

Trial Hearing
WITNESS: DRC-D18-D-0300

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and Judge Chang-ho Chung
6 Trial Hearing - Courtroom 2
7 Thursday, 7 September 2017
8 (The hearing starts in open session at 9.33 a.m.)
9 THE COURT USHER: [9:33:18] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:33:40] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:34:00] Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 And for the record, we are in open session.
18 PRESIDING JUDGE FREMR: [9:34:16] Thank you, court officer.
19 Appearances, please.
20 MS SAMSON: [9:34:21] Good morning, Mr President. Good morning,
21 your Honours. The Prosecution's team is unchanged as of yesterday afternoon
22 session.
23 PRESIDING JUDGE FREMR: [9:34:30] Thank you. I believe that
24 computer -- Ms Sim's computer is now okay? Fine.
25 Defence, please.

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1 MR BOURGON: [9:34:41] (Interpretation) Good morning, your Honours. The
2 composition of the Defence team is the same as yesterday. Thank you.

3 PRESIDING JUDGE FREMR: [9:34:49] Thank you, Mr Bourgon.

4 And Legal Representatives of Victims.

5 MS PELLET: [9:34:53] (Interpretation) Thank you, your Honour. No change to
6 the team representing the former child soldiers.

7 MR SUPRUN: [9:35:05] (Interpretation) Good morning, your Honours.

8 Anne Grabowski, associate legal officer, and myself, Dmytro Suprun, representing the
9 victims.

10 PRESIDING JUDGE FREMR: [9:35:16] Thank you, Ms Pellet. Thank you,
11 Mr Suprun.

12 Before we move to final part of cross-examination of Mr Ntaganda by Prosecution,
13 I would like to give floor to Ms Samson in order to address us on the issue of
14 communication with United Nations on lifting redactions.

15 Ms Samson, you have the floor.

16 MS SAMSON: [9:35:42] Thank you, Mr President. The Defence raised on
17 Monday, 4 September two issues. One had to do with lifting of conditions of receipt
18 to 34 documents, documents obtained from the United Nations during a search and
19 seizure -- or seizure operation. The Prosecution liaised with the United Nations and
20 continues to do so. They have conveyed the request on to the relevant field
21 authorities who are required for the review and approval.

22 It appears unlikely that the United Nations will be able to respond by tomorrow,
23 Friday. However, the Prosecution can provide the documents to the Chamber for
24 review immediately, should the Chamber deem that appropriate. And the
25 Prosecution reviewed the 34 items and identified analogous evidence for two of the

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1 items, which we will communicate to the Defence today.

2 That is the update on the first issue, the first request.

3 The second request had to do with materials emanating from a search and seizure by
4 the DRC authorities at the home of Mr John Tinanzabo. And since Tuesday morning,
5 5 September, the Prosecution has been providing information to the Defence
6 inter partes, and we have one further email to send following a Defence request
7 yesterday. And that should complete, at least for now, the request in relation to
8 Mr John Tinanzabo's documents.

9 Mr President, I'm available for any further questions the Chamber has on either of
10 those issues.

11 PRESIDING JUDGE FREMR: [9:37:45] Thank you.

12 Defence, your reaction.

13 MR BOURGON: [9:37:47] Thank you, Mr President. The Prosecution and
14 Defence indeed have been exchanging information on this topic. We understand
15 that the response from the United Nations will not be coming in time. However, it is
16 important for us to have indeed the documents or the information in time to begin the
17 re-examination.

18 Basically, Mr President, we -- the Chamber could review the documents, although I
19 understand this might be a time-consuming exercise. If not, then we just reserve the
20 right that if -- should any of this material, when it is disclosed at a later point in time,
21 change our point of view, then we could ask for additional examination-in-chief of
22 Mr Ntaganda with respect to these documents.

23 Mr President, as for the documents at Mr -- which were seized at the residence of a
24 person called Tinanzabo, I discussed it with my colleague yesterday. The

25 Prosecution is of the view that it has already disclosed 585 and we were -- we are only

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1 able to locate 70 at the moment. But my colleague will send us the list of these 585
2 documents which the Prosecution says it has disclosed and we will run the necessary
3 verification as soon as we get this list of items.

4 So that's what I have to say on this topic. However, there is one further issue
5 I would like to raise at this time which is separate from this one, unless the Chamber
6 has any questions on what I just said.

7 PRESIDING JUDGE FREMR: [9:39:32] Give me just a moment. I will comment
8 mainly Ms Samson's submission, and I would highlight that you would like to get
9 those documents you offered to be provided with the Chamber, because I think it
10 would be important for us to have a knowledge of them and then to adjudicate how
11 serious they are and how to proceed.

12 MS SAMSON: [9:39:59] Absolutely, Mr President. And the individual documents
13 are not lengthy so it should not take very long for the Chamber to review them.

14 PRESIDING JUDGE FREMR: [9:40:09] Which is good news.

15 And now, Mr Bourgon, you have the floor for your next submission.

16 MR BOURGON: [9:40:15] Thank you, Mr President. We received information
17 from the Prosecution as well as courtesy disclosure yesterday of a three-part
18 interview that was conducted with a witness that has appeared before this Chamber
19 before during the Prosecution's case. The only reason I raise this at this
20 time -- actually, there are two reasons. The first reason is that this three-part
21 interview was conducted in April of 2017. We are now in September of 2017. So
22 we take the view that this material should have been disclosed immediately as it was
23 obtained, in particular because it does contain some exculpatory information. But
24 not only exculpatory information. So that's the first point. Why did it take so long
25 for the Prosecution to disclose this material?

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1 The second issue, of course, is the Prosecution has not added this material on its list
2 for cross-examination today, but the Defence would, of course, oppose any use of this
3 material today not only because it's on the list but simply because it comes from a
4 witness who has already testified. Thank you, Mr President.

5 PRESIDING JUDGE FREMR: [9:41:33] Ms Samson.

6 MS SAMSON: [9:41:35] Mr President, in preparing for the Defence case prior to
7 and after receiving the Defence witness list, the Prosecution has continued its
8 investigations in relation to summaries of anticipated evidence. And in this instance
9 we did go back to get further information on topics from a witness. And the
10 transcription of that interview was ready this week and the Prosecution provided it to
11 the Defence. I do not intend to use the information in the context of my
12 cross-examination and I'm available for further questions that your Honour
13 may have.

14 PRESIDING JUDGE FREMR: [9:42:19] I don't see that necessary. This
15 explanation is fully satisfactory to me.

16 Now we can move to, as I indicated, to the last part of cross-examination. And,
17 Ms Samson, according information I have been provided with by our court officer,
18 you still have at your disposal three hours, 43 minutes, which includes one extra hour
19 we granted to you yesterday. So 3.43.
20 Please, you have the floor.

21 MS SAMSON: [9:42:58] Thank you, Mr President.

22 WITNESS: DRC-D18-D-0300 (On former oath)
23 (The witness speaks Swahili)

24 QUESTIONED BY MS SAMSON: [9:43:02] (Continuing)

25 Q. [9:43:05] Good morning, Mr Ntaganda.

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1 A. [9:43:15] Good morning.

2 Q. [9:43:20] I would like to put a few propositions to you and you can let the
3 Chamber know whether my propositions are, to your knowledge, true or untrue or
4 you do not have any information about them. But I would ask that you not -- or try
5 not to repeat any previous evidence but to be mindful of the questions that I'm
6 asking.

7 So my propositions are as follows: First, your troops, led by Commander Salumu,
8 invited Lendu civilians to a meeting in Sangi under the pretext of a peace meeting on
9 or about 22 February 2003. Is that true, untrue or you do not know?

10 A. [9:44:37] I was not informed about that. This is information that I learned
11 about when I reviewed the charges that were filed against me.

12 Q. [9:44:55] And it may be the same response, but my second proposition is that
13 when the civilians arrived in Sangi at the meeting place, Commander Salumu and his
14 troops fired upon them. Is that true, not true or you do not know?

15 A. [9:45:34] Well, judging by your question, I can tell you that I'm not even
16 familiar with the location Sangi. Was it in the area where Salumu was conducting
17 operations? I only learned of this when the charges against me were disclosed to me
18 when I arrived here.

19 Q. [9:46:01] My third proposition is that Commander Salumu and his troops
20 captured some of the civilians and made them carry looted goods. And to be clear,
21 Sangi is in the area of Kobu.

22 A. [9:46:47] I learned all of that information when I was here through witnesses
23 who appeared or through various documents that were provided to me. Otherwise,
24 as far as I'm concerned, all of that, it's new information to me and it is not information
25 that I had at the time of the events.

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1 Q. [9:47:13] My fourth proposition is that some of the women who were captured
2 by Commander Salumu and his troops were raped by them. Is that true, untrue or
3 you don't know?

4 A. [9:47:41] I did not receive any such information.

5 Q. [9:47:46] And my last proposition on this topic is on or about 26 February 2003
6 Salumu and his troops killed a number of the captured Lendu civilians in a banana
7 field in Kobu, using mainly machetes and blunt objects. Is that true, untrue or you
8 don't know?

9 A. [9:48:34] I learned all of the -- about all of these items of information here
10 before this Court. Other than that, before my arrival here, I was not aware of any
11 such events.

12 Q. [9:48:56] Now, I'm moving on to a new topic and I'd like to know was the term,
13 in French, "enfants soldats" ever used within the UPC, that French term?

14 A. [9:49:33] No. We used Swahili. I did not ever hear that French expression
15 or term within the FPLC or within the UPC.

16 PRESIDING JUDGE FREMR: [9:49:49] Ms Samson, technical problem because at
17 the moment in English transcript we have just instead of the term used "(Speaks
18 French)". Could you kindly spell this term to have it in the English transcript.

19 MS SAMSON: [9:50:06] Yes, Mr President I had noted the same issue. It would
20 be best if the term I used is captured in the English transcript. The spelling is
21 E-N-F-A-N-T-S, first word, and second word, S-O-L-D-A-T-S.

22 PRESIDING JUDGE FREMR: [9:50:28] Thank you.

23 MS SAMSON: [9:50:30] Thank you, Mr President.

24 Q. [9:50:33] I would like to show you a document, sir. It's DRC-OTP-0113-0070.
25 It's a public document. Item 635 on our list.

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1 Now, sir, this is an official UPC document, as you can see from the letterhead. It's
2 been issued by the national secretariat for national education. The date is visible at
3 the bottom of what you see on the screen, it's done in Bunia on 12 February 2003.
4 And if I could ask the court officer to scroll down.
5 The document is sent to, and I'll read it in French, (Interpretation) "Mr Commander
6 G5 of the Patriotic Forces for the Liberation of the Congo, EMG/Bunia."
7 (Speaks English) And the subject on the left-hand side in French reads
8 (Interpretation) "Designation of 13 officers to train for assisting for DDRRR/child
9 soldiers."
10 (Speaks English) And I'll read a section of this so that you can become more familiar
11 with the document before you provide your responses to my questions. The
12 national secretary for education writes in the first paragraph, and I will read it,
13 in French:
14 (Interpretation) "Commander, I am honoured to bring to your attention the following:
15 The national secretariat for national education, on behalf of the UPC/RP and its
16 president, has begun a programme to demobilise of child soldiers aged 15/16 who
17 have agreed to return to civilian life for reinsertion within society and reorientation
18 for their future."
19 (Speaks English) And if we turn, please, to the second page of this letter. Now at the
20 signature line you can see that it's been signed by Adubango Biri Marcel, who is the
21 national secretary for national education, it says, with a seal. And the letter has been
22 copied to a number of individuals, including at the top the president of the UPC/RP
23 in Bunia -- pardon me, it's at the bottom of the page but the top of the CC list that we
24 see. And then to a number of other individuals, including at item six the EMG in
25 Bunia, which is the general staff, military general staff in Bunia.

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1 Now, this is a letter no doubt that you are familiar with?

2 A. [9:55:41] I am not familiar with this document. When you asked me about
3 the French expression child soldiers, I thought you were referring to conversations
4 and I said that we spoke in Swahili. As for documents like this one, this is a
5 document that has been drafted. It is a written document and my answer only was
6 in relation to conversations, verbal exchanges, not written exchanges such as the
7 exchanges in this written document that you have shown me.

8 Q. [9:56:20] All right. And so I take it, therefore, that you agree that the
9 UPC/FPLC used the term enfants soldats in their written correspondence?

10 A. [9:56:40] Yes. When the documents were written in French that expression or
11 term was used. We were asked to demobilise military staff *under 18 years of age.
12 I think we used a similar expression, something along the lines of this one. I don't
13 remember exactly what the French expression was term -- used at the time. I think it
14 was child soldier or something else. But that term must be visible in such
15 documents that were drafted in October even though I don't remember exactly what
16 term was used. In principle, this term was used to make reference to those who
17 were aged under 18. But once again, I can't be definitive as to whether the term used
18 was "child soldier" or not.

19 Q. [9:58:04] In this document certainly we've seen the term used was child soldier.
20 And as you point out, the internal and official UPC correspondence from national
21 secretariat to FPLC military wing is that they need 13 FPLC officers in order to initiate
22 a programme to demobilise children who are aged 10 to 15 or 16 within the FPLC,
23 correct?

24 A. [9:58:51] I did not receive this document. I did not receive this letter.

25 Q. [9:59:01] You never heard of a programme engaging the FPLC military directly

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1 by its national secretariat on behalf of the president to select 13 officers for a
2 DDD -- DDRRR programme to demobilise kids aged 10 to 15 or 16 in the UPC, never
3 heard of that?

4 A. [9:59:32] At one particular point in time I did hear an officer by the name of
5 Lobo. He was a major at the time and he was asked to organise a seminar and the
6 seminar also involved some NGOs and it had to do with various ways and means of
7 identifying the children aged less than 18. And we were also supposed to follow up
8 these children once they returned to civilian life. I heard about that a long time ago.

9 Q. [10:00:46] The --

10 PRESIDING JUDGE FREMR: [10:00:47] Hold on, Ms Samson.
11 Mr Bourgon.

12 MR BOURGON: [10:00:50] Thank you, Mr President. It's a transcript correction
13 but it is a material issue, and that's at page 11, line 7. It's something that the witness,
14 according to what we've heard, did not say. I would appreciate if my colleague
15 would take this line with the witness to verify.

16 MS SAMSON: [10:01:18] And the French transcript, is it the same as the English?
17 I can't see it. It's already passed on my screen.

18 MR BOURGON: [10:01:28] French is page 9, line 25, same thing. Same mistake.

19 PRESIDING JUDGE FREMR: [10:01:35] At the moment I can read "we were asked
20 to demobilise military staff aged 15 or under." Is the core of your submission?
21 So Ms Samson, if you can --

22 MS SAMSON: [10:01:57] Yes, certainly.

23 PRESIDING JUDGE FREMR: [10:01:59] -- revisit this issue.

24 MS SAMSON: [10:02:00] Certainly.

25 Q. [10:02:03] Mr Witness, the answer that you have given earlier was as follows:

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1 "When the documents were written in French that expression or term was used. We
2 were asked to demobilise military staff aged 15 or under. I think we used a similar
3 expression, something along the lines of this one."

4 A. [10:02:33] That's not the answer that I gave. What I said was that we were
5 written a letter reminding us that we had to demobilise soldiers who were under the
6 age of 18. But I added that I no longer remembered if in this letter or the letters that
7 were drafted in the month of October or January 2003, if the term that you mentioned
8 was used. They spoke about soldiers under the age of 18.

9 MS SAMSON: [10:03:16] And Mr President, thank you. Because I also have a
10 Swahili speaker within the team who believes that the original is correct. May I
11 please ask that the audio be verified?

12 PRESIDING JUDGE FREMR: [10:03:27] Yes, it will be very material so we fully
13 support that.

14 MS SAMSON: [10:03:36]

15 Q. [10:03:36] Now I would like to focus you, Mr Witness, on the precisions that
16 are contained in this letter which refer to those child soldiers intended for
17 demobilisation as being aged 10 to 15 and 16. And that's because, isn't it, the child
18 soldiers in the FPLC were in that age bracket, 10 to 15/16 years old, correct?

19 A. [10:04:27] No. That's not possible. The situation in which we were when we
20 were fighting against the APC troops meant we couldn't accept to have children.
21 That would have been a burden for us, a major responsibility. If we had people who
22 were injured, somebody who had 10 years has to take somebody who is injured on
23 their back. No, that is not possible in the army in which I was, no.

24 Q. [10:04:59] Now, you've acknowledged that child soldiers is somebody under
25 18, correct?

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1 A. [10:05:16] If there was somebody who introduced themselves and they were
2 under 18 we sent them away. We asked them how old they were, and if they said
3 their age and it was under the age of 18, then we would send them away to go home.

4 Q. [10:05:36] I understood your evidence to be that you didn't bother asking age
5 because you couldn't prove their age, so instead you used criteria based on a number
6 of different elements, including physical capacity, but not asking children their age.
7 Isn't that right?

8 A. [10:05:59] We asked them questions, but it wasn't sufficient because there
9 weren't documents in order to support that when it came to their age. We were
10 trying to see what their physical capacity was in order to carry rifles, ammunition,
11 and to carry a wounded person who had fallen during the war. Those were the
12 conditions that we used in order to admit them within the army. If somebody said
13 that that person, that they were under the age of 18, after observing that person, it
14 was sufficient to observe the person, even before they give their age. If we saw that
15 that person was under 18, that person would be sent home. Among them we had
16 some who were over the age of 18 and they wanted to join the army. We didn't need
17 to take those who were under the age of 18.

18 PRESIDING JUDGE FREMR: [10:07:13] Ms Samson, allow me one additional
19 question.

20 Mr Ntaganda, you said if somebody introduced himself being under age of 18, or if
21 somebody said that that person they were under the age of 18, but were the people
22 responsible for recruitment instructed to ask potential recruits on their age?

23 THE WITNESS: [10:07:45] (Interpretation) Very well, your Honour. The
24 comité de paix brought the young people to us, they came from different villages and
25 they brought us volunteers. They couldn't bring young people who were under the

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1 age of 18. They were going to find them with their families and they would bring
2 young people who were strong. But if among them there were young people under
3 the age of 18, once they arrived in the field, we who were responsible for instructing
4 them, even if the comité de paix brought them there we were the ones who were
5 responsible and we knew who was going to help us on the battlefield. And we
6 weren't going to take the responsibility of working with these young people who
7 were going to make problems during a patrol when we were going during the day
8 and during the night without having any rest.

9 PRESIDING JUDGE FREMR: [10:09:10] Probably I was not clear enough, so I try to
10 simplify my concern. Was the question "What is your age" part of the process of
11 recruitment?

12 THE WITNESS: [10:09:43] (Interpretation) It was obligatory. We had to ask them.
13 But just asking them their age wasn't enough. There were no documents at the time.
14 You could ask them their age, but if there was any doubt you would ask can the
15 person transport a rifle on the battlefield? Can that person take a wounded person
16 on his back and carry them to the camp? Those are the criteria that we would use in
17 order to ensure that we had young people who were strong and fit.

18 PRESIDING JUDGE FREMR: [10:10:23] Thank you, Mr Ntaganda.

19 Ms Samson, please proceed.

20 MS SAMSON: [10:10:28] Thank you.

21 Q. [10:10:29] Now, sir, if in fact you had such a robust means of assessing the age
22 of potential recruits such as asking their age and assessing their physical capacity,
23 why is it, do you think, the FPLC went to such great efforts to internally seek to
24 demobilise children under the age of 18, and indeed between the ages of 10 to 15 and
25 16, within its ranks?

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1 A. [10:11:22] It was a reminder. We were reminded from the president who met
2 NGOs who visited him and he was reminding people about demobilisation. The
3 demobilisation was carried out in a general way. Even those who wanted to go back
4 to school in '99 -- 1993, what I said about this demobilisation, these were letters that
5 were sent in order to act as a reminder, but if you want to ask the troops, there
6 were -- these letters were sent in order to remind us about demobilisation.

7 PRESIDING JUDGE FREMR: [10:12:38] Hold on, Ms Samson.

8 Mr Bourgon.

9 MR BOURGON: [10:12:41] Mr President, can we just verify the transcript? And
10 I think my colleague will agree with me. Because we have at page 17, line 7, we have
11 "1993" we know that this is not what was said, but we don't know what was said.
12 And I think my colleague will agree with me that it's necessary to correct this date.

13 PRESIDING JUDGE FREMR: [10:13:05] Ms Samson.

14 MS SAMSON: [10:13:06] Yes, Mr President, I will ask. It's difficult to say that it
15 was not what was said, but we can certainly note that maybe a correction needs to be
16 made.

17 Q. [10:13:18] Sir, a moment ago when you were answering your question about
18 the demobilisation, you stated as follows, lines 5 through to 7: "The demobilisation
19 was carried out in a general way. Even those who wanted to go back to school in
20 '99 -- 1993, what I said about this demobilisation."

21 Now, the dates that you were giving about demobilisation and those who wanted to
22 go back to school, did you say 1999 or 1993?

23 A. [10:14:04] Demobilisation took place when we were preparing to rejoin the
24 government forces of Kinshasa, join the government forces. If I spoke about 2003,
25 that's a mistake. It was in 2004. I remember at that time some of my bodyguards

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1 went back to school. So that was 2004.

2 Q. [10:14:35] Okay, I just have one more questions on this following on from your
3 answer. This letter that I've just shown you that's on your screen is 12 February 2003
4 internal UPC/FPLC document from national secretary education to the FPLC.

5 Are you suggesting that the only demobilisation that actually took place in the FPLC
6 was in 2004? Might be right, I just want to hear your answer.

7 A. [10:15:31] There weren't troops under the age of 18 years in the FPLC. We
8 were demobilising even those who were over 18 who wanted to go back to their
9 normal life. It wasn't demobilisation of those who were under 18, even those who
10 were over 18 who wanted to go back to school. This letter consisted of reminding us
11 that if there were people under the age of 18 in the FPLC we had to try and find them.

12 Q. [10:16:06] Okay. So I just want to be clear. There was no actual
13 demobilisation of anybody under the age of 18 in the FPLC in 2002 or 2003 because
14 they weren't there, according to you?

15 A. [10:16:33] I didn't say that.

16 Q. [10:16:39] Was there demobilisation of any children under the age of 18, and in
17 particular 10 to 15 or 16, in the FPLC in 2002 or 2003?

18 A. [10:17:09] I no longer remember the year, but I found out that demobilisation
19 had taken place when Kisembo was there. There were young people in RCD-Goma,
20 * or rather in the RCD-K/ML, and these young people followed Kisembo during the
21 war against the Ugandans. Now, at that time there was demobilisation.

22 And when Kisembo returned, he demobilised the children who had followed him.

23 That's what I found out with regard to 2002 and 2003. Kisembo had demobilised

24 them and they reintegrated into civilian life. They were troops from the RCD-K/ML.

25 They were ones who came to him. He couldn't keep them. He had to demobilise

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1 them. That's what I learned. That's the only thing that I found out.

2 Q. [10:18:31] Is that the only time there was ever any demobilisation of under
3 eighteens in 2002, 2003 from the FPLC?

4 A. [10:19:00] I no longer remember if within the FPLC there was any when I was
5 there. What I do know is that there was within RCD-K/ML. During the war they
6 followed Kisembo and when they arrived in Bunia, he demobilised them. That's the
7 only demobilisation that I was aware of within the FPLC.

8 Q. [10:19:35] All right. Now, I'd like to show you another document, please.

9 It's DRC-OTP-0029-0274. It's number 630 on our list. It's public.

10 This is an official letter from the -- official document from the UPC on its letterhead,
11 from the Presidency. It's dated Bunia, 21 October 2002, and it's to -- it's sent to
12 "Mr the Commander Chief of Staff of the FPLC". If we can scroll down, please.

13 The subject is the -- in French, I'll read it, (Interpretation) "Enlisting of child soldiers".

14 (Speaks English) And at the bottom we can see that it is sent by President

15 Thomas Lubanga, if we can scroll down to the signature line. And what

16 Mr Lubanga writes in this letter, which I will read in French:

17 (Interpretation) "In recent days, contrary to our ideology, there is a practice of
18 enlisting minors of both sexes within the fighting forces and in certain armies of a
19 revolutionary nature with a view to increasing the numbers of their soldiers on the
20 fronts.

21 Where it concerns our armed wing, initials FPLC, I formally ban this practice, which
22 goes against our former activities with the NGO, SOS Grand-Lacs, within the
23 framework of demobilisation of child soldiers.

24 I would particularly like to say that I attach particular importance to the execution of
25 this order, which must be complied with."

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1 (Speaks English) Now, you've referred to an October internal document, and this is
2 Thomas Lubanga writing a letter indicating, it appears, that there is a practice,
3 contrary to your ideology, of enrolling minors, child soldiers, of the two sexes into the
4 army. Now, this is an acknowledgment, is it not, that the FPLC had child soldiers in
5 its forces and was recruiting them?

6 A. [10:22:54] I know nothing about it. When he wrote to us, he asked us to
7 check, and he banned us right from the beginning from doing so. We couldn't have
8 child soldiers of that age. They couldn't help us. I'm talking about children under
9 the age of 18. There couldn't be any. He was reminding us, saying that having
10 child soldiers under the age of 18 within the FPLC was not part of our policy.

11 Q. [10:23:23] Right. But what he's saying here, isn't he, is that it's already
12 happening in October 2002?

13 A. [10:23:41] I know nothing about that.

14 PRESIDING JUDGE FREMR: [10:23:43] Now, Mr Bourgon.

15 MR BOURGON: [10:23:44] Mr President, the proposition put by the Prosecution is
16 that it is actually existing. I'm only reading the first sentence of that letter from
17 Mr Ntaganda -- from Mr Lubanga, sorry. It doesn't say that the practice is existing,
18 but it says "is developing". So we don't know what stage. So if the proposition is
19 going to put to Mr Ntaganda, it should be at least based on the content of the letter.
20 Thank you.

21 PRESIDING JUDGE FREMR: [10:24:15] I do agree, it could make some difference,
22 "existing" and "developing". So we have to be really precise.

23 MS SAMSON: [10:24:23] Yes, Mr President. The translation that we received to
24 this in English, page 20, lines 14 to 16 is, and I quote: "In recent days, contrary to our
25 ideology, there is a practice of enlisting minors of both sexes within the fighting

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1 forces", and I believe that that suggests it's happening at this time.

2 PRESIDING JUDGE FREMR: [10:24:50] I do agree, but if the French text is not
3 precisely translated, that it could make difference.

4 Mr Bourgon.

5 MR BOURGON: [10:24:59] Mr President, the -- my understanding is that the
6 original version of this letter is in French and the first sentence reads as follows in
7 French: (Interpretation) "In recent days, contrary to our ideology, a practice of
8 enlisting minors is developing".

9 PRESIDING JUDGE FREMR: [10:25:25] But anyway, I don't see this dispute
10 reasonable, because Mr Ntaganda said clearly, "I know nothing about that". So I
11 think then, even this difference, in the light of his response, is not material.
12 So because I believe he said, "I know nothing", it means he knows nothing both on
13 existence or development.

14 MS SAMSON: [10:26:06] Yes, Mr President. And the witness's answer is initially,
15 "I know nothing about it", but he continues to say what he actually does know about
16 it, which is:

17 "When he wrote to us" -- page 21, starting from line 5 -- "he asked us to check, and he
18 banned us right from the beginning from doing so. We couldn't have child soldiers
19 of that age. They couldn't help us. I'm talking about ... under the age of 18."
20 And what I would like to put to the witness is that right from the beginning,
21 according to his evidence is likely September 2002, and in October Mr Lubanga is
22 writing to say that that practice, I would say --

23 PRESIDING JUDGE FREMR: [10:26:55] Go ahead, because I don't believe that
24 Mr Ntaganda could be misled by some different details, because I think he is smart
25 and intelligent enough to give clear question -- clarify what is relevant. So please

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1 go ahead.

2 MS SAMSON: [10:27:13]

3 Q. [10:27:14] Now, Mr Ntaganda, what you've stated is that Thomas Lubanga
4 banned the recruitment of child soldiers and their use from the beginning, and this
5 letter from him to the chief of general staff of the FPLC speaks about a practice of
6 enrolling minors of both sexes into the army that is taking place at the time that he
7 wrote the letter. So how does that coincide with your evidence that it was banned
8 and never done?

9 A. [10:28:24] I know nothing about that. I remember that -- what was said right
10 from the very start, and even when we were in the training wing, we couldn't accept
11 children who were under the age of 18. Even on 8 February, when we met after the
12 departure of the RCD, he reminded us again. He said, "I always say, remember
13 what I'm saying to the journalists. You must -- within the FPLC, you must look to
14 see if there are young people under the age of 18, and if there are any, they must not
15 be within our army." And I remember that he was reminding us of that so that we
16 could check that there was none of our troops -- that none of our troops was under
17 the age of 18.

18 Q. [10:29:24] And what Mr Lubanga was saying to journalists was very important
19 to him, wasn't it?

20 A. [10:29:40] He had agreed to have a conference with the journalists when the
21 RCD left. Journalists asked questions with regard to child soldiers and he said, "Our
22 policy means that young people under the age of 18 cannot join the army".
23 When we left that place where he held the conference, he told us, "Did you hear what
24 I said to the journalists? I'm fighting that. Go and check within your troops if there
25 are * young people under the age of 18". And he would issue constant reminders

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1 such that that could not exist.

2 Q. [10:30:32] You are aware, are you not, that it was not only journalists who
3 were interested in Thomas Lubanga's position on the recruitment and use of child
4 soldiers in the UPC/FPLC, but in fact the United Nations was quite interested in this
5 issue and that they met with Thomas Lubanga to discuss the problem of the presence
6 of child soldiers in the FPLC in October 2002?

7 A. [10:31:42] I know nothing about that. We would receive the information
8 directly from himself, and I'm not aware of a meeting between him and the UN envoy
9 regarding this problem.

10 Q. [10:32:07] Do you remember that you had a meeting with MONUC in
11 October 2002 at which time they raised allegations of recruitment of underage
12 children in the UPC/FPLC?

13 A. [10:32:41] I'm not aware of this meeting that you have mentioned.

14 Q. [10:32:47] I'd like to show you a report of the meeting from the United Nations,
15 DRC-OTP-2067-1914, if the document could be displayed confidentially. It is
16 item 374 on the list.

17 PRESIDING JUDGE FREMR: [10:33:06] Mr Bourgon.

18 MR BOURGON: [10:33:07] Thank you, Mr President. While we prepare this
19 document, at page 24, line 14, in English there's one word that makes a difference that
20 was not mentioned. It's a word that has to do with the timing.

21 PRESIDING JUDGE FREMR: [10:33:43] Ms Samson.

22 MS SAMSON: [10:33:51] So the suggestion is that in Swahili Mr Ntaganda said
23 something that was not captured in either transcript again, I think?

24 MR BOURGON: [10:34:03] The other way around. Something is in the transcript
25 that was not in Swahili. And if I compare the French version, the English version

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1 and the Swahili, we have three different versions. And it's one word. The word
2 has to do with "still", and it makes a difference if you don't have the word or where
3 you place the word.

4 PRESIDING JUDGE FREMR: [10:34:24] It was my understanding so -- yes, because
5 again, it's really material. Please return back to that, Ms Samson, and put question
6 focused on this part of original transcript.

7 MR BOURGON: [10:34:38] We would be satisfied to go with just audio
8 verification.

9 PRESIDING JUDGE FREMR: [10:34:43] Audio verification? Okay, even better.

10 MR BOURGON: [10:34:46] Because not to -- to avoid wasting time.

11 PRESIDING JUDGE FREMR: [10:34:50] All right. So then you can proceed.

12 MS SAMSON: [10:34:52] Yes, thank you.

13 Q. [10:34:53] Now, before you, you have an outgoing code cable transmitted
14 on 2 October 2002. The subject is "Daily Report 1 October". As I indicated, it's a
15 MONUC document. And if I could ask the court officer to please move to
16 paragraph 10 on page 1916.

17 And I'll read it for you because it's in English:

18 "The MONUC team at Bunia met the UPC commander Bosco who presented two
19 APC prisoners captured from Marabo (40 kilometres south of Bunia). According to
20 the prisoners, the Nyankunde hospital has been completely ransacked by Lendus.
21 The recruitment by UPC is in progress and underage children are being recruited;
22 justification given was that they are orphans being cared for in the UPC."

23 Now, sir, do you refute or deny that you met with MONUC officials to show them
24 prisoners captured in Marabo and that recruitment by the UPC in progress included
25 underage children was discussed and that your response was that they were orphans

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1 being cared for by the UPC?

2 A. [10:37:15] When I was in Bunia, I did not meet anyone, no -- no one from the
3 UN in October, and I did not take part in our -- in a meeting organised by the UN.
4 I think I saw someone from the UN when Kisembo opposed, and then after that, I
5 don't believe I met anyone. No envoy from the UN.

6 Q. [10:38:03] Now, do you recall telling Anneke Van Woudenberg from Human
7 Rights Watch that you believed there were children in the UPC/FPLC?

8 A. [10:38:33] No, not at all. That's not what I said to her.

9 Q. [10:38:41] Let's take a look at the notes of that meeting. DRC-OTP-2062-0363,
10 public, item 472 on our list.

11 We've looked at this document before, both in questioning from your counsel and
12 from the Prosecution, at the meeting between yourself and Human Rights Watch
13 representatives on 17 November 2010. And on this page, if we could scroll down,
14 please, the fourth paragraph, which I will read:

15 "I believe there were children in the UPC. But I'll give you an example which shows
16 why I can't recruit. I don't have any family in Ituri, and I can't convince kids to join
17 an army there. It wasn't me in charge of recruitment. I couldn't convince a Lendu
18 or Hema to join the army. I was a superior officer like the others, in charge of
19 operations. I never trained children to go to the frontlines."

20 Now, do you deny what's written in the Human Rights Watch notes, that you said,
21 "I believe there were children in the UPC", and then gave details about their possible
22 recruitment by others?

23 A. [10:40:40] I couldn't have given her such explanations because we never had
24 any children within the FPLC. And my statement was not read back to me.

25 Nothing brings to mind any discussion of that. I have no reference that would allow

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1 me to remember the content, the substance of our discussions, in particular whether
2 we talked about the recruitment of children. I would not have been able to talk to
3 her about something that never happened. I refute this.

4 Q. [10:41:43] All right. I'd like to show you another document, please. It's
5 DRC-OTP-0029-0275, a public document, item 939.

6 Here we have another official document from the UPC on its letterhead emanating
7 from the Presidency, dated Bunia, 27 January 2003. And if we could scroll down,
8 please. It is addressed to again "Mr Chief of General Staff of the FPLC" and it
9 concerns the reference, which I will read in French:

10 (Interpretation) "Follow-up demobilisation of child soldiers of the FPLC.

11 Mr Chief of Staff, after my letter reference number 287 of 21 October 2002 in which I
12 officially prohibited the enrolment of children under 18 years of age in -- prohibited
13 enrolment in the FPLC army, I would like to ask you to send me as quickly as
14 possible the detailed report on this issue, an issue which I attach the greatest
15 importance to."

16 (Speaks English) Sir, Thomas Lubanga wasn't issuing a second order in relation to
17 demobilisation of child soldiers and requesting a follow-up report about that if his
18 first letter was simply a reminder, was he? A reminder not to recruit?

19 A. [10:44:06] Each day he would repeat to us that we had to avoid recruiting
20 children under 18. That is what I've repeated here.

21 Q. [10:44:28] Did Thomas Lubanga see you and military leaders every day?

22 A. [10:44:45] No. Maybe I said "each day" in my answer, to tell you that each
23 time he would send us a document, a written document or a letter, he would remind
24 us about that each time. So it was a way of saying often, even though I may have
25 used the expression "each day".

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1 Q. [10:45:20] Now, I'd like to go to one of your own documents,

2 DRC-D01-0003-5896, number 634 on the list, public.

3 DRC-D01-0003-5896.

4 So here we purportedly have a letter from you, 16 February 2003 in Bunia, FPLC

5 letterhead. And the subject is, in French: (Interpretation) "Report disarmament of

6 child soldiers." (Speaks English) And if we scroll down to the bottom, this document

7 is allegedly signed on your behalf.

8 And if we read the letter, it says at the top, in French:

9 (Interpretation) "Consecutively to the meeting that you held with the EMG on

10 8 February regarding the president of the UPC's concern regarding the disarmament

11 of children (instruction of 21 October 2002 in the letter of 27 January 2003),

12 1. The instruction was properly conveyed to all the major units" --

13 THE INTERPRETER: [10:47:55] Message from the interpreter: If the court usher

14 could kindly scroll down so that the interpreter can do a sight translation of the rest of

15 the letter.

16 MS SAMSON: [10:48:10] (Interpretation) "Point 2. Our units are meeting fierce

17 opposition from the officials of self-defence forces to demobilise and disarm the

18 children of their group.

19 3. We ask you to suggest another solution because we do not know what to do."

20 Now, sir, this purportedly your own letter that you write, where you mention the

21 concern of the president of the UPC concerning the disarmament of children and you

22 refer to the two orders we just saw in which Mr Lubanga refers to the practice of

23 enrolling underage minors of both sexes and the need to demobilise them from the

24 FPLC. Isn't this an acknowledgment from you that there were indeed child soldiers

25 in the UPC/FPLC who had to be disarmed because they were within your movement

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1 as armed soldiers?

2 A. [10:49:23] This document was signed by my secretary when I was away.

3 Once again, I say that the president would remind us each time, he would ask us to
4 check whether there were any young people under 18 within our forces and, as I've
5 told you, he would often give us that reminder. But that doesn't mean that there
6 actually were such children under 18 years of age within our forces, although he did
7 deem it necessary to remind us to carry out these checks.

8 Q. [10:50:30] Well, then, sir, what do you mean when you write in the subject line
9 "Report on the disarmament of child soldiers"?

10 A. [10:50:56] I think that the person who signed the document, as you can see,
11 I think he was being asked to find another solution or to suggest another solution in
12 light of the opposition from the self-defence groups. That is how I interpret the letter.
13 When you write a letter like this, it's as if you are forwarding a report.

14 Q. [10:51:26] Sir, this is signed on your behalf. You must have discussed this
15 letter with your secretary, who signs it for you, or does he draft letters for you that
16 you know nothing about, never see, don't discuss with him?

17 A. [10:51:52] Well, if it was signed with PO it means that the person was absent.
18 And when a request comes in during my absence, he can provide a response, as he
19 did in this case. The topic was very important and we all tried to keep up with what
20 was going on in relation to this prohibition of -- on young people under the age of 18
21 within our forces.

22 Q. [10:52:46] Doesn't PO stands for pour ordre, which means on the order of, in
23 this case yourself, Bosco Ntaganda?

24 A. [10:52:58] When someone signs a document and the signature is preceded by
25 PO, par ordre, that means that the official, the person in charge is away that once

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1 he's back the person who signed the document will explain the content of the
2 document that he signed to the official, to the person in charge.

3 Q. [10:53:51] Now, this letter is written to the AGS, that is Rafiki? Agent,
4 administration générale de sécurité.

5 A. [10:54:22] I think that the letter was addressed to the person to whom it was
6 written. I think that if you scroll down perhaps I will be in a position to identify the
7 person that the letter was intended for, because I believe I did see that.

8 Q. [10:54:47] Court officer, could we please scroll to the top of the letter so that
9 the witness can see the -- you can see next to the subject line, "A l'AGS/UPC"?

10 A. [10:55:10] I can see the reference.

11 Q. [10:55:19] And so is that administrateur générale de sécurité Mr Rafiki?

12 A. [10:55:35] He is the one who was in charge of civilian security, going by what I
13 see here. This is the document -- the letter, this is for him.

14 Q. [10:55:50] And so to be clear, you never had any discussions with your
15 secretary about this letter? He drafted it on his own?

16 A. [10:56:02] When I came back he talked to me about it. That's what I believe.

17 Q. [10:56:22] I'd like to show you a third document. It is DRC-OTP-0151-0299,
18 public document, number 636.

19 We have another UPC official letter emanating from the Presidency. It's a decree
20 number 1 bis, dated 1 June 2003, and in the title the decree says, in French:

21 (Interpretation) "Regarding demobilisation of child soldiers of the Patriotic Forces for
22 the Liberation of the Congo."

23 (Speaks English) So as we see in the preamble, if we can scroll down a bit, the
24 president of the UPC states, in French: (Interpretation) "Given the constitutive act of
25 the UPC/RP as adopted on 15 September year 2000; in light of the political statements

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1 made between 17 April and 11 August 2002; in light of the universal statement of the
2 rights of children as passed by the General Assembly of the United Nations; in light of
3 the will of the international community to continue its programme in relation to the
4 demobilisation and return to society of child soldiers, a programme supported by ad
5 hoc organisations such as NGOs such as 'Save Children' and 'SOS Grands Lacs' and
6 with a view to allowing the international community to continue their work
7 without" --

8 THE INTERPRETER: [10:58:47] Message from the interpreter, excessive speed.

9 MS SAMSON: [10:58:53] Apologies to the interpreter. I will slow down.

10 (Interpretation) "Given the timeliness and the urgency, given the need of the UPC/RP
11 and its will to promote this policy of returning children to society, children who have
12 found themselves in the army because of the turn of events and in light of the
13 circumstances of the day, hereby decrees the follows:

14 Article 1: All individuals under 18 years of age are, as of this date, demobilised from
15 the Patriotic Forces for the Liberation of the Congo.

16 Article 2: The national secretary responsible for follow-up and the chief of general
17 staff of the FPLC are entrusted with the responsibility of implementing this decree
18 which comes into effect on the day of its signature."

19 (Speaks English) And again we see it is signed on 1 June 2003 by Mr Thomas
20 Lubanga.

21 Now, here again, sir, this time in June would you characterise this as a reminder by
22 Thomas Lubanga not to demobilise child soldiers? Or, rather, as an order from
23 Thomas Lubanga to demobilise the child soldiers under the age of 18 who are at this
24 day demobilised from the FPLC?

25 A. [11:00:56] I was not made familiar with this document.

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1 Q. [11:01:02] I'd like to make a correction to my question. It was my error. I
2 said, page 34, line 16, "as a reminder by Thomas Lubanga not to demobilise", whereas
3 I meant not to recruit.

4 But, sir, I want to press you on this because would you characterise -- did you -- first
5 of all, did you hear about this or are you suggesting that this is something that
6 escaped your attention at the time, 1 June 2003?

7 A. [11:01:42] That's what I just said. I stated that I did not know this letter.
8 I don't know this letter. I haven't seen it.

9 Q. [11:01:59] Well, you apparently took a great interest in demobilisation of child
10 soldier issues in February 2003. Did you lose interest by June 2003 in the issue?

11 A. [11:02:27] No. When we created the FPLC there weren't child soldiers. That
12 doesn't mean that we shouldn't react when our chief asks us to check if there are
13 troops under the age of 18 such that they be demobilised.

14 Q. [11:03:00] And so I want to be clear, is your evidence that this order from
15 Lubanga, whether or not you've seen it before, according to you, is your evidence that
16 this is a reminder by Thomas Lubanga not to recruit child soldiers?

17 A. [11:03:28] If you ask me the question about a precise date, then I can't say here
18 he said this on such-and-such a date. But if you're asking in general concerning the
19 information that I had, I would tell you that every time, all the time he would remind
20 us that we must not recruit children under the age of 18. But with regards to this
21 document of 1 June 2003, I can't tell you that I remember such a document or having
22 seen such a document at the time.

23 MS SAMSON: [11:04:11] Mr President, I have one further related document that
24 I can do it now or after the break, as your Honour sees fit.

25 PRESIDING JUDGE FREMR: [11:04:25] Let's continue and then shift, shift the

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1 break. So please continue.

2 MS SAMSON: [11:04:27] Thank you, Mr President.

3 Q. I will show you one more document before the break. It is

4 DRC-OTP-0014-0254, public document, item 637.

5 Here we have another official document from the UPC on its letterhead, this time

6 from the general staff, military branch from the cabinet of the chief of general staff.

7 It is a note number 14 and in French it reads, if we can scroll down a bit more so that

8 the witness can see the totality of the rest of the document, you can see that it's signed,

9 it's signed by Commander Floribert Kisembo on 5 June 2003. It's sent to, in French,

10 and I will read from the first line:

11 (Interpretation) "To all brigade commanders of the FPLC.

12 1. In accordance with the spirit of decree number 1 bis of 1 June 2003 from the

13 president of UPC/RP, commander-in-chief of the FPLC, has the honour of issuing the

14 order to proceed with the demobilisation of any troop within our ranks aged under

15 the age of 18, according to the ordinary procedure.

16 2. This is a formal order."

17 (Speaks English) Now, surely you would have received this order from the FPLC that

18 Thomas Lubanga's demobilisation decree for children under 18 had to be done

19 following the ordinary procedure?

20 A. [11:06:55] The content of this note isn't different to what I said. I stated that

21 all the time he would repeat that if we ever identified troops of under the age of 18 we

22 had to demobilise them and send them to the relevant NGO or body responsible for

23 their reinsertion. We were reminded of that all the time.

24 Q. [11:07:50] I see. So according to you, this is not an order to demobilise

25 children under 18 who are as of that date, June 1 and June 3, currently in the FPLC as

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1 a larger issue, it's solely a reminder to you?

2 A. [11:08:33] I think that when we're written to being asked to identify troops, or
3 such-and-such a troop, and it's repeated so many times, I don't find anything wrong
4 with that. But what I'm saying is, right from the start of my testimony, we're being
5 asked every time to identify troops under the age of 18 such that they would be
6 demobilised. And that continued systematically until we were integrated into the
7 government army. Every time we were asked to identify troops under the age of 18
8 with a view to their demobilisation.

9 Q. [11:09:22] And my final question is that the only instance of actual
10 demobilisation of children under the age of 18 that you have any knowledge of is
11 purportedly one related to children who followed Kisembo at some point that he let
12 go, correct?

13 MR BOURGON: [11:09:47] Asked and answered, Mr President.

14 PRESIDING JUDGE FREMR: [11:09:51] Go ahead, Ms Samson.

15 MS SAMSON: [11:09:55]

16 Q. [11:09:56] So I'll just repeat my question: The only instance of actual
17 demobilisation of children under the age of 18 that you have any knowledge of is
18 purportedly only the one related to children who followed Kisembo at some point
19 and that he let go, correct?

20 A. [11:10:19] I can't say that it was demobilisation of UPC forces, because when
21 the Ugandans beat us there were child soldiers who were in RCD-K/ML and they
22 followed Kisembo, and when he returned he came back with them and he
23 demobilised them. He handed them over to an NGO. But these child soldiers were
24 not in the FPLC. They came from the RCD-K/ML. That's the information I got.

25 Q. [11:11:06] I think that's clear.

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1 MS SAMSON: [11:11:07] Thank you, Mr President.

2 PRESIDING JUDGE FREMR: [11:11:09] All right.

3 So we take our regular 30-minute break and we will reconvene at 11.40.

4 THE COURT USHER: [11:11:17] All rise.

5 (Recess taken at 11.11 a.m.)

6 (Upon resuming in open session at 11.40 a.m.)

7 THE COURT USHER: [11:40:06] All rise.

8 Please be seated.

9 PRESIDING JUDGE FREMR: [11:40:27] Let's directly continue with the next part
10 of cross-examination of Mr Ntaganda by Prosecution. But I see Mr Bourgon on
11 his feet.

12 Mr Bourgon.

13 MR BOURGON: [11:40:48] Yes, Mr President. Two quick transcript audio
14 verification requests please.

15 Page 19, lines 4 to 18 in English and page 17, lines 7 to 16, there appears to be -- it's a
16 long part because we're talking about 10 lines, but we need to verify with the audio.
17 It is different in French and in English.

18 Page 32, line 24 in English there's one word to be checked so I think we need audio
19 check. And the same word appears in French.

20 Thank you, Mr President.

21 PRESIDING JUDGE FREMR: [11:41:34] And otherwise you, it's my understanding
22 you find the French version correct, so the problem is with English transcript?

23 MR BOURGON: [11:41:44] With the first one, the long text, it is different both in
24 French and in English and we don't see -- that's why we need audio verification to
25 ensure that what is -- was mentioned by the witness is what finds itself in the

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1 transcript. We don't recognise either the French or the English. But it's not a
2 material correction in terms of one word, it's the text itself, one long answer.
3 Page 32, line 4 we're talking about one word and we believe the word should be "you",
4 whereas -- the word in the transcript is "you" and we believe that the word should
5 have been "he".

6 And I don't think that my colleague will see any problems with that. I think that fits
7 the answer given by the witness.

8 Thank you.

9 PRESIDING JUDGE FREMR: [11:42:37] My concern was to make it as much, or
10 clear what is problem. So now we made it fine. We can continue with
11 cross-examination.

12 Ms Samson, you have the floor.

13 MS SAMSON: [11:42:51] Thank you, Mr President.

14 Q. [11:42:52] When you were living in Mandro Kisémbu assigned you five
15 bodyguards, and four of them were female and were armed, correct?

16 A. [11:43:17] No. No. When Kisémbu gave me bodyguards there were no
17 female bodyguards.

18 Q. [11:43:47] I'm referring to your testimony T-214, page 30, lines 5 to 6 where it
19 says, you stated, "At that time I had bodyguards, five of them, whom Kisémbu had
20 assigned to me."

21 And then on page 31 you refer to -- in fact, page 30, lines 21 to 24 you say -- you were
22 asked who was living with in that new location once you moved out of Chef Kahwa's
23 house, and you answered: "I used to live with my wife and my bodyguards. The
24 team of bodyguards which I had set up included some PMF, but they did not use to
25 live in the same house as myself."

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1 And you state on page 31, lines 2 to 3, that "I used to live with my wife and
2 bodyguards and among the guards there were PMFs." And you named four of them.

3 I won't refer to their names in open session. I will check if you did or not.

4 So maybe you could explain whether the four female PMF bodyguards you had were
5 ones that Kisembo assigned to you or ones that you chose yourself?

6 A. [11:45:53] I think, Madam Prosecutor, that you've made a confusion with
7 regards to the dates. I think in my testimony it's clear where it concerned -- that they
8 concerned different periods. There's a period in which Mandro was set alight and it
9 was at that time that Kisembo entrusted me with five bodyguards. And after, when
10 we received weapons, I set up a company, my company. And if you read it carefully,
11 you will see my statement as to whether there were bodyguards who were female or
12 not. I think you have mixed up the periods. And then I will be able to answer you.

13 Q. [11:46:45] We'll take a look at your testimony now -- in a moment, but just to
14 be clear then, your evidence now is that Kisembo gave you five bodyguards in
15 Mandro and then subsequently you set up your own company. Now, when did you
16 have the four bodyguards that you spoke of, female bodyguards. Were they
17 bodyguards that Kisembo assigned to you or that you chose yourself?

18 A. [11:47:37] The person responsible for my bodyguards, Claude Uniform Zulu,
19 chose them. I'm speaking about the bodyguards. That was afterwards, after those
20 who Kisembo entrusted me with.

21 Chef Kahwa was already -- or had already come back. He was with Jacques. I was
22 living in an annex to Chef Kahwa's house, as I demonstrated when my counsel was
23 putting questions to me. I showed the house that I had been living in.

24 Q. [11:48:42] So back to my question, the four bodyguards -- who chose your four
25 bodyguards? Was it -- your four female PMF bodyguards? Was it Kisembo, was it

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1 Claude or was it you?

2 PRESIDING JUDGE FREMR: [11:49:12] Mr Bourgon.

3 MR BOURGON: [11:49:12] Mr President, I'd like to ensure that my colleague will
4 put the words spoken by the witness, because now it's very confusing. I have the
5 three pages of the transcript with me. We're talking about three periods of time that
6 are different. It would be much easier if the question and answer were put to
7 Mr Ntaganda and then she can contradict him if the Prosecution wishes to contradict
8 the witness.

9 But right now it's very confusing. And where this issue comes, the issue that the
10 Prosecution is trying to get, is later in the transcript. So transcript references are
11 necessary. This happened two months ago in the witness's testimony. Thank you.

12 PRESIDING JUDGE FREMR: [11:49:58] Ms Samson.

13 MS SAMSON: [11:49:59] Mr President, I put to the witness: "When you were
14 living in Mandro Kisembo assigned you five bodyguards, and four of them were
15 female and were armed, correct?" And he said clearly that's wrong, different dates.
16 And so I'm just trying to get from him so I can understand even his evidence-in-chief,
17 given over several days at several places. I'm asking him an open-ended question:
18 Who assigned those four bodyguards to you? Was it Kisembo, was it Claude or was
19 it you? I've been trying over several questions to get that answer and it's certainly
20 very difficult, I agree with that.

21 PRESIDING JUDGE FREMR: [11:50:38] Mr Bourgon.

22 MR BOURGON: [11:50:39] The reason it's difficult is that there is no time reference,
23 place reference to at least lead the witness to where, what period we're talking about.
24 Where, when, what, who, and then of course the witness will know what to answer.
25 But now the witness is confused because of the questions, and not because he would

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1 like to answer, but he needs to know what is expected of him. And he doesn't know
2 right now. Thank you.

3 PRESIDING JUDGE FREMR: [11:51:04] Ms Samson, I would agree that maybe
4 timing should be provided to Mr Ntaganda.

5 MS SAMSON: [11:51:17]

6 Q. [11:51:19] Sir, when you were in Mandro, when you lived at Chief Kahwa's
7 house, do you know when that was?

8 A. [11:51:44] I know when I was living in Kahwa's house, there was a time when
9 the collectivity where I was living was set alight. And there was another period
10 when I was living in Kahwa's house and at some time Kisembo gave me bodyguards,
11 and at another time I was given bodyguards among whom there were women.
12 These are different periods and that has created confusion.

13 Q. [11:52:18] Yes. Well, as I look at your examination-in-chief, you did not give
14 dates at that time. You speak about -- transcript T-214, starting from page 29, you
15 spoke about arriving in -- the recruits were in Kudja where the training centre was
16 located.

17 And then you were asked: "You told us earlier that you used to live in Chef Kahwa's
18 house. Who else was with you at that location? Who else lived with you at that
19 location?"

20 And then you answer: "My wife, but when Chef Kahwa came back, I moved to a
21 location below his residence."

22 And then you were asked at page 30: "Did you have escorts or bodyguards at that
23 time, Mr Ntaganda?"

24 And you answered: "At that time I had bodyguards, five of them, whom Kisembo
25 had assigned to me. It was only when we received weapons that I set up a new team

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1 of bodyguards."

2 And then starting at line 22 on the same page, you say: "I used to live" -- your
3 question was -- the question was: "... can you talk to us about the new location
4 where you lived after moving out of Chef Kahwa's house? Who was living with you
5 in that ... location?"

6 And you said: "I used to live with my wife and my bodyguards. The team of
7 bodyguards which I ... set up included some PMF, but they did not use to live in the
8 same house as myself."

9 And then the question: "Do you remember the four bodyguards who -- one moment,
10 please ... I am referring to page 37 ...:

11 'I used to live with my wife and bodyguards and among the guards there were PMFs.'
12 How many PMFs were there?"

13 Answer: "I can even give you their names because I remember them. One of them
14 was ... Amama ... Lotsove ... Caroline, and ... Chantel."

15 And then you go on about their duties.

16 So, sir, does that help you in any way situate your own evidence about being in
17 Mandro and being assigned or having four PMFs?

18 A. [11:55:00] Yes, that helps me remember.

19 Q. [11:55:02] That's very good. Now, who assigned those bodyguards to you,
20 those four women?

21 A. [11:55:10] The chief of my bodyguards, Uniform Zulu, Claude chose them.

22 Q. [11:55:25] Now, these four PMFs, they lived close to where you and your wife
23 lived?

24 A. [11:55:46] My bodyguards lived around my residence. But the female
25 bodyguards most of the time were next to my wife.

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1 Q. [11:56:22] Now, in-chief, as I just read, T-214, page 30, lines 21 to 24, you were
2 asked: "Who was living with you in that new location?" when you moved out of
3 Chef Kahwa's house, and you answered:

4 "I used to live with my wife and my bodyguards. The team of bodyguards which I
5 had set up included some PMF, but they did not use to live in same house as myself."
6 So were they staying with you and your wife or were they staying in a different house,
7 as you testified in-chief?

8 A. [11:57:17] When I said that they were close to my wife, I meant that during the
9 day, if there were some activities that my wife had, which she had as a mother, then
10 they would be around her. But the bodyguards had a different residence. They did
11 not live in the residence.

12 Q. [11:57:43] And --

13 A. [11:57:45] They did not live in my residence.

14 Q. [11:57:50] Now, they were armed, weren't they?

15 A. [11:58:04] Yes, they were armed. They also had a military uniform.

16 Q. [11:58:12] And you've stated that initially they were solely assigned household
17 duties, no other duties, correct?

18 A. [11:58:43] Uniform Zulu, who was in charge of them, could give them other
19 tasks because they were soldiers like everybody else. They usually spent time with
20 my wife, but my chief escort was responsible to assigning the activities to the escorts.
21 It wasn't me.

22 Q. [11:59:15] But you knew what they were doing, didn't you, because you stated
23 that, and I quote from your testimony at T-214, page 31, lines 15 to 17:

24 Question: "Did they play any other roles apart from household chores?"

25 Answer: "At that time their duties were limited to that. It's only later on that they

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1 were given other duties. Later on."

2 A. [12:00:01] That's the reason why I say that they could be given duties or tasks
3 like other troops in the army. But sometimes they also spent time with my wife,
4 carrying out household duties. They would help my wife in carrying out household
5 duties. But it was up to the chief of the bodyguards, whose responsibility it was to
6 assign work or to tell them what they needed to do.

7 Q. [12:00:42] Now, throughout your time in the UPC/FPLC you had more than
8 just those four PMFs or female escorts, correct?

9 A. [12:01:19] At some point in time there was a change, and it depends on what
10 period you're talking about. When we were in Bunia, I do recall that I had those
11 bodyguards. Then, as I said before, I went to live in Bunia and it is those
12 bodyguards who were with me.

13 Q. [12:01:50] So to be clear, at or about September 2002, when you went to live in
14 Bunia, those four PMFs went with you?

15 A. [12:02:11] Yes, those whom I have just mentioned, yes, I was with them in
16 Bunia. The same group.

17 Q. [12:02:20] And more PMFs joined your escort from that time onwards, correct?

18 A. [12:02:33] I saw some who were the wives of my bodyguards, especially when
19 I went back to Bunia. I saw them from around the month of July 2003. But when
20 the Ugandans were there, I remember that I had only those four PMFs within the
21 group of five bodyguards.

22 Q. [12:03:20] I'm going to name some additional PMFs which I suggest were also
23 in your escort for you to tell the Chamber whether you agree or not.

24 Weren't the following women, whose names are Jeannine, Patience, Ani, Véro, Mave,
25 Love and Fatuma Gisèle, also some of the women who were your armed escorts in

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1 2002 and 2003?

2 A. [12:04:16] No. All the persons you have named, Jeannine, for example, was

3 Brown's wife and Brown was one of my bodyguards and I saw him from July 2003.

4 Ani was married to one of my bodyguards whose name is Kiza and I also saw her

5 from the month of July 2003. When it comes to Véro, I don't know who she is.

6 Now Mave, I saw her from the month of August or September. I do not know Love.

7 And Fatuma, I saw her towards the end of July when she got married to one of my

8 bodyguards called Trésor, and that was in July 2003.

9 So in fact almost all of these people were at my place from the month of July 2003.

10 And there are also a number of others whom I do not know. Therefore, in summary,

11 what I'm saying is that all of these persons were not part of my -- of the team of my

12 escorts before the incident with the Ugandans, that is, before the incident with the

13 Ugandans these people were not part of my escort.

14 Q. [12:06:03] And the PMFs, I suggest, all of the ones I've named, but also

15 certainly the ones that you concede were your PMFs, the four you've mentioned, they

16 were under your direct command?

17 A. [12:06:46] When these women were both soldiers and wives of other soldiers,

18 then I could say that they were counted as part of the sections or platoons or

19 companies as bodyguards. However, they were not under my direct orders because

20 I gave -- I would speak to the leader of the group or unit of bodyguards. I didn't talk

21 to the bodyguards directly. I would speak to their leader.

22 Q. [12:07:24] You are the head of your own bodyguard escort, you could, couldn't

23 you, summon any of your bodyguards, female or male, at any time?

24 A. [12:08:01] That is not how the army works. There is a chain of command

25 which has to be respected. If I need to see a soldier in relation to any specific matter,

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1 I can summon that soldier, but it depends on the circumstances and the topic to be
2 discussed. One always has to go through someone to ask the person whom you
3 want to see to come. You cannot ask to see a soldier without informing that soldier's
4 hierarchical superior.

5 Q. [12:08:43] You're not suggesting, are you, that you needed Claude's permission
6 to summon one of your own escorts, are you?

7 A. [12:09:20] How would I be able to summon such an escort? Whenever I
8 needed an escort I would call Claude on the walkie-talkie and ask him to send
9 such-and-such a bodyguard to me. And then Claude in turn would call the platoon
10 commander, who then in turn would contact the chief of section and then, in that way,
11 the order will trickle down to the person concerned.

12 Q. [12:09:52] Now let's go back to my question, my original question, which was:
13 You were the head of your own bodyguard escort, you could, couldn't you, summon
14 any of your bodyguards, female or male, at any time, whether through Claude or
15 directly?

16 A. [12:10:29] When I had to address a specific problem I could do so, but that -- if
17 that had been the case I would have done so without any difficulty, although right
18 now I -- no specific example comes to mind.

19 Q. [12:10:53] The PMFs in your escort were young, correct?

20 A. [12:11:14] They were all above 18. Some of them even had children.
21 Whether it be in relation to the time when we were in Bunia, or even thereafter, the
22 female bodyguards available to me at the time were all above 18. And I repeat, some
23 of them even had children already.

24 Q. [12:12:08] In 2002 and 2003 which of your PMFs had children already?

25 A. [12:12:34] When *(Redacted) came to us from the APC I had information

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1 whereby she had children and a husband. Now, as for the three others who were
2 with me before we were driven out by the Ugandans, they did not have children.
3 Then, later on, in the month of July when I said that I had some female military staff
4 who were married to other bodyguards, well, I could, I could provide a lot more
5 details in that connection if you were to put a more specific question to me.

6 Q. [12:13:27] Sometimes your escorts, including PMFs, travelled with you outside
7 of your residence?

8 A. [12:13:46] Yes. But again it depends on the period you are talking about.
9 When I went to Mongbwalu, Lotsove and Amama were in my company, and I believe
10 you saw that in the video segment. Now, if you want to be more specific, what I can
11 say is that I might be able to tell you who accompanied me for such-and-such an
12 activity within the group.

13 Q. [12:14:22] You were sometimes alone with your escorts, one on one, male or
14 female, correct?

15 A. [12:14:51] I do not remember such a situation. Those who were often with me
16 were my close bodyguards. And before the Ugandans drove us out, those who were
17 often with me were Brown and Kiza. The PMF had the duty of preparing food for
18 our guests, but most of the time I was with either Brown or Kiza. Those were my
19 close protection bodyguards. And I could not be seen to be alone.

20 Q. [12:15:42] Now, I suggest to you that you were at times alone with your PMFs
21 and that you had sex with them. What do you say?

22 A. [12:16:11] Madam, it is true that before a courtroom we are authorised to speak
23 about everything, but let me crave the indulgence of the Judges. When you say that
24 I had sexual relations with the PMFs, well, I used to look at these people as my
25 children. They used to call me "mzee", which is an expression of respect, and I was

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1 respected within the army.

2 So when an allegation is made that I had sexual relations with them, well, I never saw
3 them in front of me. And this is a matter of my own self, personal reputation. I
4 could not sleep with a PMF who called me "mzee". I was a married man and I also
5 had to show respect for my wife. So I have no such recollection.

6 Q. [12:17:31] And I suggest that you ordered your PMFs to have sex with you and
7 that they could not refuse because there was no higher authority to report the
8 incidents to.

9 THE INTERPRETER: [12:18:04] In his previous answer the witness said he only
10 became aware of these allegations here in the court.

11 THE WITNESS: [12:18:14] (Interpretation) If you refer to complaints, then you are
12 insinuating that I raped them or I forced them. Well, I was still young at the time
13 and it would not have been difficult for me to find a woman who would accept me.
14 You see, when it comes to rape, there is no love.

15 You also want to know that I was not a drug addict, I was not an alcoholic, I did not
16 smoke. I therefore do not know what would have pushed me to rape one of my
17 escorts. That is impossible, totally out of the question for me.

18 MS SAMSON:

19 Q. [12:19:10] Now, in the UPC/FPLC girl soldiers were fewer in number than
20 boys, correct?

21 A. [12:19:23] That is correct. And that is why I gave orders for them to be
22 protected because I was concerned about their situation in our circumstances. So
23 one needed to appreciate these women who had made the sacrifice to come and help
24 us, we needed to respect them. On one occasion, and this is on record on a video
25 recording, I said that they deserved to be respected. But the answer in short is that,

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1 yes, they were fewer in number than the male soldiers.

2 Q. [12:20:19] And when you say that "that is why I gave orders for them to be
3 protected because I was concerned about their situation", it's because these are
4 vulnerable young girls in a military camp who were at high risk of rape by the
5 soldiers and commanders around them, correct?

6 A. [12:20:54] Well, that is your analysis. But the truth for me as their
7 commander is that I wanted them to be protected because the presence of a female
8 soldier who had decided to make the sacrifice of fighting meant that such a person
9 was a special person who deserved to be protected so that upon leaving the army
10 they can return to a normal life and can be reinserted into society and recognised and
11 acknowledged and respected for what they had done. In fact, I personally awarded
12 some medals to these female soldiers because of the sacrifices they made.

13 Q. [12:22:03] You were aware, were you not, that soldiers within your close
14 bodyguard raped other young soldiers? And by way of example I can suggest that
15 your escort Museveni raped young girls in your escort.

16 A. [12:22:41] Well, maybe you want to tell me the person who Museveni raped.
17 I know the period during which Museveni served as one of my escorts. The
18 instructions were very strict and when any member of my escort fell in love with
19 other female escorts, they would come and tell me about it and they were expected to
20 enter into a regular, normal marriage arrangement with that female escort. So,
21 please, can you give me the name or names of those persons so that I might express a
22 view on it or provide you with some kind of explanation.

23 Q. [12:23:31] What I can suggest, sir, based on evidence during the trial is that
24 Museveni it's alleged raped this young girl who was small, under 15 in your escort
25 when he was at Mongbwalu at the Appartements where you were staying.

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1 A. [12:23:54] I have already given the list of the PMFs who were with me. There
2 was Amama. There was Lotsove, who was more than 18. Amama was I believe
3 older than 20 because she had already been part of the APC and already had children.
4 So who then would Museveni have raped as one of the members of my escort team
5 who was less than 18? I don't know anyone.

6 THE INTERPRETER: [12:24:41] A correction from the interpreter from the Swahili
7 booth: Anyone who was less than 14 years.

8 MS SAMSON: [12:24:53]

9 Q. [12:24:53] Now, coming back to the issue of protection of the girls in the
10 FPLC --

11 PRESIDING JUDGE FREMR: [12:25:03] Hold on, Ms Samson.

12 Mr Bourgon.

13 MR BOURGON: [12:25:05] Yes, Mr President. The witness was -- asked if
14 counsel could provide the name, counsel should provide the name if the Prosecution
15 has a name coming from this witness. Thank you.

16 PRESIDING JUDGE FREMR: [12:25:20] Ms Samson.

17 MS SAMSON: [12:25:22] Mr President, witnesses are ordinarily not permitted to
18 ask questions of that nature to examining counsel, as Defence counsel is certainly
19 aware. And the repeated question that I gave provided more information to the
20 witness on the issue to help situate him in time. And that is as far in my questioning
21 as I wish to proceed at this time.

22 PRESIDING JUDGE FREMR: [12:25:46] Mr Bourgon.

23 MR BOURGON: [12:25:47] Well, I object, Mr President. If counsel for Prosecution
24 is going to put a question to the accused that one of his bodyguard on -- based on the
25 evidence in this trial raped a girl, the Prosecution should be able to say which girl the

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1 bodyguard is alleged to have raped. Mr Ntaganda is not putting questions. He
2 needs to have the information to respond. That's what he was saying: "Give me the
3 information as to what the name of that girl that would have been raped by Museveni,
4 then maybe I can give you an answer." If we're going to put the question, we got to
5 put the information. Thank you.

6 MS SAMSON: [12:26:27] If I may respond, Mr President.

7 PRESIDING JUDGE FREMR: [12:26:29] Please briefly because I have clear opinion
8 of that.

9 MS SAMSON: [12:26:32] Just briefly. I do recall many occasions in
10 cross-examination where the suggestion put to a witness was "The Defence has
11 information that" and nothing further, and so -- in terms of the source at least.
12 Even --

13 PRESIDING JUDGE FREMR: [12:26:49] Please, I don't want to spend more time on
14 that. Please both sit down.

15 MR BOURGON: [12:26:55] This is very important, Mr President. We're coming to
16 something that was raised on numerous occasions right from the get-go. The
17 Prosecution is in a different position from the Defence. If they are going to put an
18 question and an allegation, they have to put the evidence on which it is based. It is
19 different from the position of the Defence. Thank you.

20 PRESIDING JUDGE FREMR: [12:27:16] Mr Bourgon, and the same to Ms Samson,
21 if the party puts question which is not fully clear, also the response will be evaluated
22 by the Chamber in the light of that fact. So in fact if the response is not complete or
23 even if response is "I don't remember", "I don't remember", we will have to take it also
24 as a result that the question was not clear enough. So I think it's nothing that could
25 be prejudicial to the witness, to the party.

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1 Please go ahead, Ms Samson.

2 MS SAMSON: [12:27:59]

3 Q. [12:28:01] Now, sir, you also indicated that you separated the male and female
4 recruits and that was a -- for sleeping, and that was a means of protecting the female
5 recruits against rape, was it not?

6 A. [12:28:52] In my military career and in all the places I have been to, including
7 my time in civil society, boys tend to sleep in different areas from girls. And it's the
8 same thing that obtains in the army. That is why within the army they slept in
9 different places.

10 Q. [12:29:21] And you testified that in all training centres where you were no
11 women became pregnant, FPLC training centres?

12 A. [12:29:52] None of them. No woman or girl got pregnant at the Mandro
13 training centre where I was present. I say this because it is only at the Mandro centre
14 that I was present as such. Additionally, however, I did not receive any information
15 that such an incident may have occurred at any other centre different from the
16 Mandro training centre.

17 Q. [12:30:30] And that's because, you said, you told them "nobody must get
18 pregnant" and they followed the instructions to the letter?

19 A. [12:30:49] In my capacity as an authority when I saw young girls arrive for
20 recruitment, I had to speak to them, and the boys, and ask them to be discipline and
21 tell them to be disciplined so that that would be useful for them later in their
22 subsequent life.

23 Q. [12:31:22] And these answers were given in the context of training camps.
24 Did this instruction apply to your trained soldiers as well?

25 A. [12:31:49] The soldiers who had already been trained, it also -- it was

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1 explained to them that there were things that they were not supposed to do. Rape is
2 not allowed within the army.

3 Q. [12:32:16] Were pregnancies allowed within the army? You've said they were
4 not allowed at the training camps. What about the trained soldiers, male or female?

5 A. [12:32:39] When they are married, because as I said, it was considered as a
6 family when these troops were married. The superior would know that. And they
7 had the right to have children.

8 PRESIDING JUDGE FREMR: [12:33:11] Sorry to interrupt, Ms Samson. One
9 additional question.

10 And you several times mentioned, Mr Ntaganda, that if they were married they were
11 allowed to live together and probably sleep together, but according my
12 understanding, it was not possible because of circumstances to get real marriage
13 ceremony, it was rather informal. How they could in the field get this marriage
14 status? Because I don't believe that they could go to Bunia and ask some officer or
15 priest to get them married.

16 THE WITNESS: [12:34:13]) (Interpretation) Given the situation in which we were,
17 it could happen. But allow me to explain what could have been done. If female
18 soldier -- if a female soldier fell in love with another soldier, that could be
19 explained to the -- they could explain it to the superior and therefore the boy could
20 declare that he wanted to marry this woman or this girl and then we would have
21 given our agreement. As the people responsible and in charge we had the
22 responsibility to help them because the army was considered as a family.

23 PRESIDING JUDGE FREMR: [12:35:10] So is that your testimony that the approval
24 of the superior in fact substituted real marriage ceremony?

25 THE WITNESS: [12:35:43]) (Interpretation) Their marriage ceremony depended on

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1 the decision of the couple. If the couple wanted to celebrate their marriage before
2 the competent authority, if that was the case, they would ask for authorisation from
3 the superior to regularise their marriage. We would therefore give this authorisation
4 such that they could proceed with that regularisation before the competent
5 authorities.

6 PRESIDING JUDGE FREMR: [12:36:17] But it was my presumption that there was
7 at least circumstances that there were no time, no chance to go to the competent
8 authorities, so then I would expect that those couples lived together without official,
9 official authorisation from the competent offices?

10 THE WITNESS: [12:36:54]) (Interpretation) Everything depended on the situation
11 which prevailed, your Honour. When there was a period of calm which made it
12 possible to carry out such procedures, that could be done. But when it wasn't
13 possible, the couple or the soldiers, they would inform the superior authorities and
14 that would be accepted because if it wasn't done, if they didn't inform the superior
15 authorities, the girl might be chased after by another man and so they would inform
16 the authorities such that that be made aware to the other soldiers. And when they
17 had the opportunity, they also had to regularise their marriage.

18 I'll give you my own example. I asked my wife to marry me, I even paid the dowry,
19 but due to the circumstances I wasn't able to celebrate my marriage before the offices
20 in the civil status officials. It was only in 2011 that I was able to hold my religious
21 ceremony and that was in 2010.

22 Of course I was with my wife but the -- when the situation didn't allow us to carry out
23 this.

24 PRESIDING JUDGE FREMR: [12:38:32] And my last question: Are you sure,
25 Mr Ntaganda, that there was no cases when such an informal marriage between

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1 soldiers under your command had been set up just only on the basis of wish one
2 person from the couple, I mean just the male and that the female simply was forced to
3 follow his wish?

4 THE WITNESS: [12:39:04]) (Interpretation) I don't know if you're speaking about
5 rape or an agreement between two people who love each other. Perhaps you could
6 be more precise so that I could explain the matter to you.

7 PRESIDING JUDGE FREMR: [12:39:42] I will because normally the condition of
8 the marriage is that both partners should agree with this, but I also can imagine that
9 only one partner would like to marry the other one, which normally used to be a man
10 who likes to get marry woman, she doesn't agree but because of the circumstances she
11 could be forced to get in such a marriage and then also to have sexual intercourse
12 after having partnership with such a guy, having also sexual intercourse with him.
13 So I'm just, at the moment I am speaking about the marriage, if one guy wants to get
14 married girl, she doesn't know, she doesn't want, but simply he was pushing her. So
15 could you exclude that this kind of cases occurred within soldiers under your
16 command?

17 THE WITNESS: [12:40:52]) (Interpretation) That could happen without me being
18 aware of such a situation, but when the girl refused the boy and I'm informed of that,
19 what would I do as an authority? I could not force the partner to live together. The
20 girl has the right to refuse the boy. And if the boy ever tries to force the girl, then he
21 has to be sanctioned.

22 PRESIDING JUDGE FREMR: [12:41:48] Judge Ozaki would also like to put
23 additional question.

24 Judge Ozaki, please.

25 JUDGE OZAKI: [12:41:52] In case of those informal marriage within your army, how

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1 did you ensure that the proper dowry paid?

2 THE WITNESS: [12:42:27]) (Interpretation) Normally before the soldier announces
3 that he's fallen in love with a girl and that he wants to get married, the girl must ask
4 the boy to pay the dowry and there has to be an agreement as to the dowry to be paid.
5 And once that's been paid, they can live together. But if he didn't have the capacity
6 to pay immediately, they could come to an agreement with regards to a subsequent
7 payment of the dowry. That would depend upon the situation. Generally within
8 the FPLC the situation wasn't very good, but when there were such circumstances,
9 they would come to an agreement as to the amount of the dowry later. The boy
10 could not refuse to pay because he absolutely had to pay the dowry. There were
11 certain cases when it was seen that this dowry had not been paid, and if we saw that,
12 we had the duty to sanction the person who had committed that offence by not
13 paying the dowry.

14 PRESIDING JUDGE FREMR: [12:43:59] One more, one question from my part:

15 Do you know, Mr Ntaganda, in 2002, 2003 what was in Ituri province the lowest age
16 at which the girl could marry the boy?

17 THE WITNESS: [12:44:37]) (Interpretation) Officially I can't say that there was that.
18 Each ethnic group has its custom with regards to marriage. However, if we want to
19 speak about civilian marriage, I've got nothing to say to you. But with regards to the
20 ethnic groups, I would say that each ethnic group has its customs. In the army, as a
21 person in charge in the army I could say the following: When somebody comes into
22 the army they leave their customs and when the person comes to us, they must follow
23 discipline, the rules, the chain of command. Now, where it concerns marriage,
24 civilian marriage, I can only say that each ethnic group has its customs with regard to
25 marriage.

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1 PRESIDING JUDGE FREMR: [12:46:13]) Thank you, Mr Ntaganda.

2 Ms Samson, you have the floor.

3 MS SAMSON: [12:46:18] Thank you, Mr President, your Honours.

4 Q. [12:46:22] Now, sir, I want to ask you a question about the training camps.

5 You've talked about the Rwampara training camp and the Mandro training camp.

6 There were also other UPC training camps. Can you name some, please?

7 A. [12:46:44] There was a centre in Boga, another in Bule. I didn't visit these two
8 centres. I didn't visit the two centres when the training was being held there.

9 Q. [12:47:18] And what about the Lingo camp, was that a training facility or a
10 military camp, according to you?

11 A. [12:47:49] With regards to Lingo, I remember that it was after we had been
12 driven out of Bunia within the framework of the reorganisation. Our troops who
13 had come from town and those who had withdrawn, they went to them and they
14 were brought within the army. It was a reorganisation centre where they received
15 military exercises, rehearsal.

16 Q. [12:48:45] The UPC/FPLC had military training camps also in the following
17 places: Fataki, Largu, Joo, Katoto and Mont Awa.

18 A. [12:49:08] I mentioned Katoto when we were beaten by the APC or defeated
19 by the APC. When they went to that place by way -- withdrawing that -- in retreat,
20 that was in June and July 2002.

21 With regard to the other camps that you mentioned, I didn't follow these centres.

22 Fataki, Largu, Djugu, nor there. Fataki and Largu were in Djugu territory. I don't
23 know if you're speaking in a specific way about Djugu where it concerns the territory.
24 Perhaps you could shed light on that so I can better answer your question.

25 Q. [12:50:05] Sir, in your last answer did you mention Joo, J-O-O? Did you

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1 respond in relation to that camp -- that place?

2 A. [12:50:20] I spoke about the territory of Djugu.

3 Q. [12:50:33] I was referring to a place called Joo, J-O-O.

4 A. [12:50:52] Joo, J-O-O, yes, we had a brigade, but we didn't have a military
5 training camp.

6 Q. [12:51:08] Now, you testified that Tinanzabo was in charge of recruitment at
7 the Rwampara training camp. When you visited Rwampara on 12 February 2003,
8 did Tinanzabo bring recruits to the camp that day with him?

9 A. [12:51:51] Please could you read the passage to me so that I can better answer
10 your question?

11 Q. [12:51:58] T-220, line 19 to 23, 24 question:

12 "I'm speaking about the recruits. So what did a recruit do to be taken to Rwampara?
13 What was your role in that?"

14 Answer: "None."

15 Question: "So who was responsible for that? Who dealt with that?"

16 Answer: "In Rwampara it was Tinanzabo who took the recruits or who brought the
17 recruits there."

18 Would you like to amend that answer in any way?

19 A. [12:52:47] I don't want to change anything. I just wanted you to read it to me.
20 That's something that you did and so -- and that's what I stated.

21 PRESIDING JUDGE FREMR: [12:52:58] Mr Bourgon. So sorry, Ms Samson.
22 Mr Bourgon.

23 MR BOURGON: [12:53:02] Mr President, in the next two lines down, the witness
24 explains in his answer exactly what was the role of Mr Tinanzabo. So we should
25 read that part of his testimony too if my colleague is going to contradict him on this

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1 issue. Thank you.

2 PRESIDING JUDGE FREMR: [12:53:16] Ms Samson.

3 MS SAMSON: [12:53:18] Mr President, I'm not contradicting the witness. I'm just
4 trying to get the witness to remember and recall his own evidence. I put to him that
5 Tinanzabo was in charge of recruitment at Rwampara. He said, "I don't remember
6 saying that. Tell me where". I gave him the response and he said, "Yes, I agree".
7 I'd like to move on.

8 PRESIDING JUDGE FREMR: [12:53:36] Yes, please do.

9 MS SAMSON: [12:53:40] Now, on --

10 PRESIDING JUDGE FREMR: [12:53:41] Mr Bourgon?

11 MR BOURGON: [12:53:43] The witness did not say that he agreed. That's not
12 what the witness said. The witness said, "I wanted you --" he agreed he wanted to
13 hear his testimony because that's not what he said in-chief. So if my colleague wants
14 to have different evidence about the role of Tinanzabo, my colleague should read
15 what the witness said to the witness and then he can say whether that's true or
16 not true.

17 But now we're proceeding on the basis of incomplete question, incomplete evidence.

18 Because there is a passage specifically with the role of Mr Tinanzabo. I don't want to
19 say what it is, but my colleague should put that to the witness and then ask the
20 witness whether that's true or incorrect. Thank you.

21 PRESIDING JUDGE FREMR: [12:54:29] Ms Samson.

22 MS SAMSON: [12:54:30] I understood that the witness accepted the passage that I
23 read, "In Rwampara it was Tinanzabo who took the recruits or who brought the
24 recruits there", in response to the question: Who was responsible for taking recruits
25 to Rwampara? Who dealt with that? And I asked if he wishes to amend and he

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1 said, "I don't want to change anything", unless I'm missing something from the initial
2 examination-in-chief.

3 PRESIDING JUDGE FREMR: [12:55:03] Mr Bourgon.

4 MR BOURGON: [12:55:04] Mr President, the initial question is Tinanzabo was
5 responsible for the recruitment in Rwampara. That was my colleague's initial
6 question. This is not what the witness said in-chief and this is not part of -- the part
7 that was read to him is incomplete.

8 I read from the transcript and Mr Ntaganda said at lines 23 of page 30, "In Rwampara
9 it was Tinenzabo who took the recruits or who brought the recruits there". But then
10 he explains what is the role and the function of Mr Tinanzabo and he clearly states
11 what he believes his role was. So the question is incomplete.

12 If my colleague would like to suggest Tinanzabo is responsible for recruitment, that's
13 one thing. But to say that this is what the witness said when it is not, then that's
14 incorrect. Thank you.

15 PRESIDING JUDGE FREMR: [12:56:04] Ms Samson, yes, it's the question that the
16 word "responsible" in effect covers, which probably not exactly covers what has been
17 said by Mr Witness. So maybe please rephrase your question.

18 MS SAMSON: [12:56:18]

19 Q. [12:56:23] Sir, at some point in time was Tinanzabo responsible for bringing
20 recruits to Rwampara? Yes or no?

21 A. [12:56:49] Yes, at a certain time Tinanzabo brought recruits to Rwampara.

22 MS SAMSON: [12:56:56] Mr President, is that last series of objections and
23 exchanges taken out of my time?

24 PRESIDING JUDGE FREMR: [12:57:04] I don't think so.

25 MS SAMSON: [12:57:06] Thank you.

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1 MR BOURGON: [12:57:07] Why not, Mr President? Please, I need a -- I want to
2 know why this exchanges will not be taken out of the time. I've done a number of
3 cross-examination. It was always taken out of my time when there were exchanges
4 like this. It was not a pertinent objection.

5 PRESIDING JUDGE FREMR: [12:57:23] Mr Bourgon, I think it's part of our
6 approach we use to take for the whole proceedings.

7 Court officer, do you want to elaborate on that?

8 THE COURT OFFICER: [12:57:35] Yes, indeed. Thank you Mr President. The
9 Registry is applying exactly the same rules for the Defence and for the Prosecution,
10 meaning that when an objection is taking more than two minutes, it's taken out of the
11 questioning times.

12 PRESIDING JUDGE FREMR: [12:57:50] Please proceed, Ms Samson.

13 MS SAMSON: [12:57:52]

14 Q. [12:57:55] Now, sir, on 12 February 2003, when you visited the Rwampara
15 training camp, did Mr Tinanzabo bring any recruits with him that day for training?

16 A. [12:58:15] No. When we were there, Tinanzabo was already there. We
17 found recruits there, so he didn't come with recruits. When we arrived, we found
18 recruits that he had brought to Rwampara. And Tinanzabo came with the president,
19 Thomas Lubanga. Both of them met me there.

20 MS SAMSON: [12:58:49] Mr President, I would like to move to a slightly different
21 topic which will require some development, and I ask your leave to break a few
22 minutes early.

23 PRESIDING JUDGE FREMR: [12:58:58] All right. So we will break now.

24 Mr Bourgon.

25 MR BOURGON: [12:59:05] Thank you, Mr President. I have one quick transcript

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1 correction, page 50, lines 20 and 21, the English version. In our view, the French
2 version is correct, but I don't have the reference for the French version. But I'd like
3 to have verified page 50, lines 20 and 21. Thank you.

4 PRESIDING JUDGE FREMR: [12:59:31] Thank you. Noted and verifications
5 supported by the Chamber as well.

6 Before we break, it would be good maybe for participants, parties and Chamber as
7 well, how much time still remain for Ms Samson till the end of cross-examination,
8 court officer, please?

9 THE COURT OFFICER: [12:59:50] The Prosecution still has 1 hour and 27 minutes,
10 to be exact.

11 PRESIDING JUDGE FREMR: [12:59:55] All right. So just to inform parties, if
12 there will be still some remaining time, we would like to start with LRV's questioning.
13 So please, Ms Pellet, even if it would be 10 minutes remaining, we would like anyway
14 to start. So please be ready.

15 Now we break and we will reconvene half past 2.

16 THE COURT USHER: [13:00:34] All rise.

17 (Recess taken at 1.00 p.m.)

18 (Upon resuming in open session at 2.30 p.m.)

19 THE COURT USHER: [14:30:33] All rise.

20 Please be seated.

21 PRESIDING JUDGE FREMR: [14:31:02] Good afternoon, everybody.

22 We will continue with the final part of cross-examination of Mr Ntaganda conducted
23 by the Prosecution.

24 But before doing that, one announcement, because of some further commitments of
25 Judges, we will have to finish this session five minutes before the normal end, which

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1 means at 4.25.

2 Now, Ms Samson, you have the floor.

3 MS SAMSON: [14:31:32] Thank you, Mr President. And I would ask that we please
4 move into private session. And I believe we will be in private session for perhaps
5 15 to 20 minutes.

6 PRESIDING JUDGE FREMR: [14:31:48] Good. At least we could inform public,
7 especially public at our gallery, how much time we will spend at this regime of
8 private session.

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

10 (Private session at 2.32 p.m.) *(Reclassified partially in public)

11 THE COURT OFFICER: [14:32:11] We are in private session, Mr President.

12 PRESIDING JUDGE FREMR: [14:32:14] Thank you, court officer.

13 Ms Samson, please proceed.

14 MS SAMSON: [14:32:19] Thank you.

15 Q. [14:32:23] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 A. [14:33:23] (Redacted)

23 (Redacted)

24 Q. [14:33:38] (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 A. [14:34:13] (Redacted)

4 (Redacted)

5 Q. [14:34:42] And you spoke about (Redacted) over the telephone from the Detention
6 Centre in October 2013, correct?

7 A. [14:35:10] I no longer remember. I don't remember. It is possible that I may
8 have done so, but I don't remember.

9 Q. [14:35:32] You were authorised to receive telephone calls from your (Redacted)
10 (Redacted), correct?

11 A. [14:35:53] Yes, that is correct. I had his telephone number.

12 Q. [14:36:06] And (Redacted) had access to all of your witnesses and potential
13 witnesses?

14 A. [14:36:31] That was the resource person, therefore they should have known or
15 had to have known my witnesses.

16 Q. [14:36:41] And you've spoken to some individuals who were not on your
17 authorised list of callers through (Redacted) telephone, correct?

18 A. [14:37:16] If there are any people who did not know that I am the one who
19 wanted to talk with them, well, some of them wanted to make sure that I was indeed
20 the one on a number of occasions. And it was thus that I was able to speak to these
21 people.

22 Q. [14:37:43] But my question is slightly different. Some of the individuals you
23 spoke to were not on your authorised list of callers, in particular you spoke to some
24 through (Redacted), through his telephone; is that right or not right?

25 A. [14:38:17] This is what I am trying to explain to you. There are some people

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1 whose names did not appear on that list. But if they wanted to make sure that I was
2 the one who wanted them to become my witnesses, then in those cases I would talk to
3 them.

4 Q. [14:38:45] And you knew that some -- well, in fact, I'll put to you that you
5 sometimes wanted to speak to those individuals before they had an opportunity to
6 speak to your counsel, correct?

7 A. [14:39:18] Well, I no longer remember that. I, I did not know that this kind of
8 issue would come up. So when a witness desired to make sure that I was indeed the
9 one asking them to become my witness, then I would intervene at that level to talk to
10 them and reassure them.

11 Q. [14:39:51] But you also told those witnesses, didn't you, that they could access
12 you at any time using (Redacted) and his phone? They could call you at any time.
13 Even after they were reassured that you wanted to speak to them, you wanted to
14 make clear they (Redacted) telephone, yes or no?

15 A. [14:40:36] I am not sure that I fully understood you. When (Redacted) met with
16 someone, a potential witness and felt that the witness didn't trust him and was not
17 sure that I was the one who wanted the person to be my witness, then (Redacted) would
18 express the wish that I should talk to that person. But this was not the case with all
19 the witnesses. It happened only every now and then.

20 Q. [14:41:15] When you spoke to witnesses you spoke about the events of 2002 and
21 2003, correct?

22 A. [14:41:38] When I arrived here my counsel asked me to explain to him the
23 various locations at which I had been and to tell him the people with whom I had
24 been and I therefore tried to identify the people who had been with me at the various
25 locations which my counsel had asked for information about. So that was part of my

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1 duty, arising from what the counsel asked of me when I arrived here in relation to the
2 events of 2002 and 2003.

3 Q. [14:42:27] And to be clear, you spoke to your witnesses about your whereabouts
4 and your activities in 2002 and 2003, correct?

5 A. [14:42:53] When I arrived here I did not know how the Court works. I had just
6 barely arrived and my counsel asked me to identify the people with whom I was from
7 the time I arrived in Bunia and also to mention the different places to which I had
8 been, as well as to provide him with the names of people who were in Mongbwalu at
9 the times of the attack in Mongbwalu.

10 Following that, I tried to identify those people who had been with me who had been
11 there, and this was done within the framework of the duty that my counsel had asked
12 me to perform.

13 Q. [14:44:08] And so in line with this duty that you had to perform, you reached
14 out yourself to witnesses through your authorised caller such as (Redacted), correct?

15 PRESIDING JUDGE FREMR: [14:44:24] Hold on, Mr Witness.

16 Mr Bourgon.

17 MR BOURGON: [14:44:28] Thank you, Mr President. I did not want to interrupt,
18 but this is the third time that my colleague refers to a question. I refer here to
19 page 73, and when we speak about witnesses and the question on page 73 at line 7 is:
20 "When you spoke to witnesses you spoke about". We have no information that
21 Mr Ntaganda spoke to witnesses. He might have spoken to persons he knew, but
22 not to witnesses. And then this suggestion that he is speaking to witnesses is taken
23 again on two further occasions.

24 My colleague should, Mr President --

25 PRESIDING JUDGE FREMR: [14:45:12] Point taken.

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1 MR BOURGON: [14:45:13] -- put the right information. Thank you.

2 PRESIDING JUDGE FREMR: [14:45:16] Ms Samson.

3 MS SAMSON: [14:45:17] Yes, Mr President. I did not realise it was disputed that
4 Mr Ntaganda had spoken to witnesses who will be appearing for him or indeed
5 potential witnesses who could be Defence witnesses.

6 PRESIDING JUDGE FREMR: [14:45:31] Then probably word "potential witness"
7 would be more accurate because we even don't know who of them really appeared or
8 will appear. So at least please use term "potential witnesses".

9 MS SAMSON: [14:45:47]

10 Q. [14:45:47] Now, sir, you spoke to a woman named (Redacted) who is Defence
11 Witness D-10?

12 A. [14:46:17] When I talked to her, her name was not yet on the list of witnesses,
13 but I believe I did have a talk with her.

14 Q. [14:46:33] And to be clear, (Redacted) was not on your list of authorised callers
15 with the Registry.

16 A. [14:47:08] I have already explained to you that her name was not on that list, but
17 she wanted me to confirm to her that I was the one who wanted to talk with her.
18 And that is how (Redacted) put us in contact, to reassure her that I was the one who
19 wanted to talk to her.

20 PRESIDING JUDGE FREMR: [14:47:34] Sorry to interrupt, Ms Samson, I have
21 additional question.

22 Mr Ntaganda, so your telephone call with (Redacted) was only about the
23 possibility whether she could come and testify, or also about, about what she should
24 testify or she could testify?

25 THE WITNESS: [14:48:05] (Interpretation) Ordinarily when I talked with her and

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1 there was something that I did not remember, I asked her to remind me of what had
2 happened. But what I remember specifically is that when I talked to her I asked her,
3 although I might not remember the specific issues we discussed, what ordinarily
4 happened is that when I talked with somebody with whom I had lived, I could have
5 asked them to remind me about a thing or two which may have happened at such
6 and such an occasion.

7 PRESIDING JUDGE FREMR: [14:49:00] Thank you.

8 Ms Samson, please proceed.

9 MS SAMSON: [14:49:04] Thank you.

10 Q. [14:49:05] Now in the telephone call that I'm referring to from (Redacted) to you
11 in October 2013 you were the one who asks to speak to (Redacted). So I put to you that
12 at times the contact was initiated by you rather than by a witness.

13 A. [14:49:46] Well, that is not possible because I was not able to know when (Redacted)
14 would be in the presence or in the company of someone who wanted to talk with me.
15 He is the one who had the duty to seek out such people. And whenever he came
16 into contact with any of such persons and was of the view that such a person was
17 hesitating to talk directly with him, then he would pass the phone to that person and
18 ask that person to talk directly with me.

19 PRESIDING JUDGE FREMR: [14:50:27] Mr Bourgon.

20 MR BOURGON: [14:50:28] Thank you, Mr President. The question put by my
21 colleague was that Mr Ntaganda had requested to speak with (Redacted). I would like
22 to know what is the Prosecution's basis for this proposition.

23 PRESIDING JUDGE FREMR: [14:50:42] Ms Samson.

24 MS SAMSON: [14:50:43] Yes, Mr President.

25 It's a telephone call, transcription of the call, and that's the, that is the basis. The call

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1 translation is DRC-OTP-2101-1391, item 1444. I think counsel must be aware.

2 PRESIDING JUDGE FREMR: [14:51:18] Mr Bourgon.

3 MR BOURGON: [14:51:20] Well, based on what I have, this conversation is not

4 a basis to say that Mr Ntaganda requested to speak with the person. But in addition,

5 if we now speak about the conversation, it should be given to Mr Ntaganda in

6 a language he understands in full so that he can have a look at it.

7 MS SAMSON: [14:51:41] Mr President, we will certainly get to that, but I am not

8 quite there yet and I would ask that I can --

9 PRESIDING JUDGE FREMR: [14:51:49] Mr Bourgon.

10 MR BOURGON: [14:51:49] It's not a better of getting to it.

11 PRESIDING JUDGE FREMR: [14:51:51] Mr Bourgon, please.

12 MR BOURGON: [14:51:52] We are in it now.

13 PRESIDING JUDGE FREMR: [14:51:56] Please. If one counsel is on his or her feet,

14 please remain sitting. I believe that this is something that you should know.

15 Ms Samson, please proceed.

16 MS SAMSON: [14:52:08] Thank you, Mr President. I will get to playing this audio

17 recorded conversation, an extract of it. Right now I have a series of questions to put

18 to the witness, not many. I can read the two lines at which the witness asks to speak

19 (Redacted)

20 full portion of this audio together in a moment.

21 PRESIDING JUDGE FREMR: [14:52:39] Now, Mr Bourgon.

22 MR BOURGON: [14:52:41] Thank you, Mr President. I submit that it is unfair to

23 ask questions to the witness on a conversation without him having a text before him

24 and having him having it in hand to look at it in a language he understands. This

25 way he can answer questions with knowledge of the conversation. There were over

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1 4000s of these conversations, Mr President. Thank you.

2 PRESIDING JUDGE FREMR: [14:53:05] Ms Samson, wouldn't it be better to start
3 with playing this audio, which would dispel any doubts about the fairness of such,
4 such approach?

5 MS SAMSON: [14:53:21] Certainly, Mr President. We can proceed in that, in that
6 fashion.

7 Q. [14:53:26] The audio is DRC-OTP-2094-0218, item 442. The transcript is
8 2101-1106, item 1443. And the translation, as I mentioned, is 2101-1391, item 1444.
9 And we will listen together to minutes 0 to 4, from minute 0 to minute 4. The
10 interpreters have the translation.

11 PRESIDING JUDGE FREMR: [14:54:10] Mr Bourgon.

12 MR BOURGON: [14:54:11] Yes. Mr Ntaganda should be provided with a copy of
13 the transcript in his language because these conversations are very hard to listen to.
14 Thank you.

15 MS SAMSON: [14:54:19] Mr President, these are Mr Ntaganda's conversations and
16 as with videos where other people are speaking, he doesn't get a copy of the
17 transcript. He can listen.

18 PRESIDING JUDGE FREMR: [14:54:32] I will consult my colleagues in order not to
19 deprive Mr Bourgon of his right to object.
20 (Trial Chamber confers)

21 PRESIDING JUDGE FREMR: [14:55:21] So our ruling is that we can proceed as
22 proposed by Prosecution, which means that at the moment we don't see a need to
23 provide Mr Ntaganda with written transcript.

24 But, Mr Ntaganda, if you would have a problem to understand some part of audio,
25 we can play it, play it again or translate, transcript to your native language. So now

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1 we can proceed.

2 MS SAMSON: [14:56:04] And may I ask, please, that when the audio is played,
3 could the interpreters indicate who is speaking for the ease of the exercise?

4 THE COURT OFFICER: [14:56:17] Just to be on the safe side, are you requesting the
5 Registry to play that audio?

6 MS SAMSON: [14:56:25] Yes, please. Up to minute 4. And for the -- before we
7 begin, for the purposes of the interpreters, it starts at line 1 and continues through to
8 line 73.

9 (Playing of the audio excerpt)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 A. [15:03:30] (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [15:03:51] And when you talked to (Redacted), you introduce the topic of what,
6 quote, "they will ask you". And in particular you're interested in the age that she
7 will say to your lawyers she started working with you, correct?

8 A. [15:04:35] (Redacted)

9 she was when she came to Mandro. And she explained to me that, if I had
10 remembered correctly, that she was 18. So during that telephone call, I was
11 interested in asking her what she was going to say if ever someone put a question to
12 her about her age, and she confirmed what she had said at the time. And I didn't
13 want to push it any further. I didn't ask her for any -- to do anything else in that
14 regard.

15 Q. [15:05:15] Well, sir, in fact, in the conversation we just listened to, you insist that
16 she tell you what she will say to your lawyers about her age. And I will read, you
17 say:

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Now, I put to you that you are in fact ensuring that (Redacted) will say what you want
2 her to say, which is that she was 18 when she was with you in your escort. But that's
3 not --

4 PRESIDING JUDGE FREMR: [15:06:25] Ms Samson, I will not -- I will prohibit this
5 question because in my view you are asking Mr Witness to interpret what he said.
6 The Chamber carefully followed what has been said. But to -- it is your
7 interpretation what does it mean, but again it is up to the Chamber to interpret the
8 sense of the language used. And even it is not by, by the witness to have a polemic
9 with your interpretation. So just interpretation, it's opinion. So please proceed.

10 MS SAMSON: [15:07:00] Yes. I can move, Mr President, on. I want to be fair to
11 the witness in the Prosecution's case in relation to the credibility of this witness, as
12 well as the credibility of witness D-10. And in fairness, subject to the Chamber
13 determining that's not necessary, I would like to put to this witness that he is telling
14 the witness what to say or influencing her account. And I can put it in those terms.

15 PRESIDING JUDGE FREMR: [15:07:36] (Microphone not activated)

16 MS SAMSON:

17 Q. [15:07:39] Now, sir, my suggestion to you is that in this exchange you are
18 attempting to influence the account of a person who will be one of your witnesses in
19 relation to her age when she was in your escort.

20 A. [15:08:08] If I had that document and I could read like the way you're reading,
21 because you're reading out. You have something there, something better than me in
22 terms of understanding. But I'll tell you this: I didn't say to her that she should say
23 a particular age. I didn't tell her to say a particular age. I wanted to know whether
24 she remembered the age that she had told me. And I said to her, "If they ask you
25 how old you were when you entered the army, remember they might ask you that

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1 question." And I said to myself, "She's going to say the age that she was." I didn't
2 tell her to say that she was a particular age.

3 Q. [15:09:06] And then your discussion turns to when (Redacted) joined your group and
4 (Redacted) states that she can't remember, she's forgotten. And you say to her, quote:
5 "But she came later on, she came after ... after the Ugandans, didn't she?"

6 PRESIDING JUDGE FREMR: [15:09:47] Hold on, Mr Witness.

7 Mr Bourgon.

8 MR BOURGON: [15:09:51] Mr President, in all fairness to the witness, he heard the
9 conversation live on audio. The Trial Chamber has no idea of how bad the audio is
10 because all we've heard is the reading of a transcript. So we don't know how bad the
11 audio is. But now we are putting questions and we are coming back to the content
12 of a conversation without the witness knowing and having a text with these words.

13 PRESIDING JUDGE FREMR: [15:10:18] Mr Bourgon, I think you heard it. I said
14 clearly if Mr Ntaganda would have any problem with audio, he can ask and we can,
15 we can replay.

16 MR BOURGON: [15:10:28] He has asked twice, Mr President. Twice on two
17 occasions, and I can give you the line. He told counsel from the opposing party, he
18 said, "You have a paper you can read from. I don't have anything. Please give me
19 the text." He said it twice already. Thank you.

20 PRESIDING JUDGE FREMR: [15:10:45] Ms Samson.

21 MS SAMSON: [15:10:46] In my submission, your Honour, it isn't necessary for the
22 questions that I am putting. I have a very specific question, and then I have no
23 further questions on this particular document and counsel can take up the poor
24 quality of the -- alleged poor quality in re-examination or any other portion of this
25 conversation that he feels is appropriate. I have one question on this.

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1 PRESIDING JUDGE FREMR: [15:11:13] Yes, and, moreover, Ms Samson quote from,
2 from conversation. So it's not problem with understanding. If, Mr Ntaganda, you
3 want to quote more, please ask for that. If -- because as I am looking again at the
4 question, and then your discussion stands to when (Redacted) joined your group, and
5 (Redacted) states that she can't remember, she has forgotten. And you say, so
6 Ms Samson quoted you to her, quote, quote:

7 "But she came later on, she came after ... after the Ugandans, didn't she?"

8 So her question, is my understanding, targeting this, your quote. If you need more
9 extensive quote please let us know.

10 MS SAMSON: [15:12:00] Thank you.

11 Q. And the only question I have on that, sir, is you provide the information to the
12 witness, don't you, even after (Redacted) has said she can't recall a particular event?
13 You give her the information, correct?

14 A. [15:12:31] Could you play the audio so I can listen again carefully and then
15 answer your question so that the Judges can understand the context.

16 PRESIDING JUDGE FREMR: [15:12:46] Yes. I would support that. Moreover,
17 I was not informed by court officer, there seems a possibility to play original of the
18 conversation. Because so far I understood Mr Ntaganda was listening to Swahili
19 interpretation, but we are able to provide him with original. So now just,
20 Ms Samson, could you just specify what excerpt we should play again in --

21 MS SAMSON: [15:13:14] Certainly, Mr President --

22 PRESIDING JUDGE FREMR: [15:13:17] -- original version to Mr Ntaganda.

23 MS SAMSON: [15:13:19] For this particular -- is it the full four minutes or solely the
24 extract that I am referring to now?

25 PRESIDING JUDGE FREMR: [15:13:23] I believe the extract you are interested in

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1 would be enough.

2 MS SAMSON: [15:13:26] Yes. We are checking to see. The audio itself may not
3 have timestamps.

4 PRESIDING JUDGE FREMR: [15:14:23] Mr Ntaganda, I saw you have been
5 instructed by our court officer. Is everything clear to you, the instructions you have
6 been provided with?

7 THE WITNESS: [15:14:37] (Interpretation) Yes, I have understood. Let's wait and
8 see what she asks me, whether it really matches with what I asked. But the
9 instructions were clear.

10 PRESIDING JUDGE FREMR: [15:15:04] So now the technical issue -- are we ready to
11 play the excerpt concerned?

12 MS SAMSON: [15:15:14] The -- there are no timestamps, I don't believe in the audio,
13 so I think we may have to play it from minute 0 through to minute 3.50 or so. And I
14 have a question, Mr President, is the -- are the exchanges and the replaying being
15 taken out of Prosecution questioning time?

16 PRESIDING JUDGE FREMR: [15:15:34] Yes, we will take it out because it is just in
17 order to make Mr Ntaganda comfortable, which is his right, but it was not, I guess,
18 I believe is not caused by you, so this time will be subtracted from your time.

19 MS SAMSON: [15:15:53] Thank you.

20 (Playing of the audio excerpt)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 MS SAMSON: [15:20:48] (Redacted)
- 2 Q. [15:20:48] (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 PRESIDING JUDGE FREMR: [15:21:27] (Redacted)
- 7 MR BOURGON: [15:21:28] (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 PRESIDING JUDGE FREMR: [15:21:51] Ms Samson.
- 13 MS SAMSON: [15:21:53] Well I think the witness has heard this conversation many
- 14 many times now, and if there is a clarification he can make it, in my submission, not
- 15 counsel.
- 16 PRESIDING JUDGE FREMR: [15:22:02] Please, Mr Bourgon, I think, it --
- 17 MR BOURGON: [15:22:03] It is not a clarification, Mr President. If my colleague is
- 18 jumping paragraphs and he doesn't now have the text --
- 19 PRESIDING JUDGE FREMR: [15:22:09] Mr Bourgon. Mr Bourgon, I don't have any
- 20 problem with the way how it is proceeded now. Please, sit down.
- 21 MR BOURGON: [15:22:14] I insist Mr Witness on the witness getting a text so he can
- 22 see when we --
- 23 PRESIDING JUDGE FREMR: [15:22:18] You can --
- 24 MR BOURGON: -- are jumping paragraphs.
- 25 PRESIDING JUDGE FREMR: You can insist, but I am saying no. Sit down.

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1 MR BOURGON: [15:22:22] Thank you.

2 PRESIDING JUDGE FREMR: [15:22:22] Ms Samson, please proceed.

3 MS SAMSON: [15:22:25] Thank you, Mr President.

4 Q. [15:22:27] Sir, I am going to come back to my question again, which is: You ask
5 (Redacted) during this conversation when (Redacted) came to, quote, "us", your group. And
6 (Redacted) responds that she forgot, she has forgotten. Then you proceed to provide
7 her with the information about when (Redacted) arrived, according to you, correct?

8 A. [15:23:10] Your Honour, the problem I told you about I was going to have, when
9 the Prosecution asked me a question and I don't have the transcription in front of me,
10 it's going to be difficult for me. I'm going to have a hard time to really say what
11 happened. But if you ask me to give an account I'll do so, but truth be told I don't
12 have the transcription with me. There are things that she's saying, but I realise that
13 there are some things that she jumps over and I am not in a position to say, "Well, oh,
14 you skipped over that. This is how things happened." I can answer in general
15 terms but there's something that's not right here.

16 PRESIDING JUDGE FREMR: [15:24:15] It's okay, Mr Ntaganda. If you feel,
17 which is again your right, to say "I am not able to give you answer just on the basis of
18 audio", it's fine.

19 Ms Samson, please proceed.

20 MS SAMSON: [15:24:24] Thank you, Mr President. I am finished with the extract
21 and I would ask that they be admitted, the video and the translation -- the audio,
22 pardon me, and the translation in order for the Chamber to be able to evaluate the
23 excerpt that I have just played.

24 PRESIDING JUDGE FREMR: [15:24:47] For the purpose of impeachment?

25 MS SAMSON: [15:24:50] Effectively. Although it can be in -- it could, in my

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1 submission, be admitted for the truth of its content since Mr Ntaganda was
2 a participant, he can confirm the authenticity of the recording. So I will be using it
3 certainly in argument to undercut credibility issues which is ordinarily an
4 impeachment issue, but I, in my submission, believe it could also be admitted for the
5 truth of its contents.

6 PRESIDING JUDGE FREMR: [15:25:16] So I take it as an alternative request
7 primarily for the truth of the content and secondly, for -- if not for the truth of the
8 content as a -- for the purpose of impeachment.

9 MS SAMSON: [15:25:29] Thank you, yes.

10 PRESIDING JUDGE FREMR: [15:25:29] Defence, your position?

11 MR BOURGON: [15:25:31] We object, Mr President, to all forms of admission.

12 First of all, for the truth of its content, we oppose that. And the main reason being
13 that these transcripts were made to establish the truth. And when the Prosecution
14 was authorised to use these transcripts, there were 22 of such transcript, Prosecution
15 was authorised, they did not have the time but they've got an hour more to use the
16 transcripts, which is fine because then that opens up for me to use any other
17 transcript, so that's fine, but I will need more time for re-examination. But
18 the Chamber was clear that they were supposed to be strictly control, the Prosecution,
19 in terms of using this for the truth, establishing the truth. I don't believe that this
20 conversation establishes the truth.

21 With respect to request for admission for impeachment, I request, respectfully,
22 Mr President, that until I have chance to re-examine with a transcript that it be
23 marked for identification until then and then the Chamber can better rule whether it
24 should be admitted for impeachment. Thank you.

25 And I do note for the record, Mr President, that the witness specifically asked

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1 the Chamber for a transcript, which was refused. Thank you.

2 PRESIDING JUDGE FREMR: [15:26:54] Since it's a serious, serious litigation, I will
3 consult my colleagues.

4 (Trial Chamber confers)

5 PRESIDING JUDGE FREMR: [15:27:43] So according our ruling there were no met
6 criteria for admission for the truth of the content, but we find met criteria for the, for
7 the purpose of impeachment. And as to the transcript or translation it should be
8 MFled.

9 So now we can move further. Is there still a need to remain in the regime of private
10 session?

11 MS SAMSON: [15:28:13] No. Thank you, Mr President. We can move into public
12 session.

13 PRESIDING JUDGE FREMR: [15:28:18] Court officer, let's move into public session.
14 (Open session at 3.28 p.m.)

15 THE COURT OFFICER: [15:28:24] We're in open session, Mr President.

16 PRESIDING JUDGE FREMR: [15:28:37] Thank you, court officer.
17 Ms Samson, please.

18 MS SAMSON: [15:28:40] Thank you.

19 Q. [15:28:41] Now, sir, Chief Kahwa was initially calling young people to come for
20 training in Mandro in 2002?

21 A. [15:29:04] I don't know whether he invited youths for that. What I do know is
22 that when we -- when he went to Mandro he went to meet the local leaders. He was
23 amongst them. And that was when we had opened the centre of Mandro. He went
24 about to meet with the various chiefs, leaders, and to explain to them why we were in
25 the process of opening up Mandro.

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1 Q. [15:29:57] Yes. And in your testimony-in-chief T-213, page 61, lines 4 to 7, you
2 were asked:

3 Question: "Now, who chose the people who were to be trained?"

4 Answer: "Chef Kahwa said that it was his responsibility to do so because there was
5 an imminent danger. He called upon these young people and asked them to accept.
6 Yes, he was the person who was responsible. He was in charge of that."

7 And that's -- that evidence that you gave was correct, was it not, for that 2002 period
8 when you were in Mandro, summer 2002?

9 A. [15:31:04] That is why I'm saying that he had gone to visit the leaders when we
10 brought the young people. Before that, Chef Kahwa had visited the local leaders
11 and he was there to explain to them why we had opened the centre of Mandro.

12 Q. [15:31:26] Chief Kahwa also went to speak to youth and population groups
13 directly to recruit for the FPLC, correct, not just to speak to leaders, but also spoke to
14 the population for recruitment purposes?

15 A. [15:31:56] When he went about the various villages, I wasn't with him and
16 I don't know whether he talked directly to the local people, but I thought that he had
17 spoken to the local chiefs because they were the ones who represented the local
18 population.

19 Q. [15:32:18] Now I suggest to you that you did attend recruitment drives with
20 Chief Kahwa, in particular in Mabanga in 2002, at which time children under the age
21 of 18 and indeed under the age of 15 joined the FPLC.

22 A. [15:32:58] I do not agree with your suggestion. It is incorrect. At the time of
23 the opening of the Mandro centre I never went to any villages with Chef Kahwa.
24 Now, when it comes to Mabanga, I went there for the first time on 22 November 2002
25 in the evening on my way to Mongbwalu. That was the first time that I saw

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1 Mabanga with my own eyes.

2 Q. [15:33:49] Now, sir, you'll recall during your examination-in-chief and during
3 your cross-examination that you discussed a meeting held in June 2003 of the FPLC
4 hierarchy where you say various issues were discussed and notes of the meeting you
5 have disclosed. Do you recall that?

6 PRESIDING JUDGE FREMR: [15:34:28] Hold on, Mr Witness.

7 Mr Bourgon.

8 MR BOURGON: [15:34:31] Thank you, Mr President. I object to this line of
9 questioning. Prosecution requested additional time to complete its
10 cross-examination. Prosecution is now coming back to an issue that was discussed
11 at length previously during the cross-examination regarding to this meeting. So,
12 Mr President, in all fairness, if the Prosecution needs more time, it's to address
13 different issues, not the same issues over again. Thank you.

14 PRESIDING JUDGE FREMR: [15:34:58] Objection overruled. I guess, I hope that
15 Ms Samson will try to touch some further, further, new issues, not just repeat. If
16 some questions would be repetitive, yes, I will not allow them.

17 MS SAMSON: [15:35:13] Yes, Mr President. I will be addressing an issue related to
18 child soldiers, which is the general topic I am in at the moment.

19 Q. [15:35:23] Now, sir, do you recall that you stated you attended a meeting in
20 June 2003 at which various issues were discussed?

21 A. [15:35:47] Yes. That is correct. We had discussions on a number of topics.
22 And that was before I went to Mongbwalu. I do remember that.

23 Q. [15:36:03] And one of the topics that is in the notes of the meeting has to do with,
24 and I quote:

25 (Interpretation) "Must also be demobilised."

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1 (Speaks English) Now, I put to you that demobilisation of child soldiers remained
2 a critical task of the FPLC leadership at 16 June 2003, demobilisation of the children
3 who were in the group at that time.

4 A. [15:36:59] That was an important topic and that is why I have continually
5 repeated that we didn't have any child soldiers below the age of 18. We insisted on
6 this point. We explained to our commanders consistently that no recruitments of
7 children under 18 should take place, that this had to be avoided.

8 Q. [15:37:30] And now, sir, I want to be clear that my suggestion is that the minutes
9 you have disclosed of the meeting are false in certain material respects, in particular
10 your participation at the meeting, along with some other people, but also the extent to
11 which you -- the extent to which it records a discussion about child soldier
12 demobilisation. Do you agree?

13 PRESIDING JUDGE FREMR: [15:38:24] Mr Bourgon.

14 MR BOURGON: [15:38:26] I would just like to understand the question. It's put to
15 the witness "I want to be clear that my suggestion is that the minutes that you have
16 disclosed of the meeting are false." I would like to know, I mean, who disclosed the
17 minutes to whom? I don't understand the question, Mr President.

18 MS SAMSON: [15:38:46] Mr President, I can call up the document so we can see, if
19 that's helpful. It's a Defence document. And I just want to be clear that
20 the Prosecution suggestion is that the minutes do not accurately reflect in all respects
21 the discussions and persons present --

22 PRESIDING JUDGE FREMR: [15:39:08] I think it may be no need to present the
23 document, but just to in fact answer Mr Bourgon's question, or to add those facts.

24 MS SAMSON: [15:39:23] Yes, I will add that to the question --

25 PRESIDING JUDGE FREMR: Please.

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1 MS SAMSON: -- and rephrase.

2 Q. [15:39:30] Yes. So now, sir, I'm suggesting to you that the minutes that you,
3 through your Defence counsel, have disclosed to the Prosecution in this case are false,
4 have been falsified, the document is not accurate on certain -- in certain respects, in
5 particular some of the persons present and the extent of discussions on some topics
6 such as child soldiers. What do you say?

7 A. [15:40:21] The meeting which we held, and it is stated in the document, it is
8 stated that we discussed all the matters raised in the document. I don't know who
9 drafted the document, but I do remember what we discussed at that meeting in NBK,
10 at the NBK building before I travelled to Mongbwalu and all the topics covered are
11 included in the document.

12 MS SAMSON: [15:41:10] Mr President, the Defence document to which we've been
13 referring, I've been referring is DRC-D01-0003-5900, it has been given an MFI number.
14 And I would like to seek to admit for impeachment the two related documents that
15 the Prosecution states contain the accurate minutes of the meeting with an accurate
16 date for the meeting and list of participants, and that is DRC-OTP-0091-0888 and
17 DRC-0014-0177, both of which were used during the cross-examination. And the
18 provenance of these documents has been given to the Defence because they asked
19 that that take place during the Court recess.

20 PRESIDING JUDGE FREMR: [15:42:12] So there is a requests for admission of three
21 documents for the purpose of impeachment.

22 Defence, what is your position?

23 MR BOURGON: [15:42:25] I'm looking for the third document, Mr President. I
24 have the first two documents, but the third one I do not have.

25 PRESIDING JUDGE FREMR: [15:42:34] Take your time.

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1 MR BOURGON: [15:42:48] For the purpose of impeachment, Mr President, we
2 have -- we believe that the three documents should go together regardless of the
3 ultimate decision that is taken on the document which is now MFled. But the three
4 of them should go in for the purpose of impeachment, and we will make of course
5 different arguments because we believe it strengthens Mr Ntaganda's case.

6 Thank you.

7 PRESIDING JUDGE FREMR: [15:43:08] Very well. So those three documents
8 specified by Ms Samson are admitted for the purpose of impeachment.

9 Ms Samson, please proceed.

10 MS SAMSON: Thank you.

11 PRESIDING JUDGE FREMR: Mr Bourgon.

12 MR BOURGON: [15:43:17] Well, Mr President, I requested the three to go in. My
13 colleague requested only two, not the first one, I guess. I would like the first one,
14 which is now MFled at our request, that this also goes in for impeachment so that the
15 Trial Chamber has the three documents together for this one impeachment issue.

16 Thank you.

17 PRESIDING JUDGE FREMR: [15:43:38] I don't notice any difference whether I am
18 saying that all those three documents go together, but at least we decided that all
19 those three documents should be admitted for the purpose of impeachment. Was I
20 clear enough or is there any problem with this?

21 MS SAMSON: [15:43:52] It seemed clear to me. Thank you, Mr President.

22 PRESIDING JUDGE FREMR: [15:43:54] So please proceed, Ms Samson.

23 MS SAMSON: [15:43:58]

24 Q. [15:43:58] Sir, I am changing topics now. In relation to your personal activities
25 in Mongbwalu, it's true, is it not, that you had personally pillaged medicine and

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1 medical equipment from the Mongbwalu hospital in November 2002?

2 A. [15:45:01] That is not true. By the way, I went with a small craft and part of my
3 escort and journalists could not travel with me. I had a number of escorts, but some
4 had to stay behind. Then, I also went with a battalion commander who had pillaged
5 and this was not authorised pursuant to the UPC ideology. So I went with this
6 commander in order to put him in detention. How then could I do such a thing at
7 a time when I myself was transporting pillaged material? When I went there I was
8 with the colonel who had been accused of pillaging. How could I have done that
9 when I had punished Commander Abelanga and then myself engage in such a thing?
10 That is not true.

11 Q. [15:46:13] Well, I put to you that you also pillaged other items from Mongbwalu,
12 including clothing, generators, chairs, alcohol and other goods.

13 A. [15:46:41] Please refer to the video. When we arrived in Mongbwalu, and from
14 the time I left my house after we were driven out by the Ugandans, the only clothes I
15 had were the clothes that I had received from Beiza, and in my capacity as
16 commander I could not be wearing pillaged clothes. That would not have been
17 honourable, an honourable thing to do for the commander of an army, and the
18 civilians would take it badly. How could I accept to appear before civilians who
19 would have said, "Look, that commander is wearing my clothes"? No, never, that
20 would never have happened in an army under my command. That would have
21 been a shameful thing for any commander to do.

22 Q. [15:47:49] Now, sir, I'm changing topics again and I would like to come back to
23 the topic of your conversations from the detention centre. Your list of authorised
24 callers that you provided to the Registry included at least one person who was
25 registered under a false name, you gave a false name.

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1 A. [15:48:38] When I met that person, I was here. And the person explained to me
2 that they did not want their name to be revealed and I cannot reveal that name in an
3 open session either.

4 MS SAMSON: [15:49:22] May we move into private session, your Honour.

5 PRESIDING JUDGE FREMR: [15:49:24] Certainly.

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

7 (Private session at 3.49 p.m.) *(Reclassified partially in public)

8 THE COURT OFFICER: [15:49:44] We're in private session.

9 PRESIDING JUDGE FREMR: [15:49:46] (Redacted)

10 (Redacted)

11 MS SAMSON: [15:49:50] (Redacted)

12 Q. [15:49:50] (Redacted)

13 (Redacted)

14 A. [15:50:20] (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. [15:51:43] (Redacted)

24 (Redacted)

25 (Redacted)

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1 A. [15:52:05] (Redacted)

2 (Redacted)

3 Q. [15:52:24] (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. [15:53:05] (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [15:53:49] And during your calls with potential witnesses you spoke to them in,
14 at times, Swahili?

15 A. [15:54:14] I'm sorry, I have not quite understood your question, madam.

16 Q. [15:54:17] You spoke to your interlocutors, including potential witnesses, in
17 Swahili?

18 A. [15:54:46] I -- right now and off the cuff I cannot remember how I spoke to the
19 various people with whom I talked. When it came to (Redacted), for example, we
20 spoke to each other in Swahili because we share that as a common language. Maybe
21 with other people I spoke another language. Now if you could be more specific in
22 terms of the person with whom I may have been having any conversation, then I
23 might be able to tell you which language we used.

24 Q. [15:55:23] You spoke to some of your interlocutors in Kinyarwanda?

25 A. [15:55:45] Yes. (Redacted), for example, we spoke to each other in Kinyarwanda.

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1 Q. [15:55:53] And you spoke to some of your interlocutors, including potential
2 witnesses in the Kihema language?

3 A. [15:56:20] If you were to provide me with the identity of the person in question,
4 I might be able to be more specific in my answer as well. Furthermore, it depends
5 on what time frame you are looking at. There are people with whom I talked at
6 some point when they were not yet witnesses. And this was within the context of
7 the duty given to me by my counsel to identify persons with whom I had been
8 previously. And I had to ask them to remind me of what had happened. So I am
9 not able to answer this question if you do not provide me with the time frames within
10 which I am said to have been having conversations with these people.

11 Q. [15:57:07] Well, let's see. You don't remember speaking to a potential witness
12 who became a trial witness, or will become one, (Redacted), D-12, in Kihema?

13 A. [15:57:35] I remember talking to (Redacted), but I do not remember at exactly what
14 time. I don't know whether it was after I arrived here or at some other point.
15 I don't really have a clear recollection.

16 Please, kindly show me the transcripts of the conversation, and then I will answer you
17 directly rather than have me begin to provide answers here and there to your
18 questions.

19 Q. [15:58:11] Sir, I put to you that since you arrived at the detention centre and
20 before your communications were restricted by order of the Chamber, you spoke to
21 Witness D-12, (Redacted), and you spoke to him in Kihema.

22 A. [15:58:42] I think that I talked with him before the list of people with whom I
23 could talk was restricted. Once again, I think it is (Redacted) who put me in touch with
24 (Redacted)

25 Q. [15:59:07] And you spoke to him in Kihema?

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1 A. [15:59:20] Yes. That is correct. We spoke in Kihema. But it must have been
2 at the very, very early days, at the beginning, even before the confirmation of the
3 charges.

4 Q. [15:59:37] You are not very fluent in the Kihema language, are you?

5 A. [15:59:59] I speak Kihema, but not like a native speaker. It's somewhat like
6 your mastery of French, you speak French but not with the accent of a native French
7 person. So with (Redacted), yes, we talked in Kihema.

8 Q. [16:00:22] Now, you certainly could have spoken to him in Swahili.

9 A. [16:00:43] He's a Hema person. And I speak Kihema. And we spoke in his
10 language. And when I would speak to someone who spoke Kinyarwanda, I would
11 speak in Kinyarwanda. When I speak to someone who speaks Kiswahili, we speak
12 in Kiswahili. That's the only reason why I spoke to (Redacted) in Kihema, because
13 he is Hema.

14 Q. [16:01:19] (Redacted) is Hema as well?

15 A. [16:01:28] She is Hema-north. She doesn't speak Kihema.

16 Q. [16:01:34] And you also spoke with (Redacted), while in
17 detention.

18 A. [16:01:56] I asked for that person's telephone number and that number was
19 given to me and since the name was on the list, that was normal. But I no longer
20 recall the date on which we spoke. And since he had been my secretary I had asked
21 him to look for people because he had been my secretary.

22 Q. [16:02:33] I suggest that you chose to speak with (Redacted) in Kihema because it
23 was a more difficult language for the Registry to translate and detect your
24 conversation.

25 A. [16:03:09] Which language can you speak for which there is no interpreter before

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1 this Court? I don't think that's the reason. I know that the person I was speaking to
2 was a Hema-South person, and since I knew Kihema myself we spoke in Kihema. It
3 wasn't because we wanted to hide anything from the Registry. But when we would
4 speak, and he himself is in the Congo, it's not a good idea. It's not recommended for,
5 for people to know what we are talking about, but I must also say that when we
6 spoke we were not concerned about that. But there was also a risk that the
7 conversation might be recorded in the Congo and people might find out what we
8 were talking about.

9 Q. [16:04:16] And at times you spoke to your contacts using code, right?

10 A. [16:04:52] At one particular time the Judges ordered -- I'm -- that I speak in
11 normal language, uncoded language. But as a soldier I was not used to speaking in
12 plain terms. When I know someone, I speak to him in a certain style and the person
13 can understand what I am saying. If I am talking to someone in the Congo, I have
14 a certain style that allows him to understand what I am saying. But I wouldn't say
15 that I was using any coded language.

16 PRESIDING JUDGE FREMR: Ms Samson, just caveat about timing. According to
17 information provided by court officer, you still have 10 minutes left.

18 MS SAMSON: [16:05:52] Thank you very much, Mr President.

19 Q. [16:05:55] Now, in one of the telephone calls that you had with (Redacted) in
20 February, pardon me, on 13 September 2013, you spoke with him about your
21 whereabouts in February 2003, specifically, from the 15th, 16th, and 17th of February,
22 and the days after, correct?

23 A. [16:06:46] I had just spent six months here, or seven months and a half. And
24 my counsel had asked me to explain to him who I had been with and I spoke to him
25 about (Redacted), who had been my secretary. And I asked (Redacted) to check his diary

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1 that he kept as my secretary so I would know whom I had spoken to and what I had
2 done. I wanted to make sure that the information that was recorded in the diary
3 matched the information that I remembered. So I asked him to help me by using his
4 agenda, his daybook, so that was something I had asked him to do, following up on
5 the request that my counsel had made of me.

6 Q. [16:07:51] (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 A. [16:09:16] No. I'd like to ask you to play the audio recording so that I can listen
17 carefully and explain to the Judges what we were talking about. I think that you are
18 taking certain passages and you are just saying what suits you. That's not the way it
19 happened. I said here are the dates, here are the dates, tell me what I was doing
20 those days. As my secretary, he was able to remind me what I was doing at that
21 time. He was on the list of people who had been allowed by the Registry. But if
22 you give me an opportunity to listen to the audio recording, I will explain to you
23 clearly and specifically what our discussion was all about.

24 Q. [16:10:11] Well, Mr Witness, your recall is already very good, but I take note of
25 that request. I have another question to ask before we address it. In this

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1 conversation you refer to the fighting at the place where the short people live, in the
2 middle, and you refer about the dates 15, 16, 17 February and then you go on,
3 19 -- until 3 March. And what you tell him is that you were in Fataki and Libi. But
4 my point is that at no time do you say to (Redacted) that during the 15, 16 and
5 17 February 2003 you were in Rwanda meeting your child for the first time. Now,
6 can you explain that?

7 A. [16:11:48] I couldn't talk to him about what I was doing. He had a duty. If I
8 had said to him that I had been in Rwanda you would say that I was telling a witness
9 what to come and say. I was saying this to him: "Here are the dates. Tell me what
10 was I doing during those days?" I spoke to him about what I was doing, my
11 activities. And he, my secretary, I had given him the dates in general terms so that
12 he could have some kind of idea and could find the information and give the
13 information to me.

14 Q. [16:12:46] (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Now there you do not refer at any time to going to Rwanda, correct?

11 A. [16:14:39] I don't know whether (Redacted) was aware that I had gone to Rwanda

12 because I didn't tell him that. But he knew. He was aware of the Libi activities. I

13 asked him to look at the place where I had spent the night on a particular date. And

14 when you read out to me, you didn't really read out what I had said. If I could listen

15 to the audio recording I can better explain things to the Judges, what I said on the

16 audio in relation to my activities in Libi. There is no difference. Allow me to listen

17 to the audio and I will provide explanations to the Judges.

18 PRESIDING JUDGE FREMR: [16:15:35] Ms Samson, your time is over.

19 MS SAMSON: [16:15:37] I thank you, Mr President. And thank you Mr Ntaganda

20 for answering my questions.

21 PRESIDING JUDGE FREMR: [16:15:42] I said that if he would have at least

22 10 minutes and we now have exactly 10 minutes, so Ms Pellet, who is counsel

23 representing former child soldiers, now it's your turn, you can start your examination

24 today.

25 Ms Martineau.

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1 MS MARTINEAU: I would like to make one or two preliminary remarks if -- I can
2 do it quickly.

3 PRESIDING JUDGE FREMR: [16:16:07] (Microphone not activated)

4 MS MARTINEAU: Yes. Yes, indeed.

5 PRESIDING JUDGE FREMR: [16:16:11] (Microphone not activated)

6 MS MARTINEAU: Well, yes, I will be quick.

7 PRESIDING JUDGE FREMR: [16:16:14] Please be quick.

8 MS MARTINEAU: So the Defence deems necessary to bring an issue to
9 the Chamber at this stage relating to the list of items that was provided by the LRV.

10 As per the order on the conduct of proceedings, filing number 619, the established
11 deadline for the LRV to identify any documents or other material it intends to show to
12 any witnesses is not based on paragraph 33, as suggested by the LRV in its email
13 dated yesterday but, rather, on paragraph 68, which reads as follows:

14 "Should the legal representative wish to show any documents or other material to the
15 witness, he or she shall state so identifying the material in question in the request."

16 The Defence does, however, understand that after the Defence representation of
17 yesterday, an exception was granted by the Chamber to -- for this specific case.

18 However, the Defence wishes to be sure that the procedures stated in paragraph 68 of
19 the order on the conduct of proceedings will be applying to the remaining Defence
20 witnesses in case the LRV wishes to examine them. So that's a first point. And --

21 PRESIDING JUDGE FREMR: [16:17:40] I think I can assure you immediately that it
22 will, but in this case there is some special circumstances mentioned even yesterday by
23 Ms Pellet. She also can comment it herself, and but for me would be still, main issue
24 if the deadline is not met, what is the prejudice to the Defence? And I also
25 understood from the list, which is not extensive, and most, all of them have been

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1 disclosed to, to the Defence long time ago, so I can hardly find any prejudice.

2 Do you see any prejudice in using those documents by Ms Pellet?

3 MS MARTINEAU: Well, the Defence understands that the Chamber granted an
4 exception and will abide by the --

5 PRESIDING JUDGE FREMR: Exactly.

6 MS MARTINEAU: -- by the decision of the Chamber. We just wanted to put it on
7 the record.

8 Second point. The Defence --

9 PRESIDING JUDGE FREMR: [16:18:32] Sorry, Ms Pellet would like probably
10 intervene immediately. Please.

11 MS PELLET: [16:18:37](Interpretation) Yes, thank you, your Honour. I beg your
12 pardon, but since there were two points I did want to merely speak to the first point.
13 And then possibly the second.

14 Now, regarding yesterday's exemption, and as I explained, I was not able to do this
15 specifically, but --

16 PRESIDING JUDGE FREMR: [16:19:05] I was just told that, which was a good point,
17 that we are still in private session. Let's move into open session.

18 (Open session at 4.19 p.m.)

19 THE COURT OFFICER: [16:19:24] We are in open session.

20 PRESIDING JUDGE FREMR: [16:19:26] And please proceed, Ms Pellet.

21 MS PELLET: [16:19:29](Interpretation) Thank you. I was saying, yes, yesterday I
22 did explain why I was not in a position to provide my list. And as you did point out,
23 the list has caused no prejudice to the Defence because all the items were to be found
24 on the list earlier provided by the Prosecution, and some items also on the Defence
25 list.

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1 Now speaking more generally your Honour, your decision regarding the conduct of
2 proceedings, in my humble opinion, has to do primarily with the questioning of legal
3 representatives of Prosecution witnesses. And I think it might be useful to have
4 a fresh look at this ruling in light of the decision taken to delay or space out or, rather,
5 reposition the questioning by the Legal Representative of Victims to after the
6 cross-examination by the Prosecution.

7 I would like to ask that this be done so that we can be working on the same
8 foundation, a logical foundation because paragraph 68 has to do with a stage
9 that -- a certain stage of proceedings and not this particular stage of proceedings.

10 Thank you, your Honour.

11 PRESIDING JUDGE FREMR: [16:20:59] To be honest, I have to say, we had some
12 preliminary discussion on that issue but we haven't so far come to conclusion. But,
13 yes, your point is really of our interest and we will continue in our deliberation on
14 that issue.

15 Ms Martineau, point number two.

16 MS MARTINEAU: Can I just quickly reply?

17 PRESIDING JUDGE FREMR: [16:21:22] Ms Martineau, we have to finish 4.25, so
18 please have it in mind.

19 MS MARTINEAU: Okay. Well, paragraph 64 of the order of the conduct of
20 proceeding clearly states that if a legal representative wished to put questions to
21 a witness called by the Prosecution or the Defence. And then it explains the criterias
22 for the request itself and then, you know, it continues.

23 And paragraph 68 is in this same section, and this is the first paragraph of this section,
24 so it does apply, in our view, to Defence and Prosecution witnesses.

25 I will, however, move to my second point.

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1 PRESIDING JUDGE FREMR: Please.

2 MS MARTINEAU: So the second point is related to the list of items, so objections
3 will be made item per item, on a case-by-case basis, except for item 11 which is
4 a video that is dated 31 July 2004. So the Defence objects to the use of a screenshot
5 because this video is outside of the temporal scope of the charges and doesn't have
6 a link with the personal interest of the LRVs.

7 And quickly a last point, item number 3 and number 5 are videos that the LRV intend
8 to play. And there was no corresponding transcript or translation that were
9 provided in the list of items as per the usual practice. So we would request that
10 these be provided by the LRV. Thank you.

11 PRESIDING JUDGE FREMR: [16:22:50] Ms Pellet.

12 MS PELLET: [16:22:52] (Interpretation) Thank you, your Honour.

13 Regarding the objection to the use of item 11, I am surprised that I'm being criticised
14 regarding a video that apparently was shot outside the scope of the victims' interest,
15 because the Defence has said that this item lies outside of the temporal scope and did
16 not directly affect the interests of our clients.

17 However, we will see whether we have the time to request that this item be used.

18 As for the objections to the other three documents that were raised and concerning
19 the lack of a transcript, I merely note that I'm asking just to make use of the sound
20 and I do not believe that a transcription is necessary. Thank you, your Honour.

21 MS MARTINEAU: [16:24:06] Well the Defence can specify its request. It is for
22 items 3 and 15 which have no indication, 3(b) and 15, that it will be used without
23 sound. Thank you.

24 PRESIDING JUDGE FREMR: [16:24:18] Ms Pellet, if the audio is important, then
25 probably it would be welcomed if you could also add transcript.

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- 1 MS PELLET: [16:24:25](Interpretation) No, this is an error on my part. Of course
- 2 this is video footage, but without sound. Thank you.
- 3 PRESIDING JUDGE FREMR: [16:24:36] Then it is clear. So thank you very
- 4 much for your punctuality. We will have to finish now and we will continue
- 5 tomorrow 9.30 by examination made by Ms Pellet.
- 6 THE COURT USHER: [16:24:49] All rise.
- 7 (The hearing ends in open session at 4.24 p.m.)
- 8 RECLASSIFICATION REPORT
- 9 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
- 10 the public reclassified and lesser redacted version of this transcript is filed in the case.