

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, 9 February 2017
9 (The hearing starts in open session at 11.31 a.m.)
10 THE COURT USHER: [11:31:33] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [11:31:47] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [11:31:52] 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 For the record, we are in open session.
19 PRESIDING JUDGE FREMR: [11:32:08] Thank you, court officer.
20 Now appearances please in usual order.
21 MS SIM: [11:32:14] Good morning, Mr President, good morning, your Honours. For
22 the Prosecution today are Dianne Luping, trial lawyer; Nicole Samson, senior trial lawyer;
23 Selam Yirgou, case manager; and myself, Kristy Sim, assistant trial lawyer.
24 PRESIDING JUDGE FREMR: [11:32:29] Thank you, Ms Sim.
25 Defence please.

1 MR GOSNELL: [11:32:32] Good morning to one and all. Christopher Gosnell for

2 Mr Ntaganda this morning, joined by Marlène Yahya Haage and Sara Levac.

3 Thank you, Mr President.

4 PRESIDING JUDGE FREMR: [11:32:43] Thank you, Mr Gosnell.

5 And Legal Representative of Victims, please.

6 MS PELLET: [11:32:49] (Interpretation) Thank you, your Honour. The former child

7 soldiers are represented by me, Sarah Pellet.

8 MR SUPRUN: [11:33:00] (Interpretation) And good morning, your Honours, the

9 victims of the attacks are represented by me, Dmytro Suprun.

10 PRESIDING JUDGE FREMR: [11:33:10] Thank you, Ms Pellet.

11 Thank you, Mr Suprun.

12 Before we start with the testimony of our witness, the Chamber will address a few

13 procedural matters briefly.

14 First, for the purpose of timing in accordance with Chamber's decision contained in

15 transcript 191, the Prosecution shall have one and a half hours to examine the witness,

16 which shall include the process of seeking admission of the witness' material under Rule

17 68(3), as well as any supplementary examination.

18 The Defence will have three hours to complete its cross-examination.

19 Now let's move into private session, court officer, please.

20 (Private session at 11.34 a.m.) *(Reclassified partially in public)

21 THE COURT OFFICER: [11:34:03] We are in private session, Mr President.

22 PRESIDING JUDGE FREMR: [11:34:19] Thank you.

23 (Redacted)

24 (Redacted)

25 (Redacted).

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1 (Redacted)

2 (Redacted).

3 Now we can return back into open session, please.

4 (Open session at 11.35 a.m.)

5 THE COURT OFFICER: [11:35:07] We are back in open session, Mr President.

6 PRESIDING JUDGE FREMR: [11:35:25] Thank you, court officer.

7 Further, the Chamber has taken note of the Defence notice of objections to the use or
8 admission of certain documents and, as usually, it will address them if and when they
9 arise. It's noted that guidance has already been provided in relation to certain of the
10 objections in our preliminary ruling on Rule 68(3).

11 And now we can turn to the scheduled testimony.

12 Mr Witness, can you hear me?

13 WITNESS: DRC-OTP-P-0116

14 (The witness gives evidence via video link)

15 (The witness speaks French)

16 THE WITNESS: [11:36:14] (Interpretation) Yes, I can hear you well.

17 PRESIDING JUDGE FREMR: [11:36:16] Good. Mr Witness, on behalf of our Chamber
18 I would like to welcome you. You are called to testify in the case against
19 Mr Bosco Ntaganda. You will be soon asked questions both by the Judges and lawyers
20 over here in the courtroom. If you do not understand, feel free to ask for the question to
21 be repeated. We want you to tell the truth and tell us what you saw, heard or sensed
22 yourself. Please testify just on that which you remember, don't guess, don't make things
23 up. Do you understand all this, Mr Witness?

24 THE WITNESS: [11:37:06] (Interpretation) Yes, your Honour. I've understood well.

25 PRESIDING JUDGE FREMR: [11:37:11] Fine. Mr Witness, protective measures are

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1 put in place to ensure that your identity is not revealed to the public, this means that the
2 public cannot see your face today and that your voice is being disguised so that the public
3 cannot recognise it. We will refer to you as "Mr Witness" only and ensure that your
4 name and any other information that risks revealing who you are is not broadcast to the
5 public; therefore, whenever you need to describe anything that might reveal your identity
6 we will go to private session so that no one apart from the court officer sitting with you
7 and us here in the courtroom can hear your answer.

8 Do you understand, Mr Witness?

9 THE WITNESS: [11:38:20] (Interpretation) Yes, yes, your Honour, I understand well.

10 PRESIDING JUDGE FREMR: [11:38:24] Very well. Mr Witness, now you should find
11 a piece of paper in front of you with the text of solemn undertaking. Do you have it?

12 THE WITNESS: [11:38:39] (Interpretation) Yes, your Honour, I do.

13 PRESIDING JUDGE FREMR: [11:38:42] So please now make your solemn undertaking
14 to tell the truth by reading out that text.

15 THE WITNESS: [11:38:58] (Interpretation) I solemnly declare that I shall speak the
16 truth, the whole truth and nothing but the truth.

17 PRESIDING JUDGE FREMR: [11:39:07] Thank you.

18 It means, Mr Witness, that now you are under oath, and you need to be aware that it is an
19 offence within the jurisdiction of this Court to give false testimony. Do you understand
20 that?

21 THE WITNESS: [11:39:31] (Interpretation) Yes, your Honour.

22 PRESIDING JUDGE FREMR: [11:39:34] Good.

23 And finally, a few practical matters. It is important to speak into the microphone, to
24 speak clearly and to speak at a slow pace. When a question is asked, please do not
25 respond immediately, rather, count in your head to at least three and only then please

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1 give your answer because this pause between the question and answer is essential to
2 properly hear, record and translate what you are saying. If you have any questions, do
3 not hesitate to let us know. Have you understood all that, Mr Witness?
4 THE WITNESS: [11:40:25] (Interpretation) Yes, your Honour. I've understood well.
5 PRESIDING JUDGE FREMR: [11:40:29] All right. So now we can start with your
6 testimony.
7 Prosecution, Ms Sim, you have the floor. And I'm just highlighting that we are in open
8 session.
9 MS SIM: [11:41:07] Thank you, Mr President.
10 QUESTIONED BY MS SIM:
11 Q. [11:41:11] Mr Witness, we have already met but I will remind you that my name is
12 Kristy Sim and I will be the one asking you questions today on behalf of the Office of the
13 Prosecutor. As I previously explained to you, the Prosecution is seeking to admit your
14 prior recorded testimony into evidence rather than asking you many questions in court
15 today, so this application requires me to go through a process with you that I will begin
16 now.
17 Mr President, I request that we move into private session to deal with some identifying
18 questions.
19 PRESIDING JUDGE FREMR: [11:41:47] Certainly.
20 Court officer, let's move into private session.
21 (Private session at 11.41 a.m.) *(Reclassified partially in public)
22 THE COURT OFFICER: [11:41:51] We are in private session, Mr President.
23 PRESIDING JUDGE FREMR: [11:42:03] Thank you.
24 Ms Sim, you may proceed.
25 MS SIM: [11:42:09]

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- 1 Q. [11:42:09] Mr Witness, could you please state your full name for the record.
- 2 A. [11:42:22] Yes, madam. (Redacted)
- 3 (Redacted).
- 4 Q. [11:42:44] And you were born in (Redacted); is that correct?
- 5 A. [11:42:53] Yes, madam, I was born on (Redacted).
- 6 Q. [11:42:58] And (Redacted) is in the DRC?
- 7 A. [11:43:05] Yes. (Redacted).
- 8 Q. [11:43:14] And what is your ethnic origin?
- 9 A. [11:43:25] I am of the (Redacted) ethnic group.
- 10 Q. [11:43:34] And what languages do you speak and understand?
- 11 A. [11:43:44] (Redacted)
- 12 (Redacted).
- 13 Q. [11:44:03] Mr President, I seek to lead the witness through his employment history,
- 14 simply to save time.
- 15 (Redacted)?
- 16 A. [11:44:22] (Redacted)
- 17 (Redacted).
- 18 Q. [11:44:32] (Redacted)?
- 19 A. [11:44:46] (Redacted)
- 20 (Redacted).
- 21 Q. [11:44:53] (Redacted)
- 22 (Redacted)?
- 23 A. [11:45:14] (Redacted)
- 24 (Redacted).
- 25 Q. [11:45:33] (Redacted)

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- 1 (Redacted)?
- 2 A. [11:45:51] (Redacted)
- 3 (Redacted).
- 4 Q. [11:46:06] (Redacted)
- 5 (Redacted)?
- 6 A. [11:46:21] (Redacted)
- 7 (Redacted).
- 8 Q. [11:46:39] (Redacted)
- 9 (Redacted).
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)?
- 15 A. [11:47:26] (Redacted).
- 16 Q. [11:47:33] And I believe you have a binder of materials with you in your location;
- 17 is that correct?
- 18 A. [11:47:47] Yes, indeed, I do. The binder is here.
- 19 Q. [11:47:52] All right. I'm going to get you to look at the first three tabs of that
- 20 binder, (Redacted)
- 21 (Redacted)
- 22 (Redacted).
- 23 So, Mr Witness, if you could please go to tab (Redacted) of that binder, which is document
- 24 (Redacted).
- 25 (Redacted).

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1 Mr Witness, looking at that document, do you recognise it?

2 A. [11:48:56] Yes, I recognise it, madam. I recognise it.

3 Q. [11:49:01] (Redacted)

4 (Redacted).

5 A. [11:49:20] (Redacted).

6 Q. [11:49:22] Could you now turn to the (Redacted) tab of that binder, which is

7 document (Redacted) and review that document. Do you recognise this document?

8 A. [11:49:51] Yes. Yes, I recognise it. I recognise it.

9 Q. [11:49:57] (Redacted)

10 (Redacted).

11 And finally, Mr Witness, if you could turn to tab (Redacted) of that binder, which is

12 document (Redacted), and review that document. It should begin at page (Redacted).

13 And do you recognise this document?

14 A. [11:50:35] Yes, madam, I do.

15 Q. [11:50:37] (Redacted)

16 (Redacted)?

17 A. [11:50:53] (Redacted).

18 Q. [11:50:58] (Redacted)

19 (Redacted)?

20 A. [11:51:13] (Redacted)

21 (Redacted).

22 MS SIM: [11:51:27] (Redacted)

23 (Redacted).

24 PRESIDING JUDGE FREMR: [11:51:34] All right.

25 Court officer, please let's return back into open session.

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1 (Open session at 11.51 a.m.)

2 THE COURT OFFICER: [11:51:39] We are in open session, Mr President.

3 PRESIDING JUDGE FREMR: [11:51:52] Thank you.

4 Ms Sim, please proceed.

5 MS SIM: [11:51:54]

6 Q. [11:51:55] Mr Witness, I'm now going to get you to turn to tab 7 of this binder, and
7 that is document DRC-OTP-0174-0025. And if the court officer could also display that
8 document in the courtroom.

9 THE COURT OFFICER: [11:52:23] The document will be displayed on the evidence 1
10 channel.

11 MS SIM: [11:52:31] And just to be certain, the document is confidential, so it shouldn't
12 be displayed to the public.

13 Q. [11:53:11] Are you able to see the document on your screen, sir?

14 A. [11:53:17] Yes, indeed, I can see it here on the screen.

15 Q. [11:53:21] And do you recognise this document?

16 A. [11:53:27] Yes, I recognise it, madam.

17 Q. [11:53:31] And are you able to see your name and your signature on the first page?

18 A. [11:53:45] Yes, that's my name and my signature.

19 Q. [11:53:50] I would ask that we now display page 26 of this document, which is
20 DRC-OTP-0174-0050.

21 And are you able to see your signature on this page, sir?

22 A. [11:54:42] Yes, madam, I can see the signature.

23 Q. [11:54:46] And when you met with the investigators at the time you gave this
24 statement, did you provide them with truthful and accurate information to the best of
25 your knowledge and belief?

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1 A. [11:55:07] Yes, madam, I can confirm that I did.

2 Q. [11:55:13] Thank you, sir.

3 We're now going to move to make some -- any corrections or clarifications that you may
4 have to these documents.

5 Do you recall being given an opportunity to review these documents that you have just
6 gone through before us?

7 A. [11:55:39] Yes, I can confirm that I looked through the documents and that I made
8 some small changes.

9 Q. [11:55:47] All right. We're going to go through those changes and corrections that
10 you made now, but I will note that not all of the information that you provided to myself
11 and my colleague yesterday was to correct or to change your prior testimony, some of it
12 was additional information that you were offering. So I'm not going to ask about every
13 change or piece of additional information that you gave, but simply those that will change
14 the content of the documents that we're seeking to tender into evidence.

15 I suggest we move back into private session now, Mr President, in case information comes
16 out that may be identifying.

17 PRESIDING JUDGE FREMR: [11:56:40] Understandable.

18 Court officer, please let's move into private session.

19 (Private session at 11.56 a.m.) *(Reclassified partially in public)

20 THE COURT OFFICER: [11:56:47] We're in private session, Mr President.

21 PRESIDING JUDGE FREMR: [11:56:58] Thank you.

22 Ms Sim, please proceed.

23 MS SIM: [11:57:03]

24 Q. [11:57:03] Mr Witness, I'm going to have certain documents pulled up on the
25 screen and I'm going to direct your attention to portions of those documents and ask if

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1 there is anything you would like to correct or change in that document.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)?

7 A. [11:58:45] (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted).

12 Q. [11:59:40] Thank you, Mr Witness.

13 In my notes I have a second correction or clarification to that same section (Redacted)

14 (Redacted)

15 (Redacted) if you can recall that information that you

16 gave about the date that the children arrived?

17 A. [12:00:16] Yes, that's right. I provided a clarification to confirm that the children
18 had been moved at the end of the school year, that is to say (Redacted). And I
19 would point out, however, that the school year generally ends between 25 and 30 June in
20 the DRC and the schools are closed by 1 and 2 July. And this information was provided
21 by the children at the time and the parents also informed us that the children had left after
22 the closing of the school year and that a promise had been made to the parents and
23 children that they would spend the holidays learning how to fight the enemy, but that
24 they would return in time for the next school year.

25 So I can very specifically date that at in late June early July the children will have been

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1 taken to (Redacted).

2 Q. [12:01:42] (Redacted)

3 (Redacted)

4 (Redacted)?

5 A. [12:02:04] (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted).

11 Q. [12:02:52] And were you also informed of who it was that was the enemy or who
12 was considered the enemy that they were going to learn to fight?

13 A. [12:03:10] The enemy they were expected to fight against were the Lendu, the
14 Lendu community and the militias which had been formed by the Lendu community.

15 Q. [12:03:29] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted).

20 Is there anything in this section of this document that you wish to change, Mr Witness?

21 A. [12:04:33] Yes. Perhaps I could clarify something. (Redacted)

22 (Redacted).

23 But before the date of (Redacted) we had carried out *field reconnaissance missions *in

24 Bunia in order to prepare for carrying out the tasks (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted).

7 Q. [12:06:24] Thank you. And if we could now turn to (Redacted)

8 (Redacted)

9 (Redacted).

10 Is there anything in this section of this page which you wished to correct or clarify?

11 A. [12:07:14] Yes, I wanted to make the following correction concerning the power which

12 existed in Bunia at the time. It was such a confusing situation in the political and military

13 situation at the time that one could really not discern who was in charge and who wasn't.

14 *But in any event, (Redacted), there was a contingent from Uganda which was occupying

15 – the expeditionary force, *that is what I would call it, from Uganda which was occupying

16 this town, *which was occupying Bunia in a military manner. At the airport there was a camp

17 with *armoured vehicles that belonged to the Ugandan army and there were also

18 armed groups which were politico-military groups, they were there too, and among

19 these groups there was the UPC. But the administrative power, I think it's important

20 to make that clear, (Redacted), these were the state civil servants who were

21 subordinate to the politico-military movements.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted).

2 So the administrative power, I can say today, was subordinate to those who were running
3 Bunia politically and militarily.

4 Q. [12:09:36] (Redacted)

5 (Redacted) discussing the role of Mr Lubanga, in particular.

6 And I would like to ask if there's anything with respect to that particular part of this
7 page you wished to correct or clarify?

8 A. [12:10:18] (Redacted) *you wouldn't really say that he was at the forefront, but he was
9 amongst those who had the power of decision. He had this position of minister of social
10 affairs, youth and sport of the coalition, the front for the liberation of Congo which had the
11 MLC, Bemba's movement, and it also included Mbusa's movement, RCD-K/ML. And there
12 was also the UPC involved in this coalition, and I may be wrong, but there may have been
13 another movement involved but that wasn't important, and that is how he got the ministerial
14 position. And so he had a role, but he was not in the forefront, as the governor would have
15 been or the mayor of the town, it was -- *but he had a role as minister within this coalition, the
16 Congo Liberation Front, which was running Ituri, which was occupying the area in a military
17 manner and which was running Ituri with the Ugandans, the Ugandan expeditionary force.

18 Q. [12:11:49] Thank you. Thank you for your response. I have one further
19 clarification or correction to go over with you and that is in a different document, which is
20 at tab (Redacted), and it is (Redacted). And I'm going to have you direct your attention to
21 page (Redacted). (Redacted)

22 (Redacted).

23 (Redacted)

24 (Redacted)?

25 A. [12:13:07] Yes, yes, there's one clarification relating to the children, the means of

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1 recruitment, how were they recruited. When we started working with the children (Redacted),
2 (Redacted), we tried to speak to each child individually to find
3 out how they had found themselves in the camp (Redacted) and they -- all the children were
4 definite about it: either it was their parents who had come... who had asked them to join after
5 they had been contacted by people who had visited the families. And there were also people
6 who were spreading propaganda*. Later on, we were able to find them and identify them, but
7 the children said that they had been recruited to learn how they could fight and defend their
8 community against the enemy. That's an important point. That was the formal idea
9 and this is something that we picked up from the various interviews we had directly
10 with the children (Redacted). And most of the children, those who were able to express
11 themselves clearly, (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [12:15:13] (Redacted)

15 (Redacted) with a view to focusing on how you got the information and was there anything
16 that was additional to what is written there about the source of the information or how
17 you got this information?

18 A. [12:15:43] We got this information from two sources: Firstly, from the children
19 themselves. The children themselves, they told us how they had been taken (Redacted)
20 (Redacted) and then transported to the military camp, and then later the parents -- when
21 we brought the children back to the families, we were able to speak to their parents and
22 then, if I may, I would like to give an important detail about the social work we were
23 carrying out.

24 When you bring a child back into its family, the child is a precious -- something precious for
25 the mother, perhaps *not for the father, but much, much more for the mother*. And many

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1 mothers, when we spoke to them they told us how they had seen *the children *leave, who
2 came to get them, and who came to contact the parents and convince them to send the
3 children and how the children had gone, hoping to return before the next school year.

4 (Redacted)

5 (Redacted)

6 (Redacted).

7 Q. [12:17:36] Thank you, Mr Witness. And having made these corrections to these
8 documents, do they contain an accurate and truthful record of your knowledge of the
9 events you discussed?

10 A. [12:18:01] Yes, absolutely. I can confirm that.

11 Q. [12:18:03] And do you consent to your prior recorded testimony being admitted
12 into evidence in these proceedings?

13 A. [12:18:17] Yes, I give my consent. I totally agree with this.

14 Q. [12:18:21] And do you agree to be questioned by counsel for the Defence, counsel
15 for Legal Representatives, if applicable, and the Trial Chamber?

16 A. [12:18:38] Yes, I consent to that.

17 MS SIM: [12:18:42] Mr President, with that I request admission of the items set out in
18 section 1A and section 1B of the Prosecution's request, filed on 3 November 2016, which
19 was filing 1606.

20 PRESIDING JUDGE FREMR: [12:19:05] Defence, any objection to that?

21 MR GOSNELL: [12:19:08] No, Mr President.

22 PRESIDING JUDGE FREMR: [12:19:10] Give me a second, I will just ensure that my
23 colleagues also are fine with that.

24 (Trial Chamber confers)

25 PRESIDING JUDGE FREMR: [12:19:28] All right, so the document specified by Ms Sim

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1 are admitted according Rule 68(3) into evidence as a further Prosecution exhibit.

2 MS SIM: [12:19:46] (Redacted)

3 (Redacted).

4 PRESIDING JUDGE FREMR: [12:19:59] Noted.

5 MS SIM: [12:20:03]

6 Q. I will now conduct a brief supplementary examination about further information
7 that you might be able to provide, and I'm going to ask you rather specific questions about
8 specific information. And I'd also like to remind you, Mr Witness, that I have a fairly
9 limited amount of time with you, so if you can try to focus and answer my questions as
10 succinctly as possible and as directly as possible, I would appreciate that.

11 (Redacted)

12 (Redacted).

13 (Redacted)

14 (Redacted)

15 (Redacted). My question for you is: Could you describe the type of information that you
16 would collect about each child that would form this identification file that (Redacted)
17 (Redacted)?

18 A. [12:21:47] Yes. Each time we asked *for the name, first name, date of birth, name of the parents, father
19 and mother, school level, and together we asked how the child found itself in that particular situation*.
20 That is to say, how the child came to be recruited, the situation in which we had found the child.

21 Q. [12:22:28] And I would now like to go to (Redacted) of this same
22 document. (Redacted) to determine whether an individual was a child or not, and
23 in particular you refer to the size of the individual and the sound of their voice.
24 And I would like to know if there was anything else you considered when you were
25 assessing the age of the individuals that you had before you, if there were any other

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1 techniques that you used?

2 A. [12:23:28] Yes, Ms Sim, there was also contradictory information that we'd get from the
3 children; for example, we *would ask when did they start at kindergarten or primary school,
4 and then we asked at the beginning of the interview and then again at the end, and
5 sometimes there would be *a voluntary error that *we would manage to uncover. And some
6 of the children were close to each other, so some would say, "he's not 18, he's 14, he's 16." The
7 children would contradict each other. But the main source was the families, the parents, the
8 fathers and the mothers, the mothers most of all, because we understood (Redacted)
9 (Redacted) that the fathers didn't always give us the correct information about their children;
10 we would get more information, more correct information from the mothers. And when we
11 went to re-enrol the *children in school, *for the most part, the ones who went back to school,
12 we would discover that *some children had given us false dates *and the wrong classes that
13 they had been in. (Redacted)
14 (Redacted)
15 (Redacted). So *those are the two sources *that allowed us to confirm the ages of the
16 children, *not the ages that they had given at times.

17 Q. [12:25:18] In your response, Mr Witness, you said that sometimes there would be
18 an error, that the -- they would try to cover up. Why, in your experience, or in -- based
19 on the knowledge that you have, why would the child try to cover something up?

20 A. [12:25:45] Firstly, some children didn't want to leave the military centre, so they
21 had to lie to prove that they were not children, but adults, so that they could stay. But
22 we understood that it was because that the parents were going to reproach them for
23 having left the training centre. But some children also didn't want to give correct
24 information about their origin or their identity*. They still did not trust us because they
25 were somewhat suspicious of us. And we worked on that --

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1 THE INTERPRETER: [12:26:53] I'm sorry, the interpreter didn't grasp the very last part
2 of his reply. I apologise.

3 MS SIM: [12:27:02]

4 Q. [12:27:02] Sir, there was a message from the interpreter that they didn't catch the
5 end of your answer, so if you could just repeat the end part of your answer, starting
6 from -- the last sentence you gave, basically.

7 A. [12:27:26] Yes. My last sentence was: After a lot of information and
8 triangulation of information, and cross-referencing, we could get the information about
9 each child from the information that we had collected and could compare with
10 information from other sources.

11 Q. [12:27:50] (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)?

15 A. [12:28:35] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted).

20 Q. [12:29:26] (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted). Could you explain what is this kit or this reintegration kit and what items
24 would be found in such a kit?

25 A. [12:30:10] These reintegration kits were a small packet of material or items which we

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1 made available to each child returning to their family and returning to their previous lives. It
2 was not the same for all children. For some who were returning to primary school, we made
3 sure they had their school uniform, their trousers or shorts, shoes, and a blouse, the necessary
4 school supplies with a satchel and notebooks*, and we would give these items to the parents.
5 And we paid the school directly, the school fees which are called minerval in the Congo.
6 For the slightly older children or who wanted it, who were not older but wanted to do
7 something other than return to primary school, we engaged them in vocational education,
8 and then there was a different type of kit that we would issue them with. A young man
9 who wanted to become a mechanic or a carpenter would have some overalls, some tools, a
10 screwdriver, pliers, and that sort of mechanic's tools that would enable him, and some
11 protective equipment, such as boots. And we also paid the fees to the training centres,
12 we concluded contracts or MLUs with these centres and we paid their fees in advance to
13 these centres. And that's what we mean by these kits.

14 Q. [12:32:21] In addition to enrolling children in primary school or vocational training,
15 was there anything else involved in reintegrating the children?

16 A. [12:32:46] Yes. We also carried out follow up. We followed up on each child
17 individually. That involved visiting the family to discuss with them how the child was
18 getting along, how he was adapting to his new life, whether he was accepted by his
19 brothers and sisters, whether he was being stigmatised in the community or not.

20 In the case of children who were returning home *injured or traumatised, we also ensured
21 medical follow up. We paid for medical treatment, if that was necessary, and we took
22 care to follow up to ensure that they were getting over the trauma which they had
23 suffered. (Redacted)

24 (Redacted). *We

25 provided psychological support *for this child over an extended period of time.

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1 Q. [12:34:00] When you refer to children who had been traumatised, could you
2 elaborate a little on what sorts of trauma you mean?

3 A. [12:34:23] We saw trauma in the children who were returning. Some trauma was
4 visible and that was often very serious. For instance, there was one child who (Redacted)
5 (Redacted) because he had been assaulted in the training camp, he had been beaten on a
6 number of occasions and through the abuse (Redacted).

7 *Now, another child, because of the noise of gunfire, and I believe because of the handling
8 of weapons, he was not strong enough, (Redacted)

9 And third child, (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted). So we ensured that that child received psychological treatment

14 There was also a girl who was impregnated in the transit centre, (Redacted)

15 (Redacted). She had an abortion (Redacted)

16 (Redacted)

17 and she was left with physical and psychological problems that we also took in hand

18 and provided treatment for.

19 (Redacted).

20 Q. [12:36:22] And with respect to these children that you mentioned in particular,
21 were you aware of which armed group they were members of? Was that clear to you?

22 A. [12:36:44] Madam, it's absolutely clear that those children were children who were
23 members of the UPC military group run by Thomas Lubanga. That was absolutely clear
24 and there's no doubt on it. (Redacted).

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted). So I can confirm that these children were part of his armed group, the UPC.

4 Q. [12:37:43] (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted).

8 (Redacted). Then one didn't see armed groups in the way one saw the Ugandan

9 expedition force, clearly with armoured vehicles, soldiers who wore uniforms. No, it

10 wasn't like that. The UPC existed, it was armed, it had soldiers, it had headquarters

11 and there were people carrying out propaganda to recruit to the UPC. The UPC also

12 had those children who had left, who had travelled out, but it also had the children

13 who had returned. So as I understood it, the UPC was certainly present, it had means,

14 it had power, it had an entire organisation, but one didn't see the UPC in the streets.

15 However, at their headquarters there was a flag, a UPC flag. (Redacted)

16 (Redacted)

17 (Redacted).

18 And this period of time where you're saying that the UPC was clandestine, what time

19 period exactly is that?

20 A. [12:40:29] I can speak to the period running from (Redacted) 2001. (Redacted)

21 (Redacted)

22 (Redacted). However, before that, the UPC had already come into existence and it was

23 already a force, it was already spoken about in the street.

24 Q. [12:41:09] Mr Witness, did you ever have reason to interact with Bosco Ntaganda?

25 A. [12:41:29] No, not directly with him. No, I did not ever have a direct interaction

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1 with him. (Redacted)

2 (Redacted)

3 (Redacted), we had heard about him, and we had also been advised not to get

4 involved with him or pay any attention to him. It's just we were advised not to.

5 It was unadvisable, we were told.

6 Q. [12:42:30] (Redacted)?

7 PRESIDING JUDGE FREMR: [12:42:38] (Redacted).

8 (Redacted).

9 MR GOSNELL: [12:42:44] (Redacted)

10 (Redacted).

11 PRESIDING JUDGE FREMR: [12:42:56] (Redacted).

12 MS SIM: [12:43:01]

13 Q. [12:43:01] (Redacted)

14 (Redacted)

15 (Redacted)?

16 A. [12:43:28] (Redacted)?

17 Q. [12:43:32] (Redacted).

18 A. [12:43:35] (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)so he discouraged us strongly from becoming involved with the person
5 concerned. Our second source are the children --

6 PRESIDING JUDGE FREMR: [12:45:16] Mr Witness, please, I have to interrupt. Sorry,
7 Mr Witness, I have to interrupt you because the Defence counsel is on his feet.
8 Mr Gosnell.

9 MR GOSNELL: [12:45:22] Mr President, I'm curious to know whether we have any
10 notice at all of this, the content of this testimony. I don't think we do. (Redacted)
11 (Redacted).

12 PRESIDING JUDGE FREMR: [12:45:38] Yes. Could we, court usher, any technical
13 way to make a guarantee that Mr Witness will not be able to follow now discussion in the
14 courtroom?

15 Mr Witness, we will have to cut you from the audio because there will be some procedural
16 issue that should be solved in your absence.

17 (Pause in proceedings)

18 PRESIDING JUDGE FREMR: [12:46:23] All right. So now, Mr Gosnell, you may
19 proceed with your submission.

20 MR GOSNELL: [12:46:31] Thank you, Mr President. We're now going into hearing
21 testimony directly about Mr Ntaganda. There's no mention at all of that in the summary
22 provided by the Prosecution of the scope of the witness's testimony. (Redacted)
23 (Redacted)

24 (Redacted), although I'm sure the Prosecution will correct me if I'm wrong about that.

25 (Redacted)

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1 but specific information about Mr Ntaganda I'm not sure that we know the scope of that,
2 Mr President, and you've probably heard our submissions before and remember them
3 that we think that we ought to have notice of matters to be heard from witnesses in
4 advance, but that submission is particularly important in respect of matters that go
5 directly to the accused.

6 PRESIDING JUDGE FREMR: [12:47:38] Prosecution, Ms Sim.

7 MS SIM: [12:47:41] Mr Ntaganda is referred to in the witness's statement,

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 PRESIDING JUDGE FREMR: [12:49:00] Mr Gosnell.

22 MR GOSNELL: [12:49:03] Well, surely notice is not comprised just by an oblique

23 reference to (Redacted) without any indication of the content, in particular the prejudicial

24 content that's going to be hear, Mr President. (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted).

6 Mr President, I suggest that we need -- we do need more precise notice on something of
7 this nature before it should be heard before your Honours, and that is in the interests of
8 getting to the truth. Thank you very much.

9 PRESIDING JUDGE FREMR: [12:50:19] Ms Sim, any additional comment?

10 MS SIM: [12:50:23] Two things: The first is that in the Chamber's ruling on the 68(3)
11 application, which is in transcript 191, page 73, the Chamber specifically says that there
12 would be no limitation on the scope of the supplementary examination in the manner
13 proposed by the Defence.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted). Certainly it was within this witness's scope of knowledge that

18 Mr Ntaganda was involved in the UPC and what his role was in the UPC, so it
19 should be no surprise that these could be questions that would come up in this
20 examination presently.

21 PRESIDING JUDGE FREMR: [12:51:43] Give me a second, I will consult my colleagues
22 as well.

23 (Trial Chamber confers)

24 PRESIDING JUDGE FREMR: [12:52:23] So after brief silent deliberation our ruling is
25 that that the objection is overruled because, according our opinion, even if it seems that

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1 now the examination-in-chief goes a bit further, but it still have some basis in previous
2 documents and it's not so surprising, we don't also know no reason to conclude that
3 Prosecution was hiding something, so according us it's still fair.

4 So now let's continue and you also can connect us again with the field.

5 MS SIM: [12:53:30]

6 Q. [12:53:31] Mr Witness, are you able to hear us again?

7 A. [12:53:37] Yes, I can hear you, madam.

8 Q. [12:53:40] (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted) strongly discouraged you from being involved with Mr Ntaganda. And I
12 would like you to pick up your answer from there and provide us with the remainder of
13 what you were saying.

14 A. [12:54:23] Thank you, madam. (Redacted)

15 (Redacted)

16 (Redacted) because... we were looking for anyone who could help us raise awareness
17 within this movement so that the children would be released or to persuade people to
18 discontinue the practice *of using children.

19 (Redacted), there was information which we received from the NGOs who were working
20 in the humanitarian field in Bunia. (Redacted)

21 (Redacted). There were also the young people (Redacted) who talked
22 to us about Mr Bosco and about the position which he held at the side of
23 Mr Thomas Lubanga.

24 Q. [12:55:45] (Redacted)

25 (Redacted)?

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1 A. [12:56:04] (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted).

5 Q. [12:56:31] You also mentioned that the children who you spoke to talked about
6 Mr Bosco's position, the position he held at the side of Mr Lubanga. What was that
7 position, if you know? What were you told?

8 A. [12:56:56] (Redacted)

9 (Redacted)

10 (Redacted). The children talked about movements of flying training camps or mobile
11 training camps which were being set up in the environs of Bunia, and it was in that
12 connection that the children began to talk about Bosco Ntaganda, stating that he was
13 present at those training sessions and that he was often there with the children and he
14 often attended the training sessions. The children referred to him as being very, very
15 violent, very strict and somebody who could not *tolerate hearing that someone was
16 keeping the UPC *from using child soldiers or *waging war or recruiting. There was a
17 group of three children in particular who talked to us about that topic and those three
18 children were also used in military operations. (Redacted)
19 (Redacted).

20 Q. [12:58:23] And when was it that these children gave you this information? What
21 period of time are we speaking about?

22 A. [12:58:38] The children provided us with that information after their return and
23 when they were already in re-insertion programmes, so between (Redacted) 2001 or
24 indeed later, I would say the year 2002 into 2003, that was the period where they began to
25 encounter very serious security problems in Bunia.

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1 Q. [12:59:21] And in case my question wasn't clear, I was asking what period of time
2 it was that you had heard the children referring to Mr Ntaganda being present at training
3 sessions, what was the approximate date?

4 A. [12:59:49] Let me be specific: From May 2002, yes, 2002, and early January 2003.

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted).

9 It was after May 2002 and before January 2003.

10 MS SIM: [13:00:56] Mr President, I note the time and we'd request that we take the
11 break now and that I can finish the remainder of my examination after the break.

12 PRESIDING JUDGE FREMR: [13:01:04] All right. So let's move into open session for
13 the remainder.

14 (Open session at 1.01 p.m.)

15 THE COURT OFFICER: [13:01:14] We are in open session, Mr President.

16 PRESIDING JUDGE FREMR: [13:01:31] Thank you, court officer.

17 Ms Sim, just to be clear, according our measuring, you so far used 1 hour 11 minutes,
18 which means that you still have 19 minutes at your disposal.

19 Now, we will break, we will take our regular lunch break for 90 minutes, which means
20 that we will reconvene at half past two.

21 THE COURT USHER: [13:02:01] All rise.

22 (Recess taken at 1.02 p.m.)

23 (Upon resuming in open session at 2.42 p.m.)

24 THE COURT USHER: [14:42:09] All rise.

25 Please be seated.

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1 PRESIDING JUDGE FREMR: [14:42:31] Good afternoon, everybody. One
2 announcement at the beginning, due to this delay and also in accordance with plans of the
3 Chamber to have tomorrow just one session of two hours, so we will prolong this session
4 till 4.30 and we hope that it would allow us tomorrow just to have one session of two
5 hours.

6 Now, Ms Sim, you have your 18 minutes, please proceed.

7 MS SIM: [14:43:00] Thank you, Mr President.

8 Q. [14:43:02] Can you --

9 PRESIDING JUDGE FREMR: [14:43:03] We are in open session, so -- sorry.

10 MS SIM: [14:43:07]

11 Q. [14:43:07] Can you hear me, Mr Witness?

12 PRESIDING JUDGE FREMR: [14:43:41] For the record, it seems that the witness can hear
13 us, but we can't hear him.

14 (Pause in proceedings)

15 PRESIDING JUDGE FREMR: [14:46:02] So to inform you, it seems that there is some
16 problem with microphone at remote place. The technician there is going to fix it up. So
17 we will see.

18 At the moment I don't want to break, but it will depend on the progress made with this
19 issue.

20 (Pause in proceedings)

21 THE COURT OFFICER: [14:48:27] Kinshasa field office, can you hear us?

22 (No interpretation)

23 PRESIDING JUDGE FREMR: [14:49:34] So unfortunately it seems that there is a need to
24 make a break, so we break and hopefully we will get good news soon.

25 THE COURT USHER: [14:49:47] All rise.

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1 (Recess taken at 2.49 p.m.)

2 (Upon resuming in open session at 3.01 p.m.)

3 THE COURT USHER: [15:01:48] All rise.

4 Please be seated.

5 PRESIDING JUDGE FREMR: [15:02:07] So we are back, don't waste time. It seems that
6 now line is fine.

7 Ms Sim, you have the floor.

8 MS SIM: [15:02:22]

9 Q. [15:02:23] Can you hear me, Mr Witness?

10 A. [15:02:29] Yes, I can hear you clearly. Thank you.

11 Q. [15:02:33] Good. When we left off at the break I was asking you about whether you
12 knew the position that Bosco Ntaganda held. I was repeating to you a part of your
13 previous answer about Bosco Ntaganda holding a position at the side of the Lubanga and
14 I was wanting to know if you knew the actual position that he held?

15 A. [15:03:16] Yes, but I -- we learned that Bosco Ntaganda was the chief of staff of the
16 UPC.

17 MS SIM: [15:03:29] I'm going to ask that we go into private session for my next question,
18 Mr President.

19 PRESIDING JUDGE FREMR: [15:03:34] All right.

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

21 (Private session at 3.03 p.m.) *(Reclassified partially in public)

22 THE COURT OFFICER: [15:03:47] We're in private session, Mr President.

23 PRESIDING JUDGE FREMR: [15:03:52] Thank you.

24 Ms Sim, please proceed.

25 MS SIM: [15:03:56]

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- 1 Q. [15:03:56] I have just been advised that the English and the French translation are
2 slightly different with respect to your answer and the English translation says that
3 Bosco Ntaganda was the chief of the UPC and the French translation says the chef
4 d'État-Major, and I would wondering if you could comment on which of those is correct?
- 5 A. [15:04:33] Yes. Chief of staff, that is somebody with military responsibilities over
6 of -- a military unit.
- 7 Q. [15:04:54] (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted).
11 (Redacted)
12 (Redacted): What did the (Redacted) girls that you were speaking about, what did they
13 tell you? It says that this was confirmed by the (Redacted) girls who did come and then
14 there's some information that comes behind about how the other girls did not have the
15 opportunity to get out because they were hidden. And I would like you to explain what
16 was meant by that or what you understood by that and what these (Redacted) girls in
17 particular told you.
- 18 A. [15:06:27] The (Redacted) girls said to us that *several of them had gone (Redacted) but
19 that *other girls had been hidden during the visit by a humanitarian organisation to the
20 *camp. So they were not able to go back home, they were not able to return. And we got the
21 same information confirmed to us by the *children, the group that did return. That was it.
- 22 Q. [15:06:57] And were you told who hid them? Did you get information about who
23 hid them?
- 24 A. [15:07:14] Those who hid them were the instructors. That was *according to the
25 information we got from the children *and the girls. It was the instructors who were

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1 responsible for the training camp.

2 Q. [15:07:39] Were you given the names of the instructors at the training camp who -- in
3 particular, those who hid these girls?

4 A. [15:07:53] The children gave us names which were pseudonyms. You have a James,
5 there were Johns, there were Mikes, but these were clearly codenames or nicknames they
6 were given. But they never gave us to -- they never gave us a clear name with a rank.
7 Commander Steve, Commander John, Commander Mike, they used to use nicknames like
8 that.

9 Q. [15:08:32] A final area that I'm going to ask you questions about, Mr Witness,
10 is going to build on the last response you gave before the break (Redacted)
11 (Redacted) and that you continued to receive information
12 (Redacted). And I would like you to explain where this, where you were working
13 when you were working for (Redacted) and what
14 your position was?

15 A. [15:09:15] (Redacted)
16 (Redacted)
17 (Redacted).

18 And... *being based in (Redacted) the office ... (Redacted) activities in Bunia, *and later in
19 Beni, Butembo, *and Goma (Redacted) *and Bukavu, right up to Uvira and even *Kalimi
20 later, in DRC. In the east of the DRC.

21 Q. [15:10:14] And when you say you had contact with the (Redacted) can you explain
22 what type of contact you had?

23 A. [15:10:33] (Redacted)
24 (Redacted). And I got all the information that was linked to children and child
25 protection, particularly because that was the problem that was the most important

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1 problem, and that was child soldier recruitment.

2 Q. [15:11:21] And when you say you got all --

3 A. [15:11:23] Recruitment and demobilisation.

4 THE INTERPRETER: [15:11:28] Excuse me.

5 MS SIM:

6 Q. [15:11:29] And when you say you got all information that was linked to children and
7 child protection, what form did this information come in?

8 A. [15:11:52] We *would get short information *items which were called sitreps,
9 situation reports, and we would get these from various national partners, *so local NGOs
10 and --

11 THE INTERPRETER: [15:12:11] Inaudible.

12 THE WITNESS: [15:12:13] (Interpretation) -- *and in particular, when it had to do with
13 Ituri, it was particularly... they would *come from (Redacted),

14 (Redacted) UNICEF, as a part of the programmes to promote child rights.

15 We got the information from all the NGOs working in the area

16 (Redacted). We call -- refer to it as coordination for child protection. For example,

17 Save the Children, that NGO got a lot of information about child recruitment,

18 violence towards children, and other acts which violated human rights in Ituri.

19 MS SIM:

20 Q. [15:13:13] And can you give some indication of the level of detail that was contained
21 in these situation reports or reports?

22 A. [15:13:33] They gave us a lot of details indeed. Some of them set out the facts which
23 had taken place in locations with names, with specific information, with dates, times, days,
24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted).

3 Q. [15:14:27] And specifically with respect to children who were involved in armed
4 conflicts, for how long did you continue to receive this type of information, up until what
5 time were you receiving this information?

6 A. [15:14:43] Until 2002, (Redacted), we got the information

7 (Redacted)

8 (Redacted). So therefore I continued to receive the information until the next year,

9 October 2003*. (Redacted)

10 (Redacted)

11 (Redacted) and there I continued to interest -- be interested in the activities taking

12 place in Ituri so I was still getting information from people working there,

13 (Redacted)

14 and I was getting information about Bunia and also about Ituri in general.

15 Q. [15:16:13] Did this information include efforts regarding demobilisation of children
16 in particular?

17 A. [15:16:25] No. There was some information, there was some, an element which human
18 rights organisations for children continued to run, but there was also the reinsertion and
19 awareness programmes against child recruitment. But, and I am quite clear about this, there
20 are information which came to us about recruitment efforts which was incorrect information.

21 Sometimes *troops would promise to free children and then they wouldn't *keep the
22 appointment, or they wouldn't free all the children, perhaps they would only free children
23 who were sick, *etc. The intelligence that we were getting was not very encouraging.

24 Q. [15:17:25] And which groups in particular did these types of reports involve?

25 A. [15:17:42] The groups mentioned in the reports were primarily UPC, UPC held

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1 children. And after 2002/2003 they occupied political positions in Ituri and we were
2 focused on those groups who were the more difficult, most difficult to convince at that
3 time.

4 Q. [15:18:19] And which groups were the most difficult to convince at that time?

5 A. [15:18:31] I said first, primarily *the UPC because they had become very radicalised.
6 *There were a number of reasons for that *and now is not the time to go over those
7 reasons again. But when it was a question of approaching the war lords to negotiate the
8 release of the children, we couldn't go into the small groups *of Lendu or Ngiti people,
9 who also had little groups here and there...

10 THE INTERPRETER: [15:19:11] Inaudible. The line is breaking up.

11 THE WITNESS: [15:19:14] (Interpretation) *... but were not structured. They were like armed
12 (inaudible) but the only one that was structured at the time, to my knowledge, and (inaudible)
13 the efforts of all the organisations *that had converged, that was primarily the UPC.

14 MS SIM:

15 Q. [15:19:44] And apologies, Mr Witness, there's some problems in the translation so we
16 are just making sure that the transcript is clear. What do you mean when you said that
17 the UPC had become very radicalised?

18 A. [15:20:16] Yes, what I mean by that was that the UPC had, had made an alliance which
19 was determinant for its survival. They had got the confidence of Rwanda*. So manifestly,
20 Thomas Lubanga had gone to Rwanda and he had returned in triumph with Mr Onusumba,
21 who was the leader of the RDC rebels in Goma. And this made the UPC very, very vicious.
22 They became very violent and they permitted, they allowed themselves to do many things
23 which were not acceptable from a humanitarian point of view and it was very difficult to
24 approach them and we couldn't talk to them about human rights or children's rights.

25 PRESIDING JUDGE FREMR: [15:21:16] Ms Sim, last minute.

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1 MS SIM: [15:21:20]

2 Q. [15:21:26] Now you have used the word "children" when you were referring to
3 recruitment and I just wanted to be clear when you're using that word "children" what is
4 the age range specifically that you're referring to in relation to the reports you received?

5 A. [15:21:46] We follow the children's rights convention with -- who is someone, a child
6 is someone who was not yet past their 18th birthday.

7 Q. [15:22:08] And in terms of the range of ages involved or the range of ages of the
8 children that were being reported on, can you give some more detail as to the range. For
9 instance, who is the youngest?

10 A. [15:22:36] The youngest I met *was 13. I met him myself. His name was (Redacted),
11 and he was in (Redacted), a village that is (Redacted). (Redacted)
12 (Redacted). I knew him.

13 There are others who came back who would have been in sixth primary class, so 12/13,
14 and this is mentioned in some of the reports.

15 Q. Thank you, Mr Witness.

16 Those are my questions, your Honour.

17 PRESIDING JUDGE FREMR: [15:23:18] Thank you, Ms Sim.

18 Now I am handing over the floor to Defence.

19 Ms Pellet?

20 MS PELLET: [15:23:31] (Interpretation) Excuse me, your Honour. I had submitted
21 a request to ask questions of the witness, but given his answers to the questions put by
22 the Prosecution today I withdraw my request.

23 PRESIDING JUDGE FREMR: [15:23:54] Thank you, Ms Pellet. And sorry for omitting
24 your request.

25 So now, Mr Gosnell, you have your three hours.

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1 MR GOSNELL: [15:24:11] Thank you, Mr President.

2 QUESTIONED BY MR GOSNELL:

3 Q. [15:24:16] Good afternoon, Mr Witness. My name is Christopher Gosnell. I hope
4 you can hear me okay. I will be asking you a few questions this afternoon and tomorrow
5 morning and I would like to come back to, if I may, your arrival in Bunia and I believe
6 you were describing to us having undertaken a reconnaissance mission of some sort to
7 Bunia in (Redacted). (Redacted)

8 (Redacted)?

9 A. [15:25:04] Yes, sir. (Redacted)

10 (Redacted)

11 (Redacted), a prospective mission on the protection of the rights of the child in
12 general because we had experience which could be shared with the other
13 organisations who were working on the same issues in the district of Ituri at the
14 time.

15 Q. [15:25:47] And am I correct that your position at the time, (Redacted)

16 (Redacted)?

17 A. [15:26:08] Yes, sir, that's exactly right.

18 Q. [15:26:12] (Redacted)

19 (Redacted)

20 (Redacted)?

21 A. [15:26:31] (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted).

25 Q. [15:27:04] (Redacted)

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1 (Redacted)?

2 A. [15:27:22] (Redacted)

3 (Redacted)

4 THE INTERPRETER: [15:27:42] (Redacted).

5 THE WITNESS: [15:27:44] (Interpretation) -- *that it was possible that children were
6 present in a training camp, a military camp, *in Tchankwanzi*. The children allegedly
7 came from Ituri. (Redacted), it was a military camp and as such a lot of negotiation
8 was necessary through the ICRC and UNICEF in Ugandan, Vision Mondiale and
9 I think with OIM in order for the visit to take place to the camp officially in

10 order to get out these children. (Redacted).

11 MR GOSNELL:

12 Q. [15:28:28] (Redacted)

13 (Redacted)

14 (Redacted)?

15 A. [15:28:56] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted).

24 Q. [15:30:13] (Redacted)

25 (Redacted)

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- 1 (Redacted)?
- 2 A. [15:30:34] (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 THE INTERPRETER: [15:30:54] (Redacted).
- 6 THE WITNESS: [15:30:57] (Interpretation) (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted).
- 16 THE INTERPRETER: [15:31:59] (Redacted)
- 17 (Redacted).
- 18 PRESIDING JUDGE FREMR: [15:32:07] (Redacted)
- 19 (Redacted).
- 20 THE WITNESS: [15:32:32] (Interpretation) (Redacted).
- 21 PRESIDING JUDGE FREMR: [15:32:40] And second issue from my part, could you
- 22 please kindly slow, a bit slow down because sometimes you are too fast and it complicates
- 23 role of our interpreters and type recorders. Thank you.
- 24 MR GOSNELL: [15:32:56]
- 25 Q. [15:32:56] Now, Mr Witness, I am speaking to you through a video link so it's very

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1 difficult for me to intervene when you might be including many details that do not have
2 to do with my question. So could I please ask you to try as best you can to just focus on
3 my specific questions and there is always going to be an opportunity after that to explain,
4 if you wish.

5 May we have please, (Redacted), which is (Redacted).

6 And, Mr Witness, this should be your statement from back in (Redacted) with
7 the Prosecution. And if we turn, please, to (Redacted), you say, and I'll quote:

8 (Redacted)

9 (Redacted).

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Speaks English) Now, do you remember having made that statement back in (Redacted)
15 to the Prosecution when you gave your interview to them?

16 A. [15:35:13] Yes. As that's what's written.

17 Q. [15:35:18] It is what's written and it's your statement, you signed it, you said it was
18 true. Is it in fact true and accurate?

19 A. [15:35:40] Yes, sir, this content is correct. (Redacted)

20 (Redacted). (Redacted) or what it doesn't mean necessarily is that the authorities
21 hadn't been notified or there was no authorisation, but they made pressure for that
22 visit could -- so that the visit could take place after several reports. It wasn't
23 a sudden visit, it wasn't an unauthorised visit. (Redacted)

24 (Redacted)

25 (Redacted).

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1 Q. [15:36:29] (Redacted)

2 (Redacted)?

3 A. [15:36:47] (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted).

7 Q. [15:37:15] (Redacted)

8 (Redacted)?

9 A. [15:37:30] (Redacted).

10 Q. [15:37:33] And you said earlier today that it was your view that the people who were
11 at that camp had been sent there in June and July 2000 by the UPC; is that right?

12 A. [15:37:55] That's correct, sir.

13 Q. [15:38:01] (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)?

17 A. [15:38:28] (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 THE INTERPRETER: [15:39:08] (Redacted).

23 THE WITNESS: [15:39:10] (Interpretation) (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted).

7 MR GOSNELL:

8 Q. [15:40:23] So it's your position and your view, and you believe it to be correct, that
9 the UPC existed in June and July 2000 when these children were allegedly recruited. It
10 existed not only as a political group but as a military armed group, correct?

11 A. [15:40:58] The UPC might not have existed at the time on paper, but its main leader
12 was already active. If at that time he -- it didn't have the status that it had later, with
13 a flag, a seat, et cetera, nevertheless, according to the information, according to the sources,
14 he was at the basis of this activity which took the children there.

15 Q. [15:41:29] And you've referred now to politico-military activities in which the UPC
16 was engaged, what other politico-military groups existed in Bunia in June and July 2000,
17 according to you?

18 A. [15:41:57] According to the best of my knowledge, there was the RCD-K/ML,
19 RCD -- so there were two RCDs. And one hardly existed any more, it was represented
20 by individuals but it didn't represent anything in terms of -- as in terms of
21 a politico-military force there was RCD-K/ML. There was -- there were individuals as
22 well, individuals who were there in Bunia. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted). Now there were other small groups as well because we heard about
2 people who weren't operating in Bunia, but outside Bunia and they were led by
3 people from the Lendu community in its political fight in the district.

4 Q. [15:43:27] Did the FNI exist at that time as a Lendu political group or armed group?

5 A. [15:43:40] I think that the group can have existed but, to my knowledge, I can't
6 confirm that today because I don't know the dates when it was established as an armed
7 group -- as a non-state armed group.

8 MR GOSNELL: [15:44:01] May we have, please, (Redacted). This is tab (Redacted).

9 Lest we be criticised for the late addition of this document, I can say -- (Overlapping
10 speakers).

11 THE COURT OFFICER: (Via video link) [15:44:22] (Interpretation) This is the field
12 court officer. We have a sound problem. Could you repeat that?

13 MR GOSNELL: [15:44:35] Can you hear me?

14 THE COURT OFFICER: (Via video link) [15:44:42] Yes, we can hear you. Could you
15 please repeat the reference.

16 MR GOSNELL: [15:44:49] Yes. It's a document that was just added to the list. It's
17 (Redacted). The document actually is what is supposed to be listed at tab (Redacted) of
18 the Prosecution list. It was shown to the witness during proofing. It's just that there's
19 an erroneous ERN number (Redacted). I'm now sure how we can display it to the
20 witness, hopefully on the screen and it will be fine.

21 Yes, thank you very much. If we could turn please to (Redacted).

22 Q. [15:45:52] Mr Witness, this is a typewritten record of some notes that were
23 apparently taken by a Prosecution investigator during a meeting with you (Redacted)
24 (Redacted) after the events that we're discussing, and at paragraph 6 you say the
25 following, and I quote in French:

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted).

6 Do you remember in (Redacted) having said that you thought that the people who had been
7 sent for training to Tchakwanzi had been sent by RCD-K/ML?

8 A. [15:47:26] Sir, I think *this is the first time I've ever seen this document, this
9 *mistake... this typo in the *document. But I am quite sure that if I had noticed that at the
10 time I would have corrected it, because *my entire statement talked about the UPC instead.
11 My apologies for that. Honestly, it wasn't the right word that I should have said. My apologies.

12 Q. [15:48:07] (Redacted)
13 (Redacted)?

14 A. [15:48:20] (Redacted).

15 Q. [15:48:29] (Redacted)
16 (Redacted)?

17 A. [15:48:46] It started functioning from April 2001.

18 Q. [15:48:54] (Redacted).

19 A. [15:49:11] (Redacted)
20 (Redacted).

21 Q. [15:49:22] (Redacted)
22 (Redacted)?

23 A. [15:49:35] (Redacted)
24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)?
- 3 A. [15:57:31] (Redacted)
- 4 (Redacted).
- 5 Q. [15:57:44] (Redacted).
- 6 A. [15:57:47] (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted).
- 12 Q. [15:58:39] (Redacted)?
- 13 Can you remember any names?
- 14 A. [15:58:54] Yes. From memory, there was someone called (Redacted), I still remember
- 15 *him. There were other names. But that was 16 years ago, 15 years ago. *There was (Redacted).
- 16 If you have other names, I can confirm them, but, yeah.
- 17 Q. [15:59:25] Do you remember the name of (Redacted) assistant during that time?
- 18 (Redacted)?
- 19 A. [15:59:41] There was an assistant, there an assistant, there was an assistant called
- 20 (Redacted).
- 21 Q. [15:59:53] Thank you. And then you left (Redacted), am I correct, in (Redacted) 2002 -- excuse,
- 22 you left Bunia in (Redacted) 2002 and you went (Redacted); is that right?
- 23 A. [16:00:14] Yes, sir.
- 24 Q. [16:00:16] (Redacted)
- 25 (Redacted)?

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1 A. [16:00:30] (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted).

5 Q. [16:01:04] I'm, Mr Witness, now asking you about your activities when you went (Redacted),

6 what you were doing in (Redacted). (Redacted), you were running a (Redacted)

7 demobilisation programme, (Redacted)?

8 A. [16:01:35] Yes, sir. We continued what we had already started (Redacted). We had *advocacy

9 *programmes, and it was a continuation of this work that we had started (Redacted)

10 (Redacted) the opening of a transit and orientation *centre. That is what marked and

11 carried out that, but *the steps taken, the negotiations, the advocacy and the outreach had

12 already started (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted).

16 Q. [16:02:40] Let's be clear about this. Am I right, "yes" or "no", that after (Redacted) 2002 you

17 were based in (Redacted)?

18 A. [16:02:55] You are correct, sir. (Redacted). I left Bunia (Redacted)

19 (Redacted).

20 Q. [16:03:06] During that period (Redacted), between (Redacted) of 2002 and April 2003,

21 when you went back for a meeting in the context of the Ituri pacification commission, did you ever

22 visit Bunia?

23 A. [16:03:36] During that period, no, sir, I did not. I did not return to Bunia before the pacification

24 commission event.

25 Q. [16:03:50] And during that period, am I correct that your sources – well, tell us, please, what

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1 were your sources of information during that period that you were in (Redacted) of what
2 was going on in Bunia?

3 A. [16:04:13] We continued with types of information sources. (Redacted)

4 (Redacted). And the press, there were people from the press. (Redacted)

5 (Redacted)

6 (Redacted). I also had *regular *communications with some children,

7 (Redacted) in particular which we were able to remove from Bunia because they

8 were threatened with re-recruitment (Redacted)

9 (Redacted). I continued to receive this information. And I also had colleagues

10 working (Redacted) and with (Redacted) and they continued to give us

11 information.

12 Q. [16:05:33] (Redacted)?

13 A. [16:05:50] (Redacted).

14 Q. [16:05:56] (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)?

18 A. [16:06:30] (Redacted)

19 (Redacted)

20 (Redacted).

21 Q. [16:07:01] (Redacted)

22 (Redacted)?

23 A. [16:07:19] (Redacted)

24 (Redacted).

25 Q. [16:07:42] (Redacted).

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1 A. [16:07:58] (Redacted).

2 Q. [16:08:12] And you said that you were earlier today, at page 54, that you were
3 informed about what was going on in Bunia by way of what you described as sitreps,
4 situation reports, (Redacted).

5 Did I understand that correctly?

6 A. [16:08:42] Yes. They were reports which continued to be transmitted to us.

7 Q. [16:08:52] They were in writing?

8 A. [16:09:00] Yes, these were written reports (Redacted)
9 (Redacted).

10 Q. [16:09:17] And where are those reports today, if you know?

11 A. [16:09:28] (Redacted).

12 Q. [16:09:37] (Redacted), do I understand then that the sitreps that you are
13 referring to are reports that you received after you moved and took up a job
14 (Redacted) in (Redacted) 2002?

15 A. [16:10:06] Sir, the sound is rather poor. Could you please repeat your question.

16 Q. [16:10:13] Yes. You were referring to sitreps (Redacted) and my
17 understanding is that (Redacted) in (Redacted) 2002. So do I correctly understand
18 that the sitreps that you are referring to are documents that were sent from
19 (Redacted) 2002 onwards?

20 A. [16:10:48] No, sir. The way we worked was as follows: Everything we received in
21 terms of information regarding the situation in Bunia (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted). When I worked I received sitreps from the colleagues

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1 who were still there and these sitreps, (Redacted).

2 I didn't have access to them for my own purposes. There was an obligation to maintain
3 confidentiality of all the documents within the organisation.

4 Q. [16:12:02] As far as you know did (Redacted) archive those sitreps that they were
5 sending?

6 A. [16:12:19] To the best of my knowledge, yes, I can say yes to that. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted).

11 THE INTERPRETER: [16:13:07] Inaudible. Inaudible.

12 MR GOSNELL: [16:13:17]

13 Q. [16:13:18] Could you just please repeat the last word, Mr Witness.

14 A. [16:13:27] (Redacted)

15 (Redacted).

16 Q. [16:13:45] I would like to look at another passage from your statement to
17 the Prosecution in (Redacted). (Redacted). This is not a paragraph that is being
18 tendered by the Prosecution, but I would like to put it to you and ask you some questions.
19 (Redacted).

20 Mr Witness, in this part of your statement you're describing your technique for
21 determining individuals' exact age. And I will just read this to you, quote:
22 (Interpretation) "We had a technique which we used during the interviews with the
23 children in order to find out their exact age, if, following our observations, the children
24 appeared to be older or younger. During one or more interviews we would ask their age,
25 their date of birth, the dates of birth of their siblings, the school year, and this together

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1 with a lot of other questions. If the child was lying following a number of these
2 questions in the same interview and other interviews, he would eventually make
3 a mistake. The children had no identity documents."

4 (Speaks English) Is that a correct description of your technique for determining
5 individuals' ages, children's ages?

6 A. [16:15:51] Yes, sir, that's part of the techniques that we use and which are normally
7 used in that sort of case.

8 Q. [16:16:02] You'd agree with me, wouldn't you, that you wouldn't need any of these
9 techniques if you could just look at a person and know their age based on physical
10 appearance?

11 A. [16:16:30] I don't quite agree with that, because appearance can be deceptive and it's
12 best to get information from the person themselves. That is a requirement for our work.
13 The subjects themselves have to express themselves and speak, and we cross-reference the
14 information that they give and then we come up with the most plausible reality.

15 Q. [16:17:05] And in addition to appearance being deceptive, some of the children were
16 actually consciously trying to be deceptive, weren't they?

17 A. [16:17:26] Yes, sir, that is true.

18 Q. [16:17:38] (Redacted)

19 (Redacted)

20 (Redacted).

21 (Redacted)

22 (Redacted)

23 (Redacted).

24 PRESIDING JUDGE FREMR: [16:19:10] (Redacted).

25 MR GOSNELL:

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1 Q. [16:19:57] (Redacted)

2 (Redacted): "Some of them didn't give their real ages because they wanted to
3 conceal their age. This would happen but there is a technique to check this
4 information."

5 (Redacted)

6 (Redacted):

7 "So if I've understood this correctly, if children lied they said that they are older than they
8 actually were?"

9 Some, not all of them. But this was a problem that one would always encounter when
10 working with children, especially when working with this category of children. One
11 always encounters such problems. A child will say, Yes, I'm older, so that he would stay
12 where he was found, for example. But finally, one always finds out the truth."

13 Did you also on occasion find that witnesses would try to -- excuse me, that children
14 would try to understate their age?

15 A. [16:21:40] That was not *so in the cases that we dealt with, there were none who said that they
16 were younger, except the *ones that people wanted except the ones that people wanted to have in
17 the group. There were seven or eight whom they wanted to *get rid of, and they *claimed that they
18 were younger *because they wanted to return*. Those ones were convinced to go back. That did
19 happen, yes, I can say so, within that group. And that is somewhere in my statement. There was
20 seven or eight who were adults who pretended they were children in order to be able to leave.

21 Q. [16:23:03] Weren't there occasions when there were individuals who wished to
22 benefit from the demobilisation programme and therefore understated their ages?

23 A. [16:23:29] In this particular case the interest of giving a younger age was that you
24 could be returned to the country because there were children who realised that they had
25 been deceived and wanted to come back and return to school. In the programme that's

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1 what it would have been, but my professional experience would say in practice that there
2 were some who wanted to benefit from favours for social reinsertion and who said that
3 they were younger than they were, they were already adults.

4 Q. [16:24:18] And given the family pressures that you discuss in your testimony that
5 sometimes were placed on children, do you know whether children also overstated their
6 ages when they wanted to join an armed group?

7 A. [16:24:45] In that particular case I wasn't there at the time of recruitment;
8 therefore, I am unable to take about that. (Redacted)

9 (Redacted). But in other cases of recruitment there are children who state that
10 they are adults. (Redacted)

11 children under 18 who have wanted to join up, officially become -- to join the army
12 and they have stated they were adults, we have found out they are not and we have
13 sent them back to their families. But in this case I was not there when these
14 children were recruited or gathered together, so I can't give any comment on that.

15 MR GOSNELL: [16:25:48] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted).

19 Q. And, Mr Witness, here you are talking about your ability to ascertain someone's age
20 from a photograph (Redacted):

21 (Redacted)

22 (Redacted)

23 (Redacted).

24 Of course I acknowledge that I could not determine the child's age on the basis of a simple
25 photograph. It's true that there's need to conduct an interview to determine that."

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1 Now based on your expertise and your knowledge and experience, is that your view, that
2 it's necessary to conduct an interview in order to ascertain someone's age?

3 A. [16:28:05] To you best of my knowledge if you have a cooperative subject to whom
4 you have access, one should go through a cooperative identification. And there was
5 somebody could assist me to determine the age. The problem is that the case of this
6 photo, in those circumstances one would have to trust in the photo and one's first
7 impressions. So that was the response I gave at that time.

8 Q. [16:28:46] And so you understand, Mr Witness, I am in no way criticising what you
9 said. I think what you have said is very sensible. But what I'm asking you is whether
10 it's your view that for you to be able, even with all of your experience, to come to a view
11 of a person's age, you would have to interview them; is that correct?

12 A. [16:29:20] Yes, absolutely, sir. To determine someone's age, where that is possible,
13 an interview with that person is essential and that would allow one to find out the exact
14 age or the approximate age if the person was not willing to divulge their age.

15 Q. [16:29:50] Thank you very much, Mr Witness.

16 Mr President, we are at time.

17 PRESIDING JUDGE FREMR: [16:29:54] All right.

18 Now, court officer, please let's move into open session for remainder of the session.

19 (Open session at 4.30 p.m.)

20 THE COURT OFFICER: [16:30:19] We are in open session, Mr President.

21 PRESIDING JUDGE FREMR: [16:30:24] So first information about timing. So far
22 the Defence used 57 minutes, which means that you, Mr Gosnell, still have 2 hours 3
23 minutes. So it's probably not likely that we will be able to finish in one even extended
24 session, or are you of a different opinion?

25 MR GOSNELL: [16:30:46] I am optimistic but non-committal.

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1 PRESIDING JUDGE FREMR: [16:30:49] No problem. Mr Witness, we will adjourn now
2 and we will continue tomorrow 9.30. So it's my duty to remind you that in the meantime
3 till tomorrow you must not discuss your testimony with anybody else.

4 Do you understand that?

5 THE WITNESS: [16:31:17] (Interpretation) Yes, your Honour, I have understood that
6 correctly.

7 PRESIDING JUDGE FREMR: [16:31:21] So I thank you for today and we will reconvene
8 tomorrow 9.30.

9 THE COURT USHER: [16:31:26] All rise.

10 (The hearing ends in open session at 4.31 p.m.)

11 RECLASSIFICATION REPORT

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