thank you. Can you remember the name of the chief of Jitchu in
- 25 2003?

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

1 A. [13:58:05] The first chief had died before the conflict.

2 Q. [13:58:20] In 2003 do you remember who was the chief?

3 A. [13:58:46] The first chief had died, and another one was appointed and he  
4 took on the name of the former chief. His name was Jitchu.

5 Q. [13:59:09] What ethnicity was Chief Jitchu?

6 A. [13:59:24] He was Lendu.

7 Q. [13:59:29] In Jitchu 2003, was there talk of peace between the Hema and  
8 Lendu?

9 MS MORRIS: Your Honour, we can go into open session if you --

10 PRESIDING JUDGE FREMR: [13:59:49] Yes, it was just my concern.

11 Hold on, Mr Witness, before you answer.

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

13 (Open session at 2.00 p.m.)

14 THE COURT OFFICER: [14:00:10] We are in open session, Mr President.

15 PRESIDING JUDGE FREMR: [14:00:12] And, Ms Morris, please repeat the question.

16 MS MORRIS: [14:00:19]

17 Q. [14:00:20] Mr Witness, in Jitchu 2003, was there talk of peace between the  
18 Lendu and the Hema?

19 A. [14:00:52] The entire population of Jitchu went for the peace discussions. We  
20 all went for the discussions, the entire village.

21 Q. [14:01:09] Thank you. How did you hear about talks for peace?

22 A. [14:01:37] The old Jitchu called us so that we could go to this meeting, this  
23 peace meeting.

24 Q. [14:01:54] Can you tell the Chamber, was there a letter sent by Hema?

25 A. [14:02:08] Yes, there was a letter.

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

1 Q. [14:02:23] Who received the letter?

2 A. [14:02:28] Jitchu.

3 Q. [14:02:36] Did Jitchu read the letter aloud to you?

4 PRESIDING JUDGE FREMR: [14:02:41] Hold on, Mr Witness.

5 Mr Gosnell.

6 MR GOSNELL: [14:02:44] Mr President, I think at this stage I should say that --

7 THE WITNESS: [14:02:52] (No interpretation)

8 PRESIDING JUDGE FREMR: [14:02:54] Mr Gosnell.

9 MR GOSNELL: [14:02:55] It is leading. I didn't object to leading earlier and I do  
10 understand the sensitivities of the witness, but I think we are now at the point where  
11 there should not be leading.

12 PRESIDING JUDGE FREMR: [14:03:06] Ms Morris, as to the previous fact, I think it  
13 was I think even not under dispute. But now probably we have to be a bit more  
14 careful, so please.

15 MS MORRIS: [14:03:16] I understand, your Honour.

16 Q. [14:03:46] Mr Witness, how did you find out about this letter?

17 A. [14:04:11] I learnt of it when Jitchu called us together so that we could go to  
18 the peace meeting. It was through this message that I learnt of its existence.

19 Q. [14:04:30] When you were called together by Chief Jitchu, do you remember  
20 what Chief Jitchu told you?

21 A. [14:04:55] Jitchu didn't say anything to me. He just wanted us all to go to the  
22 peace talks. He didn't say anything other than that.

23 Q. [14:05:07] Who were you supposed to meet at the peace talks?

24 A. [14:05:24] We went there to meet with Hema so that we could reach  
25 agreements on peace, but this meeting took a different turn.

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

1 Q. [14:05:51] Where was the location of this peace meeting?

2 A. [14:06:04] In Kobu.

3 Q. [14:06:09] Did you decide to attend this peace meeting?

4 A. [14:06:26] All of us, all of us went there, all the inhabitants of Jitchu went  
5 there.

6 PRESIDING JUDGE FREMR: [14:06:36] Sorry to interrupt. I would like to put one  
7 additional question.

8 And, Mr Witness, nobody was hesitating to go to the meeting?

9 THE WITNESS: [14:06:56] (Interpretation) All of us, all of us went there.

10 MS MORRIS: [14:07:14] Thank you, Mr President.

11 Q. [14:07:21] Mr Witness, how did you feel about the invitation to attend peace  
12 talks with the Hema?

13 A. [14:07:49] I heard of it through Jitchu, the chief of our area.

14 Q. [14:08:04] How did you feel going to the meeting to discuss peace?

15 A. [14:08:34] Jitchu heard of it and brought us all together so that we could go to  
16 this meeting to discuss peace.

17 Q. [14:08:58] When you went to the meeting, did you go all together or as  
18 one -- in separate groups?

19 A. [14:09:16] We all went together.

20 Q. [14:09:21] Who led the group?

21 A. [14:09:50] I don't know the name of the person who led the group.

22 Q. [14:09:59] Do you remember the size of the group?

23 THE COURT OFFICER: (Via video link) (Interpretation) [14:10:41] Could the  
24 question please be repeated.

25 PRESIDING JUDGE FREMR: [14:10:49] I think the problem is that maybe the term

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

1 "size" is a little bit unclear to Mr Witness.

2 MS MORRIS: [14:10:59]

3 Q. [14:11:00] Mr Witness, how many people were in the group going to the  
4 meeting?

5 A. [14:11:06] There were a lot of people who went. I didn't count them. I  
6 wasn't able to count the people who went.

7 Q. [14:11:37] When you say "a lot" do you mean more than 20?

8 A. [14:12:15] Let's see. I now feel tired. My head is giving me problems.

9 PRESIDING JUDGE FREMR: [14:12:23] Mr Witness, do you want to take some  
10 short --

11 THE WITNESS: [14:12:31] (Interpretation) I had problems with my head. I also lost  
12 consciousness.

13 MS MORRIS: [14:12:37] Mr President, we may need to go into private session if he is  
14 going to continue.

15 PRESIDING JUDGE FREMR: [14:12:42] All right, you are right. Let's move into  
16 private session first.

17 (Private session at 2.12 p.m.) \*(Reclassified partially in public)

18 THE COURT OFFICER: [14:12:55] We are in private session, Mr President.

19 PRESIDING JUDGE FREMR: [14:12:58] Mr Witness, I am not sure whether I  
20 understood you well. Do you want to take some short break or you wanted just to  
21 highlight that you have some problem with numbers because of your injury?

22 THE WITNESS: [14:13:21] (Interpretation) I no longer have a good memory, not  
23 since I was injured. I lost a lot of blood at that time.

24 PRESIDING JUDGE FREMR: [14:13:44] No problem. No problem, Mr Witness.

25 THE WITNESS: [14:13:52] (Interpretation) (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

1 (Redacted) I was close to losing my life. And I can't recall all the details of what  
2 happened. I lost a lot of blood and I had this wound for a year and a half. There  
3 were (Redacted)

4 PRESIDING JUDGE FREMR: [14:14:29] Mr Witness, there is no problem. We are  
5 very well aware of that, so -- and we are ready to respect that. So if you can't recall,  
6 no problem, just please say "I don't remember," and that's it. But I will still have  
7 one additional question for you. You said "roughly." It is not about the exact  
8 numbers, but you said that whole village went to the meeting. Do you know  
9 roughly how many citizens stayed in your village in 2003, just roughly? How many  
10 people in your village? If you don't remember, again, no problem.

11 THE WITNESS: [14:15:50] (Interpretation) When we arrived in Kobu, they told us to  
12 go into a building in Paradiso, everybody went in there. And then Hema came in  
13 too, carrying weapons and people started to flee. I did that too. And then I found  
14 myself alone. I fell somewhere into a banana tree and they started to cut me up.  
15 I didn't know what had happened, but I do know that there were a lot of people  
16 from the village who were fleeing and that people were trying to exterminate them.  
17 The people who attacked me thought that they had killed me, but I then started to  
18 climb into the tree I had fallen into and I started to cry. And people were looking  
19 for me. Somebody was saying, "One of our group is missing, where is he?"  
20 And they came back to where I was and they found me. They were members of my  
21 family who came to my aid. They took me -- they took me home. That's what  
22 I can remember. But other facts which I don't remember, of course I cannot tell you.  
23 In 2003 it was very difficult to find medication.

24 PRESIDING JUDGE FREMR: [14:17:57] Thank you, Mr Witness. It is fine.

25 Ms Morris, I appreciate that you let Mr Witness to provide his narrative, it think it is

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

1 better than to interrupt him. And now you can, if you want, to get back to some  
2 clarifying questions, please.

3 MS MORRIS: [14:18:13] Thank you, Mr President.

4 Q. [14:18:15] Mr Witness, earlier you said the entire village went for peace talks.  
5 Do you remember the age of the youngest villager?

6 A. [14:18:53] Are you talking about my child?

7 Q. [14:19:05] Let me rephrase. Were there children in the group or only adults  
8 going to the peace talk?

9 A. [14:19:28] No, there were no children. Among the people that went, there  
10 were people aged over 15, from 15 years upwards. Those who were under 15  
11 remained in the village.

12 Q. [14:20:04] Were there men and women?

13 A. [14:20:29] The women and other young people remained in the village. The  
14 men went to this meeting to talk about peace; the women remained behind.

15 Q. [14:20:54] Was anyone in your group carrying weapons?

16 A. [14:21:11] No.

17 Q. [14:21:16] Why was no one carrying weapons?

18 A. [14:21:35] Those who called the meeting -- those who were going to the  
19 meeting didn't have rifles. It was to be a meeting about peace.

20 Q. [14:21:55] Do you remember the names of any people in your group?

21 A. [14:22:14] No, I can't remember the names. That happened a long time ago.

22 Q. [14:22:28] Were you familiar with the location of the meeting in Kobu?

23 A. [14:22:50] I was familiar with the location.

24 Q. [14:23:08] What is the first thing you saw when you arrived in Kobu?

25 A. [14:23:31] When we arrived there, they took us straight to Paradiso, which is

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

1 why we were unable to observe anything else.

2 Q. [14:23:48] You said they took you. Who are you speaking of?

3 A. [14:24:16] When I was wounded, it was the members of my family.

4 Q. [14:24:30] You said when you arrived in Kobu the Hema came too carrying  
5 weapons. How many Hema did you see?

6 A. [14:25:06] In the beginning I didn't see them. I only saw them when we were  
7 shut up into the house, and then I saw that some of them were carrying weapons,  
8 were carrying rifles.

9 Q. [14:25:37] How did you know they were Hema?

10 A. [14:26:08] I was at home and we were called together so that we could go to  
11 the peace meeting, and there we were shut up in a building. Then I saw that there  
12 were very many Hema.

13 Q. [14:26:36] Who shut you in the building?

14 A. [14:27:01] I saw that we had been shut up inside a building, but I didn't see  
15 who did it.

16 Q. [14:27:14] Can you remember how the Hema were dressed when you saw  
17 them in Kobu?

18 A. [14:27:40] I don't remember.

19 Q. [14:27:47] Do you remember if they were dressed in civilian or military  
20 clothing?

21 PRESIDING JUDGE FREMR: [14:27:59] Hold on, Mr Witness.

22 Mr Gosnell.

23 MR GOSNELL: [14:28:04] Objection. The witness has just said he doesn't remember  
24 how they were dressed, so I don't think it is appropriate to then pose this question to  
25 the witness.

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

1 PRESIDING JUDGE FREMR: [14:28:17] Ms Morris.

2 MS MORRIS: [14:28:20] Mr President, I am trying to be more specific as this witness  
3 has severe memory issues. It is difficult to --

4 PRESIDING JUDGE FREMR: [14:28:31] Yes, I agree, it could even refresh his  
5 memory. So yes, the objection is overruled.

6 Please proceed.

7 MS MORRIS: [14:28:51]

8 Q. [14:28:51] Mr Witness, can you remember were the Hema in Kobu wearing  
9 civilian or military clothing?

10 A. [14:29:21] I don't know. What I do know is that I was shut up inside  
11 a building.

12 Q. [14:29:32] Was there a church in Kobu?

13 A. [14:29:47] No. Paradiso is not a church.

14 Q. [14:29:53] I understand that. My question is: Is there a church in Kobu?

15 PRESIDING JUDGE FREMR: [14:30:03] Mr Gosnell.

16 MR GOSNELL: [14:30:04] Objection. I think that the previous question was correct,  
17 but the second question was not because it is referring to the present time. So just  
18 to be absolutely clear to the witness, I think it should be in reference to the time  
19 period. Unless my friend is asking about today, but I don't think that is what was  
20 intended.

21 PRESIDING JUDGE FREMR: [14:30:28] Ms Morris.

22 MS MORRIS: [14:30:29] I thank this correction.

23 Q. [14:30:32] Mr Witness, my question: Was there a church in Kobu in 2003?

24 A. [14:30:54] All that I know is that there was a building which was called  
25 Paradiso. I don't know whether there was a church there at the time.

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

1 THE INTERPRETER: [14:31:07] Correction from the Swahili interpreter: I don't  
2 know whether Paradiso was a church.

3 MS MORRIS: [14:31:13] Mr President, I see the time is 2.30, so perhaps we should  
4 break.

5 PRESIDING JUDGE FREMR: [14:31:18] All right. Let's move into open session for  
6 the reminder of the session.

7 (Open session at 2.31 p.m.)

8 THE COURT OFFICER: [14:31:36] We are in open session, Mr President.

9 PRESIDING JUDGE FREMR: [14:31:40] Thank you.

10 Mr Witness, now we will take 30 minutes break, so you can take some rest; and then  
11 we will conclude by another session lasting one hour. So please now have a rest  
12 and we see you in 30 minutes.

13 Now we break.

14 THE COURT USHER: [14:32:00] All rise.

15 (Recess taken at 2.32 p.m.)

16 (Upon resuming in open session at 3.00 p.m.)

17 THE COURT USHER: [15:00:30] All rise.

18 Please be seated.

19 PRESIDING JUDGE FREMR: [15:00:57] Welcome back.

20 Mr Witness, we will continue with your examination by Prosecution.

21 Now, Ms Morris, do you want to proceed in open or in private session?

22 MS MORRIS: [15:01:12] Mr President, private session, please. But I would just first  
23 like to state that for the record we have an additional lawyer present, Mr Eric  
24 Iverson.

25 PRESIDING JUDGE FREMR: [15:01:23] Thank you, Ms Morris.

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

1 And now, court officer, let's move into private session.

2 (Private session at 3.01 p.m.) \*(Reclassified partially in public)

3 THE COURT OFFICER: [15:01:33] We are in private session, Mr President.

4 PRESIDING JUDGE FREMR: [15:01:41] Thank you.

5 Ms Morris, please proceed.

6 MS MORRIS: [15:01:48]

7 Q. [15:01:48] Mr Witness, earlier I asked if you could remember how the Hema  
8 were dressed when you saw them in Kobu and your answer was: "I don't  
9 remember." Would it help you remember if I read back to you part of your  
10 statement?

11 A. [15:02:27] No, I cannot remember.

12 PRESIDING JUDGE FREMR: [15:02:33] Ms Morris, I would recommend to explain  
13 Mr Witness what the statement is, in fact means.

14 MS MORRIS: [15:02:41]

15 Q. [15:02:42] Mr Witness, in (Redacted) you told your story to ICC investigators, and  
16 we have your story on paper. Today when I asked you a question about how the  
17 Hema were dressed in Kobu, you said you didn't remember. Do you think it would  
18 help you remember if I read back part of your story to you from -- never mind.

19 A. [15:03:32] I have forgotten all those things. I can only talk about what I  
20 remember only.

21 PRESIDING JUDGE FREMR: [15:03:43] Mr Witness, it is normal before the Court,  
22 this Court, that if the witness who said something, for example, to investigators  
23 many years ago, and he or she can't remember, that according our law it is possible  
24 to read him out his previous testimony and then he can either confirm or to say no, it  
25 was not like that.

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

1 So now Ms Morris is ready to read you what you said about your story in (Redacted) and  
2 you will have a chance to say yes, it is true or it is not true. Do you understand  
3 that?

4 THE WITNESS: [15:04:52] (Interpretation) I have understood.

5 PRESIDING JUDGE FREMR: [15:04:54] Defence, any objection to that?

6 MR GOSNELL: [15:04:58] Well, Mr President, I am not sure what our guidelines say  
7 on this topic, but my understanding even here at this Court is that the requirement is  
8 the witness confirm that their memory will be refreshed. However, I fully  
9 understand that there are other views. I would just ask that it be clear from the  
10 entire context whether the witness is -- their memory is refreshed or whether they  
11 are merely looking at the page and saying: "I can't say that that is not true." With  
12 that caveat, Mr President --

13 PRESIDING JUDGE FREMR: [15:05:30] Yes, in my view in fact we adjust this rule  
14 of -- or jurisprudence on refreshment to the capability of the witness, so in my view  
15 those conditions, even if it is in the --

16 THE WITNESS: [15:05:55] (No interpretation)

17 PRESIDING JUDGE FREMR: [15:05:59] So I will repeat it. In my view --

18 THE WITNESS: [15:06:02] (No interpretation)

19 PRESIDING JUDGE FREMR: [15:06:09] Sorry, I got something in Swahili, but I didn't  
20 get translation in English. If it was determined to me.

21 So I will repeat again. Mr Gosnell, to address your in fact question, in my view, it  
22 was just enquiry about the conditions for refreshment are, are met within the limits  
23 specifically tailored to this witness. I mean that those conditions were met. That is  
24 why I am allowing Ms Morris now to read out the concrete part of Mr Witness's  
25 testimony from (Redacted)

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

1 MS MORRIS: [15:07:06] Thank you, Mr President.

2 If we could have DRC-OTP-0108-0094.

3 PRESIDING JUDGE FREMR: [15:07:15] Ms Morris, I am really sorry, I just got  
4 message that for some technical issues we will have to break for one minute, so  
5 please hold on.

6 (Pause in proceedings)

7 PRESIDING JUDGE FREMR: [15:09:58] So now proceed.

8 Mr Witness, thank you for your patience. Thank you for your patience. We have  
9 to fix some technical issues and now Ms Morris will continue in your examination.

10 Ms Morris, you have the floor.

11 MS MORRIS: [15:10:15] Thank you, Mr President.

12 If I could refer to DRC-OTP-0108-0094 at 0097, paragraph 20, the last sentence.

13 Pardon my French, I will read for the witness: (Interpretation) "The Hema militia  
14 all wore uniforms, camouflage uniforms, which we refer to as tache-tache, but I  
15 could not be more precise about this."

16 Q. (Speaks English) Mr Witness, does that refresh your memory? Do you  
17 remember saying these words?

18 A. [15:11:30] I have not understood.

19 Q. [15:11:36] I just read part of your statement to you from (Redacted) where you  
20 describe what the Hema were wearing. Does what you heard refresh your  
21 memory?

22 A. [15:12:03] I have forgotten everything.

23 Q. [15:12:24] Okay, moving on.

24 Earlier you spoke about going into a building in Paradiso. Did you see other Lendu  
25 people in the building when you got there?

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

1 A. [15:12:47] We, we all went there, all of us. But some people remained outside

2 and did not go into the building. Those people had a bad intention.

3 Q. [15:13:07] Did you go into the building?

4 A. [15:13:13] We all went into that house, into that building.

5 Q. [15:13:27] Can you describe what you saw when you entered the building for

6 us?

7 A. [15:13:47] They told us one thing and did something else.

8 Q. [15:14:06] What did they tell you?

9 A. [15:14:34] We were locked up in the house or building, and each person tried

10 to find a way out, to flee.

11 Q. [15:14:57] When you say "house or building," can you explain which building

12 you are talking about?

13 A. [15:15:18] Paradiso.

14 Q. [15:15:25] Who locked you up inside Paradiso?

15 A. [15:15:57] I did not understand your question.

16 Q. [15:16:06] You said you were locked up in the building in Paradiso. Who

17 locked you up in the building, in Paradiso?

18 A. [15:16:25] The Hemas.

19 Q. [15:16:29] And how did the people inside try to flee? What were they doing?

20 A. [15:17:12] We were in our area and they talked to us about pacification;

21 however, when we got to that place they did something else. They -- they routed

22 us, everybody wanted to flee, I tried to flee myself, but I fell; and they started to

23 chop me or cut me with machete.

24 Q. [15:17:51] What ethnicity were the people that were in Paradiso?

25 A. [15:18:15] They were Lendu people. Only the Hemas were outside. All the

Trial Hearing

(Private Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

1 Lendus were locked up. I don't remember any longer some of these events. But  
2 when we got there we were asked to go into that building and instead of discussing  
3 the topic for which we had come, they started to do something else and so we had to  
4 find a way out and flee.

5 Q. [15:18:56] What did the Hema start to do to the people in Paradiso?

6 A. [15:19:19] They started chasing after them with machetes.

7 Q. [15:19:29] Did you see any other Lendu in Kobu? Let me rephrase. When  
8 you walked -- when you went to Kobu, did you see other Lendu in Kobu?

9 A. [15:20:03] All of us were Lendu.

10 Q. [15:20:10] Were the Lendu only in Paradiso or were they in other buildings?

11 A. [15:20:17] Those of us who were Lendu were at Paradiso. We had been in  
12 our area and we had been invited to come for pacification, so we left our village and  
13 went to Kobu.

14 Q. [15:20:49] Can you tell the judges what happened when you were hit with the  
15 machete?

16 A. [15:21:21] I fell down and they started to cut me up with the machete.

17 Q. [15:21:31] Did you see who hit you with the machete?

18 A. [15:21:45] I have no idea. All I know is that I was struck with machetes, but  
19 I don't know the names of those who struck me. You cannot know who would  
20 have struck you with a machete, because it was a group of people.

21 Q. [15:22:11] Then let me ask: Was it someone from that group that hit you?

22 A. [15:22:19] What I have said is that it was a group of people, many of them, so  
23 one cannot know which one of them hit me or struck me with a machete. So what  
24 I was saying was that it was a group. That is what I was telling.

25 Q. [15:22:43] Thank you. Do you know the ethnicity of the person who attacked

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

1 you?

2 A. [15:22:55] It was Hema people.

3 Q. [15:23:04] Where on your body were you hit with the machete?

4 A. [15:23:16] The (Redacted)

5 Q. [15:23:21] How many times were you hit (Redacted) with the machete?

6 A. [15:23:34] Three times.

7 Q. [15:23:39] Mr Witness, (Redacted)

8 (Redacted)

9 MS MORRIS: [15:23:46] (Redacted)

10 (Redacted)

11 Q. [15:24:17] Mr Witness, (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. [15:25:14] (Redacted)

17 (Redacted)

18 MS MORRIS: [15:25:31] (Redacted)

19 (Redacted)

20 Q. [15:25:43] Thank you, Mr Witness. What happened after you were hit with  
21 the machete?

22 A. [15:25:56] When they chopped me up with the machete, those who were there  
23 fled and I was left alone by myself. There was no one there to help me, (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

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

Page redacted – Private session

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

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

Page redacted – Private session

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

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

Page redacted – Private session

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

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

Page redacted – Private session

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

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

Page redacted – Private session

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

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

Page redacted – Private session

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

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

Page redacted – Private session

Trial Hearing  
WITNESS: DRC-OTP-P-0108

(Private Session)

ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [16:00:34] Mr Witness, I know it wasn't easy to remember everything, but I  
7 thank you for answering my questions and I am finished now. Thank you.

8 MS MORRIS: [16:00:44] Mr President, no further questions.

9 PRESIDING JUDGE FREMR: [16:00:49] Thank you, Ms Morris, in being -- for being  
10 so efficient.

11 Now let's move into open session.

12 THE COURT OFFICER: [16:01:01] Excuse me, Mr President, I have been informed  
13 that we have some issue regarding the non-distorted voice of the witness coming  
14 through the screen, so if we turn into open session the public might hear the  
15 non-distorted voice of the witness. So probably it is already time to fix this issue. I  
16 recommend, if the Chamber agrees, to remain in private session until we adjourn.  
17 Thank you.

18 PRESIDING JUDGE FREMR: [16:01:24] Under those circumstances, all right, then.  
19 So, Mr Witness, I would like to thank you very much for responding all those  
20 questions put to you. We will continue tomorrow afternoon. You will be, in the  
21 same way, examined by a representative of Defence. And it's my duty to remind  
22 you that in the meantime, till tomorrow, you must not discuss your testimony with  
23 anybody else.

24 Do you understand that, Mr Witness?

25 THE WITNESS: [16:02:14] (Interpretation) I have understood you.

Trial Hearing

(Open Session)

ICC-01/04-02/06

WITNESS: DRC-OTP-P-0108

1 PRESIDING JUDGE FREMR: [16:02:18] So, once more I thank you, Mr Witness, and

2 we will see you tomorrow afternoon.

3 And now can disconnect line with the field.

4 THE WITNESS: [16:02:36] (No interpretation)

5 PRESIDING JUDGE FREMR: [16:02:50] And now let's move into open session.

6 (Open session at 4.02 p.m.)

7 THE COURT OFFICER: [16:02:59] We are in open session, Mr President.

8 PRESIDING JUDGE FREMR: [16:03:01] Thank you.

9 So just to summarise, we finished first part of examination of Witness P-0108.

10 Tomorrow we will continue in the morning with examination of Witness P-0005, and

11 then in the afternoon we will again return back to this witness.

12 Now Court is adjourned.

13 THE COURT USHER: [16:03:23] All rise.

14 (The hearing ends in open session at 4.03 p.m.)

15 RECLASSIFICATION REPORT

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

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

18 case.