

Trial Hearing

(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 Friday, 15 September 2017

8 (The hearing starts in open session at 9.15 a.m.)

9 THE COURT USHER: [9:15:24] All rise.

10 The International Criminal Court is now in session.

11 Please be seated.

12 PRESIDING JUDGE FREMR: [9:15:58] Good morning, everybody.

13 Court officer, please call the case.

14 THE COURT OFFICER: [9:16:05] 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 We are in open session.

18 PRESIDING JUDGE FREMR: [9:16:20] Thank you, court officer.

19 Now appearances, please.

20 MS LUPING: [9:16:24] Good morning, Mr President. Good morning, your

21 Honours. Appearing this morning on behalf of the Prosecution, myself, Dianne

22 Luping, Ms Nicole Samson, Kristy Sim, Claudine Umurungi. Ms Selam Yirgou will

23 be joining us in the courtroom. She's presently delayed by a few minutes.

24 Thank you.

25 PRESIDING JUDGE FREMR: [9:16:43] Noted. Thank you, Ms Luping.

1 Defence, please.

2 MR GOSNELL: [9:16:48] Good morning, Mr President, your Honours.

3 Christopher Gosnell for Mr Ntaganda this morning, accompanied by

4 Stéphane Bourgon, Marlène Yahya Haage and Julia Jan. Thank you.

5 PRESIDING JUDGE FREMR: [9:17:00] Thank you, Mr Gosnell.

6 And Legal Representatives of Victims, please.

7 MS PELLET: (Interpretation) Thank you, your Honour. The former child soldiers

8 are represented by Vony Rambolamanana and myself, Sarah Pellet.

9 MR SUPRUN: [9:17:22] (Interpretation) Good morning, your Honours. The
10 victims of the attacks are represented by the same team as beforehand, no change.

11 PRESIDING JUDGE FREMR: [9:17:33] Thank you, Ms Pellet. Thank you,

12 Mr Suprun.

13 Before we start with the testimony of the next witness, the Chamber has been

14 informed that the Defence would like to address it. So, Mr Gosnell, you have the

15 floor. Sorry, Mr Bourgon.

16 MR BOURGON: [9:17:52] Good morning, Mr President. I will be addressing the
17 Chamber before the beginning of the next witness this morning, with the leave of the
18 Chamber.

19 Mr President, I wish to address with the Chamber this morning important scheduling
20 issues regarding the case, which I believe must be made -- the Chamber should be
21 made aware of at this point in time before we begin the next witness.

22 Mr President, I recall that in transcript 231, and that was on 28 August at pages 4

23 and 5, the Chamber recalled its oral ruling that the testimony of the accused in this

24 case was likely to shorten the presentation of the case for the Defence. This is what

25 we had, we had submitted earlier. And the Chamber then invited the Defence, or at

1 least directed the Defence, to produce a final list of witness or an updated list of
2 witnesses in this case, two weeks following the end of Mr Ntaganda's testimony.
3 So it is in this context, Mr President, that I wish to address the Chamber this morning.
4 And the Chamber will recall already that on 7 September, when making my
5 submission to seek time to reexamine the witness after the cross-examination
6 conducted by the Prosecution, I indicated at the time that the Defence had already
7 identified 11 witnesses that would be withdrawn and that this was -- it could be
8 expected that more witnesses would be withdrawn.
9 So, Mr President, all this to say that further to the testimony of Mr Ntaganda, we are
10 working full time, assessing what additional evidence we need and we wish to
11 present as part of the case for the Defence. Now this is of course a time-consuming
12 exercise which must be completed with Mr Ntaganda himself, and although we were
13 permitted to have contact with him during his testimony, and we did bring to him the
14 news of what was going on the field and the progress which was being made with
15 investigation, the Chamber will understand that it was not possible to discuss with
16 him any meaningful discussion as to what evidence would be required after his
17 testimony.
18 For the past three days, Mr President, we met Mr Ntaganda, and I wish to highlight
19 the assistance received from the Registry. We were exceptionally granted
20 permission to meet with Mr Ntaganda at night at the detention centre, which is not
21 the usual practice. So we met with Mr Ntaganda on Monday, Tuesday and
22 Wednesday, with him -- or is it Tuesday, Wednesday and Thursday. Last night was
23 the third night we met with Mr Ntaganda for the purpose of discussing these issues
24 and the witnesses before we could make any, any announcement.
25 Mr President, on the basis of these discussions and our analysis so far, which, of

1 course, it's a time-consuming exercise and it's not over, but we are able to make at
2 least three announcements at this time.

3 The first one is that, further to the testimony of Mr Ntaganda, we are in a position and
4 we believe and are drastically reducing the number of witnesses that the Defence
5 wishes to call in this case. That's number one.

6 Number two is regarding this particular block. Last night, we decided to withdraw
7 Witness 169. We do not wish to rely on the evidence of D-0169 and he has been
8 withdrawn. So we met with VWS or VWU last night to inform them of this change,
9 and we specifically asked VWU to please not inform the Chamber before I would do
10 so this morning, and the reason we did that is that he was supposed to fly today and
11 we wanted to avoid an unnecessary expenditure of funds.

12 169 being withdrawn, Mr President, that leaves for this block four witnesses left, and
13 that is Witnesses 172, Witness 57, Witness 201, and Witness 211. These four
14 witnesses will testify.

15 Now, we were looking at the possibility of putting someone back on the list to see if it
16 was possible to complete the block and that appears to be not possible, Mr President.
17 So the bad news is that it is likely that at the end of this block, for one or two days, we
18 would have no witnesses to put -- to call before the Trial Chamber.

19 However, that's probably the reason I'm here this morning, is that, more importantly,
20 the drastic cut that we are mentioning, we will inform the Trial Chamber of the
21 specifics of these cuts. We have two dates that we have to meet in the near future.

22 On Monday, we have to submit to the Prosecution and the Chamber the list of
23 witnesses for the next block, which begins on 16 October, and two weeks following
24 the testimony of Mr Ntaganda, we have to submit to the Chamber our updated list of
25 witnesses.

1 What is the Chamber will be interested to learn is that at this point in time, we believe
2 that this list, other than the four witnesses of this block, will be reduced to no more
3 than 10 to 15 witnesses total. Which means, Mr President, that it is very likely that
4 we will be able to finish the presentation of the case for the Defence in the next block,
5 which begins on 16 October. And, of course, I can't -- it's not something I can
6 undertake, but it could be the beginning of the other block, but we feel confident that
7 we will finish the presentation of the case for the Defence in the next block, starting
8 on 16 October.

9 In the meantime, we will be submitting a motion, a request to have some documents
10 admitted via the Bar table and we will also be submitting a request for the -- some of
11 the testimony of some witnesses to be admitted pursuant to Rule 68(2)(b).

12 Those are the important news I wish -- we believe that the testimony of Mr Ntaganda
13 in this case is a significant contribution to the search for the truth, and on this basis,
14 we are announcing these drastic cuts.

15 So the Prosecution will get our list of witnesses for the next block on Monday and
16 maybe sooner, and then the final list will be published, which will not be much longer,
17 but the final list in two weeks from now.

18 That's what I wish to place on the record this morning before starting with
19 Witness 172. And at the same time, of course, Mr President, the fact that there might
20 be one or two days free at the end of this block, it's also a request for us not to present
21 any witnesses. That will give us the time to fully assess the situation, and with the
22 can kind of cuts we are making, it is important for us to really assess what is going on
23 and to ensure that we have Mr Ntaganda on board with all the evidence. And that's
24 what I wish to say this morning, Mr President. Thank you.

25 PRESIDING JUDGE FREMR: [9:26:48] Thank you, Mr Bourgon. I think the

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1 Chamber noted your information with great attention. It's very important
2 information. I will not react immediately because you can imagine, we will also
3 consult it together, the whole Chamber. But for the moment, thank you very much.
4 Prosecution, do you want to comment on this information at this moment?
5 MS SAMSON: [9:27:13] Mr President, we don't have much comment because the
6 information comes to us just now as well. I reiterate the request I made earlier this
7 week, that the soonest possible moment the Defence can provide us with any of the
8 names of witness that they are certain they will not be calling, the easier it will be for
9 us to prepare for next witnesses. I understand that we'll be having a list on Monday
10 of the next block, which may in fact deal with the issue, but if there are more
11 witnesses intended to come in the block after, the earliest notice we can get would be
12 helpful. Thank you.

13 PRESIDING JUDGE FREMR: [9:27:55] All right. Noted.

14 Mr Bourgon, do you want to respond?

15 MR BOURGON: [9:28:00] Well, the list that we will file for the next block right at
16 the moment I'm speaking includes 10 witnesses and the last list will be no more than
17 15, so there are five witnesses. So two weeks from now, the Prosecution will know
18 exactly who these witnesses are and which one we do not intend to rely upon in
19 this case.

20 And I think that this should respond to my colleague's needs in order to -- we fully
21 understand that they want to prepare only for the right witnesses. We fully
22 understand that. Thank you.

23 PRESIDING JUDGE FREMR: [9:28:35] Very well.

24 So now we can move to the testimony of our next witness, but anyway, before doing
25 that, there is still one issue I have to refer to.

1 So the Chamber recalls that in accordance with our oral decision delivered on
2 29 May 2017, which may be found in transcript T-206, the witness will testify by way
3 of video link. The Chamber also recalls its oral decision which was delivered
4 yesterday rejecting the Defence request for protective measures in relation to this
5 witness. Accordingly, the forthcoming testimony is to take place publicly.
6 Upon recommendation by the VWU received by email yesterday, reading assistance
7 will be provided as a special measure for this witness. The Chamber invites the
8 parties to take this into account when showing documents to the witness.
9 Finally, the Chamber has taken note of the message sent yesterday by the Defence
10 indicating that it would require three hours instead of the two hours initially
11 indicated to conduct its examination-in-chief in order to address inter alia issues
12 arising from the document recently disclosed by the Prosecution.
13 This request is granted, and the Prosecution as our usual practice will be entitled to
14 same amount of time for its cross-examination.
15 So now we can turn to the scheduled testimony. I see we already have video link,
16 but I see Mr Gosnell on his feet.
17 Mr Gosnell.
18 MR GOSNELL: [9:30:50] Thank you, Mr President. If I may raise just two points
19 before we commence with the witness. The first is, as your Honours know, I will
20 always do my best to come in under the estimate, but there was a certain level of
21 uncertainty created by the number of documents, the one additional document but
22 also other documents that are on the Prosecution list.
23 The second point that I wish to raise is that, under the control of the VWU and with
24 their presence this morning, I was able to contact the witness to inform him of the
25 protective measures decision, and, Mr President, I did that because I had promised

1 the witness that I would inform him of the decision as soon as possible. And the
2 VWU therefore facilitated that contact, strictly for the purpose of informing the
3 witness of the decision.

4 I can tell your Honours that the witness was perturbed and is concerned by the
5 potential effects of testifying in public. And I would invite your Honours to consider
6 the possibility of, at the beginning of the witness's testimony, prior to commencing
7 the substantive testimony, to asking, directly your Honours asking the question to the
8 witness as to what his concerns are in order to determine whether or not that might
9 affect your decision.

10 Since we have the witness before us, since he's available, that possibly could have an
11 impact. Having said that, I fully take on board that your Honours' decision was not
12 anchored in the degree of the manner in which the witness expressed his concerns, it
13 had to do with the lack of objective foundation. So that's fully understood.

14 But nevertheless, since the witness is available and I can say that there was, as I say, a
15 certain level of concern expressed by the witness, that it might be prudent to pursue
16 that course. So that would be my submission, Mr President.

17 PRESIDING JUDGE FREMR: [9:32:56] Thank you, Mr Gosnell.

18 Ms Luping.

19 MS LUPING: [9:32:59] Mr President, your Honours, the, you know, the
20 Prosecution has no objection to your Honours asking the additional views of this
21 witness, however, as Defence counsel points out obviously the test is not the
22 subjective fears of the witness, it has to be an objective criteria that is applied, and
23 we've not heard anything about any additional objective factors that the witness is,
24 you know, is alluding to to form a basis of any reconsideration on the part of
25 your Honours.

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1 PRESIDING JUDGE FREMR: [9:33:31] Thank you, Ms Luping.

2 Give me second, I will preliminarily consult my colleagues on that.

3 (Trial Chamber confers)

4 PRESIDING JUDGE FREMR: [9:36:40] So after deliberation, silent deliberation in

5 the courtroom, our, the Chamber's, position is that we will, at the moment, accept the

6 proposal made by Mr Gosnell, to that extent, that we will instruct Mr Witness about

7 our -- inform about our decision not to grant protective measures. We are ready

8 even to explain him the reasons for this, for this decision, even we are ready to listen

9 to him because there is still some slight possibility that he would bring some new

10 facts we haven't -- haven't known when we decided about not granting -- not granting

11 protective measures, and then we could reconsider our decision.

12 And for that case, even if I, honestly speaking, I don't see it very, very likely, we will

13 have to start in private session because if we would reconsider our decision, it would

14 be in fact spoilt by the fact that first part of the testimony or first part of the contact

15 with witness would be public.

16 So that is why we will now move into private session. And accordingly, according

17 whether we will keep our position or not, we will then continue after consulting or

18 after speaking to this witness.

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

20 (Private session at 9.38 a.m.) *(Reclassified partially in public)

21 THE COURT OFFICER: [9:38:38] We are in private session, Mr President.

22 PRESIDING JUDGE FREMR: [9:38:39] Thank you, court officer.

23 So now I am asking court officer (Redacted) to invite Mr Witness enter the room,

24 video room.

25 (The witness enters the video-link room)

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WITNESS: DRC-D18-D-0172

1 PRESIDING JUDGE FREMR: [9:40:25] Good morning, Mr Witness. Can you see
2 me and hear me?

3 WITNESS: DRC-D18-D-0172

4 (The witness speaks Swahili)

5 (The witness gives evidence via video link)

6 THE WITNESS: [9:40:41]) (Interpretation) Good morning. Yes, I can hear you.

7 PRESIDING JUDGE FREMR: [9:40:47] Mr Witness, I am Judge Fremr and I am
8 accompanied by my colleagues Judge Ozaki and Judge Chung. And we are
9 Chamber of the International Criminal Court which is trying case against
10 Mr Bosco Ntaganda. And you are called to testify as a witness.

11 Before we start your testimony, I have to say that Defence counsel of Mr Ntaganda,
12 Mr Gosnell, informed us that he informed you about our decision not to grant
13 protective measures and that you haven't been satisfied with that.

14 So I will just try briefly explain you that in case of any witness, and we have already
15 heard many witnesses, we always have to evaluate whether there are reasons and the
16 legal conditions that those reasons presented by the witness to be granted protective
17 measures should mean some objectively justifiable risk for the witness, not only his
18 subjective fear.

19 And that is exactly what we concluded in your case, that we can understand that you
20 have some concerns, but normally we grant protective measures, which is voice and
21 face distortion, only in cases when we really see that the -- such a risk of, for example,
22 retaliation is objectively well-founded. And we didn't make this conclusion in your
23 case. So do you understand that?

24 If you want to make any comment, please feel free to do it. We are listening to you.

25 THE WITNESS: [9:43:09] (Interpretation) Yes, very well. I would like protective

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1 measures, voice distortion, facial distortion.

2 PRESIDING JUDGE FREMR: [9:43:26] Mr Witness, we knew about that. We have
3 been informed. Defence counsel made that request, in fact, on behalf of you but, as I
4 tried to explain to you, we didn't. Because it's not just of our discretion, there should
5 be some reasons defined by law, by our jurisprudence met. Because there is also
6 interest from the other part to conduct your testimony publicly in order to allow
7 public to know what the testimony is about.

8 So we weighed those two interests, your interests and interests of public to know
9 what the testimony is about and, in this concrete case, the Chamber came to
10 conclusion that the interest on public conduct of testimony is prevailing.

11 Do you understand that?

12 THE WITNESS: [9:44:50]) (Interpretation) If I've understood, you're saying that
13 there's no way I can get protective measures any more such as voice distortion.

14 PRESIDING JUDGE FREMR: [9:44:59] Exactly, Mr Witness. Unless -- because we
15 have been informed about facts that led you to such a request, but the Chamber
16 deliberated on that. And as I also referred to all previous cases, we have already
17 listened to many witnesses, some of them also asked for protective measures. And
18 maybe just to calm you down a bit, in several cases also said no and there were no
19 negative consequences from that. So we so far had no one witness who suffered
20 some problems or troubles in connection with testifying publicly.

21 THE WITNESS: [9:46:07]) (Interpretation) That's the reason why I decided that I
22 cannot return to my village. (Redacted) so that people can
23 forget what I would have testified here before this Court.

24 PRESIDING JUDGE FREMR: [9:46:41] Noted. So it's your personal decision. So
25 may I take it that under this condition, if you change, you decided to change the place

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1 of your stay you will testify?

2 THE WITNESS: [9:47:06] (Interpretation) Yes. I'm going to testify because I can't
3 return to where I was living previously. I see that you have taken the decision so
4 that I cannot have face distortion. That's the reason I'm deciding to stay (Redacted)
5 until people from where I am from have forgotten that I came to testify here at the
6 International Criminal Court, and it's only after they have forgotten that that I will be
7 able to return to my village.

8 PRESIDING JUDGE FREMR: [9:48:01] All right, Mr Witness. We, the Chamber,
9 appreciate that that you will sacrifice that and maybe one advice. In case that after
10 your testimony you will see any attempt of some retaliation of some, you know, bad
11 consequences of this testimony or some risk that would arise, please contact officials
12 of the ICC and we can guarantee that we will take measures to protect you after your
13 testimony. But we still believe that such a risk will not occur. So thank you.
14 And now we can move to the testimony, Mr Witness. And we for that purpose can
15 move into open session.

16 (Open session at 9.49 a.m.)

17 THE COURT OFFICER: [9:49:11] We're in open session, Mr President.

18 PRESIDING JUDGE FREMR: [9:49:15] So, Mr Witness, I will start with the
19 common instruction for any witness. You are, as I said, you are called to testify in
20 the case against Mr Bosco Ntaganda. You will be soon asked questions both by the
21 Judges and lawyers here in the courtroom. I would like to provide you with some
22 guidance for answering those questions.

23 Please listen carefully to those questions that you will be asked. If you do not
24 understand, feel free to ask for the question to be repeated. We want you to tell the
25 truth and tell us what you saw, heard or sensed yourself. If you didn't see or hear it

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1 yourself but you found out some other way, then you should explain how.

2 Please testify just on that which you remember. Don't guess. Don't make things up.

3 There is nothing wrong in saying "I don't know" or "I don't remember".

4 Do you understand all of this, Mr Witness?

5 THE WITNESS: [9:50:41] (Interpretation) Yes.

6 PRESIDING JUDGE FREMR: [9:50:44] Good. Then, Mr Witness, you will be now

7 provided with the solemn undertaking text and I will read out the text of solemn

8 undertaking and please repeat it after me: I solemnly declare.

9 THE WITNESS: [9:51:31] (Interpretation) I solemnly declare.

10 PRESIDING JUDGE FREMR: [9:51:34] That I will speak the truth.

11 THE WITNESS: [9:51:44] (Interpretation) That I will tell the truth.

12 PRESIDING JUDGE FREMR: [9:51:49] The whole truth.

13 THE WITNESS: [9:51:53] (Interpretation) The whole truth.

14 PRESIDING JUDGE FREMR: [9:51:56] And nothing but the truth.

15 THE WITNESS: [9:52:04] (Interpretation) And nothing but the truth.

16 PRESIDING JUDGE FREMR: [9:52:09] Thank you, Mr Witness. It means that

17 now you are under oath and you also need to be aware that it is an offence to give

18 false testimony.

19 Do you understand that?

20 THE WITNESS: [9:52:36] (Interpretation) Yes.

21 PRESIDING JUDGE FREMR: [9:52:43] And finally, Mr Witness, a few practical

22 matters you should keep in mind when giving your testimony.

23 It's important to speak clearly, to speak at a slow pace to allow the interpreters to

24 translate everything. One important detail, when you will be asked the question,

25 please do not respond immediately but, rather, count to three, at least to three, in your

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1 head and only then give your answer because this pause of three seconds between the
2 question and your answer is essential for us to properly hear, translate and record
3 what you are saying.

4 Have you understood all that, Mr Witness?

5 THE WITNESS: [9:53:57] (Interpretation) Yes.

6 PRESIDING JUDGE FREMR: [9:53:59] Very well, Mr Witness. So now I will give
7 floor to the Defence counsel, Mr Gosnell, who will start with first part of your
8 examination.

9 Mr Gosnell, you have the floor.

10 MR GOSNELL: [9:54:16] Thank you very much, Mr President.

11 QUESTIONED BY MR GOSNELL:

12 Q. [9:54:23] Good morning, sir.

13 A. [9:54:25] Good morning, Counsel.

14 Q. [9:54:26] Can you see and hear me?

15 A. [9:54:33] Yes.

16 Q. [9:54:36] My name is Christopher Gosnell. I am associate counsel for
17 Mr Ntaganda, and I would like to ask you first whether you could please state your
18 full name.

19 Could you please state your name.

20 A. [9:55:22] Yes. My name is Zawadi Bahati Richard.

21 Q. [9:55:37] Do you have any other names?

22 A. [9:55:45] No.

23 Q. [9:55:54] Have you ever heard of the name Dhebanga?

24 A. [9:56:05] Yes, I have heard people speak of that name.

25 Q. [9:56:11] Does that name have anything to do with you?

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- 1 A. [9:56:31] That's a name that's not known.
- 2 Q. [9:56:35] When you say "that's a name that's not known", can you explain what
- 3 you mean?
- 4 A. [9:56:50] It's my father who gave me that name, but it wasn't used.
- 5 Q. [9:57:05] And without going into great detail, can you tell us how you now
- 6 make a living? What is your job or what jobs do you do to make a living?
- 7 A. [9:57:21] I am a gold miner and at the same time a farmer.
- 8 Q. [9:57:46] When were you born?
- 9 A. [9:57:56] I was born in 1988.
- 10 Q. [9:58:08] Do you know the exact month or day in 1988 when you were born?
- 11 A. [9:58:28] I've forgotten it.
- 12 Q. [9:58:31] And where were you born?
- 13 A. [9:58:44] I was born in Barrière.
- 14 Q. [9:58:50] Can you tell us your father's name?
- 15 A. [9:59:04] Mateso was my father's name -- is my father's name, Dieudonné.
- 16 Q. [9:59:19] Aside from Dieudonné and Mateso, did he have any other names or
- 17 does he have any other names?
- 18 A. [9:59:38] Those are the two names that I know.
- 19 Q. [9:59:42] And can you tell us the names of your mother that you know?
- 20 A. [9:59:58] My mother is called José Ditosi. She has died.
- 21 Q. [10:00:09] Could you say again, please, the second name that you gave us for
- 22 your mother. Could you please state that clearly.
- 23 A. [10:00:24] José Ditosi.
- 24 Q. [10:00:35] And do you know whether she had any other names?
- 25 A. [10:00:42] No interpretation.

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WITNESS: DRC-D18-D-0172

1 MR GOSNELL: [10:00:51] May we have, please, DRC-D18-0001-5849, tab 8.

2 THE WITNESS: [10:01:22]) (Interpretation) Your Honour, I don't understand what
3 has just been said.

4 PRESIDING JUDGE FREMR: [10:01:29] Ms Luping.

5 MS LUPING: [10:01:30] Mr President, your Honours, I just noticed, actually at
6 least in the English and also appears I believe in the French as well, that when the
7 witness was asked and do you know whether she had any other names, there's no
8 interpretation.

9 PRESIDING JUDGE FREMR: [10:01:49] So I will first address Mr Witness.

10 Mr Witness, is it doesn't matter you don't understand. To make it simple, Defence
11 counsel asked to -- in fact, your election card, we do have here the copy to be
12 presented as evidence, so we will then and you also will have a chance to make
13 comment on that.

14 As to the request made by -- or comment made by Ms Luping ... I'm not sure that we
15 will just correct this from audio, so probably be to be sure, Mr -- but also maybe you
16 can just put leading question because I believe you have those names in your material,
17 so please put leading questions on that.

18 Ms Luping.

19 MS LUPING: [10:03:06] Mr President, with due respect, we would ask that
20 Defence counsel asked this question in open-ended manner. This will be an issue,
21 I believe.

22 PRESIDING JUDGE FREMR: [10:03:15] All right. I get the point.

23 So, Mr Gosnell, please put open-ended question.

24 MR GOSNELL: [10:03:21]

25 Q. [10:03:22] Other than the names, sir, that you gave us of your mother. Which

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1 I heard and I apologise if I do not pronounce it correctly, but I heard you to say

2 José Ditosi. Other than those names, do you know of any other name that your

3 mother had?

4 A. [10:03:54] No, she has no other names.

5 THE INTERPRETER: [10:03:57] Your Honours, could counsel wait until the end of

6 the interpretation before asking the question, requests the Swahili booth.

7 PRESIDING JUDGE FREMR: [10:04:07] I see no problem, Mr Gosnell. Indicated

8 that he is fine with that.

9 MR GOSNELL: [10:04:14] I'm not sure if the document is up.

10 PRESIDING JUDGE FREMR: [10:04:19] Not yet.

11 THE COURT OFFICER: [10:04:22] The document is displayed on the evidence 1

12 channel.

13 PRESIDING JUDGE FREMR: [10:04:27] I can see it as well.

14 MR GOSNELL: [10:04:29] Thank you.

15 Q. [10:04:31] Sir, can you see a document in front of you on the screen?

16 A. [10:04:51] Yes.

17 Q. [10:04:52] What do you recognise it to be?

18 A. [10:05:08] It's the electoral cashed.

19 Q. [10:05:11] This card is dated, at the bottom, 2017. Is this a -- is this the first

20 electoral card that you ever possessed or did you ever possess another electoral card

21 from a previous date?

22 A. [10:05:40] It's the third electoral card that I have received.

23 Q. [10:05:48] In what year, if you can recall, did you receive your first electoral

24 card?

25 A. [10:06:12] I've forgotten the date because at that time we weren't the ones who

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1 had written our age on the card when we were given it to take it. We weren't there
2 to take it.

3 Q. [10:06:32] You say this is the third electoral card that you have possessed.
4 Did the second and the first electoral card -- did the second and the first electoral
5 cards contain the same information as we see on this electoral card?

6 A. [10:06:55] Yes.

7 Q. [10:07:09] Now, sir, if we look at this card we see that there is a
8 (Interpretation) date and place of birth (Speaks English) and what it says there is
9 "01/02/1986". But earlier today you testified that your actual date of birth is in 1988.
10 Can you explain anything about why there is that discrepancy?

11 A. [10:08:03] Yes. This difference in dates shows that I was younger than the
12 one that is mentioned.

13 Q. [10:08:22] And can you explain how it came about that there is a card that
14 shows a date of birth that is different than your actual -- in any case, a year of birth
15 that is different from your actual year of birth? Can you explain how that occurred?

16 A. [10:08:56] I'm going to explain it to you. Where I went to live after the war
17 there was a lull in the fighting. Afterwards, the FRDC soldiers arrived at that place.
18 As a result, we had problems when it came to getting electoral cards and for them we
19 appeared to be young.

20 Q. [10:09:54] Do you remember the circumstances in which you gave information
21 leading to the issuance of this card? How did that actually happen? Can you
22 describe that for us, please?

23 A. [10:10:23] Regarding the card that you see, I would say at that time there were
24 a lot of soldiers where I was residing. My father went to the village chief. He said
25 the children will have difficulties if they don't have an electoral card. These soldiers

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1 are preventing it. They're giving us a hard time. And that's how we asked to go to
2 the office where electoral cards were issued but to give a higher age than the age that
3 we really had.

4 Q. [10:11:22] Were you or your father required to show any documents showing
5 your date of birth on this occasion?

6 A. [10:11:38] No. They didn't ask for any document.

7 Q. [10:11:45] And was it you or was it your father who gave the date of birth that
8 ended up on this card?

9 A. [10:12:06] It was my father who told me to give them this date so that I could
10 finally get it.

11 Q. [10:12:18] And leaving aside the year, did your father also tell you that this
12 was the day and month on which you were born?

13 A. [10:12:44] All this information came from my father.

14 Q. [10:12:51] Before this occasion when you went to obtain your card, did you
15 know your own date of birth?

16 A. [10:13:07] No, I didn't know my date of birth.

17 Q. [10:13:18] Have you heard of a place called -- have you heard of a place in
18 Uganda called Tchankwanzi?

19 A. [10:13:37] Yes.

20 Q. [10:13:39] And did you ever go there?

21 A. [10:13:53] Could you ask your question again, please, Counsel?

22 Q. [10:14:00] Did you ever go to Tchankwanzi?

23 A. [10:14:07] Yes.

24 Q. [10:14:09] And where were you living immediately before you went to
25 Tchankwanzi, in what village or town?

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1 A. [10:14:24] Before going there I was living in Babokela.

2 Q. [10:14:41] Have you ever lived in Nyankunde?

3 A. [10:14:50] Yes, Babokela is a locality which is very close to Nyankunde.

4 Q. [10:15:02] When you lived in Nyankunde were you living with other members
5 of your family?

6 PRESIDING JUDGE FREMR: [10:15:18] Hold on, Mr Witness.

7 Ms Luping.

8 MS LUPING: [10:15:23] Mr President, your Honours. I'm sorry to interrupt. I
9 know we can get a correction of this, but it is important for the Prosecution if we have
10 a correct spelling of the location Babokela.

11 PRESIDING JUDGE FREMR: [10:15:34] Mr Gosnell, please could you clarify that.

12 MR GOSNELL: [10:15:38] I think the French is quite right, Mr President.

13 PRESIDING JUDGE FREMR: [10:15:45] Ms Luping.

14 MS LUPING: [10:15:48] The French is identical to the English, at least the -- I
15 apologise. I'm looking at the wrong transcript indeed.

16 PRESIDING JUDGE FREMR: [10:15:57] In English version, I have to say it
17 probably imperfect.

18 MS LUPING: [10:16:02] The English is imperfect, but indeed Defence counsel is
19 correct. It is now being corrected in the French. We have the correct spelling, I
20 believe.

21 PRESIDING JUDGE FREMR: [10:16:19] Mr Gosnell.

22 MR GOSNELL: [10:16:21]

23 Q. [10:16:21] In Nyankunde were you living with family members?

24 A. [10:16:34] Yes, I was living just with my father. My father was there alone
25 just with me.

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- 1 Q. [10:16:46] And at a certain moment did you come to leave Nyankunde?
- 2 A. [10:17:00] Yes. We went to Iga Barrière after fighting that broke out.
- 3 Q. [10:17:14] You say you went to Iga Barrière after the fighting that broke out,
- 4 can you tell us about this fighting to which you are referring?
- 5 A. [10:17:37] Yes. It was a war between different ethnic groups.
- 6 Q. [10:17:53] Was anyone killed?
- 7 A. [10:18:06] Yes.
- 8 Q. [10:18:07] Can you tell us of anyone whom you know who was killed?
- 9 A. [10:18:26] We lost one of our aunts and two young people, young children, a
- 10 boy and a girl.
- 11 Q. [10:18:40] Were the two young children members of your extended family?
- 12 A. [10:18:59] Yes.
- 13 Q. [10:19:00] And who were they killed by?
- 14 A. [10:19:13] Could you kindly repeat your question?
- 15 They were killed by some Lendus.
- 16 Q. [10:19:31] Were these Lendus taking part in the fighting that you've described?
- 17 A. [10:19:52] Yes. They were attacking villages and they were massacring
- 18 members of the population.
- 19 Q. [10:20:03] What weapons did they use to kill your aunt and the other two
- 20 young members of your extended family?
- 21 A. [10:20:20] They attacked the village while -- well, we had already left. They
- 22 came across our aunt, they looted everything, goods -- foodstuffs and everything else
- 23 that they found at that place.
- 24 Q. [10:20:45] Prior to this attack had the population of Nyankunde taken any
- 25 measures to protect against attacks?

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1 A. [10:21:09] Yes.

2 Q. [10:21:12] And what had been done to protect against attacks?

3 A. [10:21:28] The local police was working with a number of people in the
4 population. These police officers had a few firearms, but the members of the
5 population used machetes to protect themselves.

6 Q. [10:21:55] Did the members of the population who were working with the
7 local police, did they have any particular name?

8 A. [10:22:17] Yes. It was a name that bore -- they were referred to as "the
9 committee".

10 Q. [10:22:37] Only "the committee"?

11 A. [10:22:44] Yes.

12 Q. [10:22:47] And what ethnic groups were part of this committee that were
13 defending Nyankunde?

14 A. [10:23:06] There were Hema, Bira, as well as Alur.

15 Q. [10:23:19] You've testified that after this attack you went to Iga. Why did you
16 go to Iga as opposed to anywhere else?

17 A. [10:23:36] Iga is the village where my father was born.

18 Q. [10:23:57] While you were living in Iga, did you also suffer from any attacks or
19 fighting?

20 A. [10:24:14] When we went to Iga, there was a lull, but there were problems over
21 by Fataki, Largu.

22 Q. [10:24:43] And at what point did you leave for Tchankwanzi? Were you
23 living in Iga at the time that you left for Tchankwanzi?

24 A. [10:25:02] Yes. From there I went to Tchankwanzi.

25 Q. [10:25:11] And why did you go to Tchankwanzi?

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1 A. [10:25:22] Living conditions in our village were difficult. We had received
2 information to the effect that Hema were --

3 THE INTERPRETER: Correction, that Lendu were killing people here and there, and
4 so we had to go to Tchankwanzi to do military service. So you see, so that -- I might
5 die in military service.

6 PRESIDING JUDGE FREMR: [10:26:00] Mr Gosnell, sorry to interrupt you. One
7 way -- one thing I am missing in your examination is at least some attempt to get
8 dates from Mr Witness. Would it be possible to ask at least on to -- even at least year,
9 dates or timing of the attack described by Mr Witness and then time when he moved
10 to Tchankwanzi?

11 MR GOSNELL: [10:26:35] May we cut the feed with the witness?

12 PRESIDING JUDGE FREMR: [10:26:38] For sure.

13 Court officer, please --

14 THE WITNESS: (No interpretation)

15 PRESIDING JUDGE FREMR: May I get translation first what Mr Witness now said?

16 THE WITNESS: [10:27:06] (Interpretation) You want to know the date on which I
17 went to Tchankwanzi?

18 PRESIDING JUDGE FREMR: [10:27:11] Give me -- give me a second, Mr Witness.

19 We will have to consult Defence counsel.

20 Now please cut the feed, court officer.

21 Court officer, done?

22 Mr Gosnell, please.

23 MR GOSNELL: [10:27:58] Mr President, I deliberately did not ask the questions in
24 that way because it's my view that if I were to ask a question of that nature at this
25 stage I would probably receive a very unreliable answer. And therefore, what I'm

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1 attempting to do is establish a chronology and a sequence of events that in this
2 courtroom we know the dates of, and then we will have a reliable picture of when
3 what the witness is describing occurred. So I could proceed the way your Honour is
4 suggesting, but I suggest Mr President that that will probably lead to unreliable
5 answers at this stage.

6 PRESIDING JUDGE FREMR: [10:28:39] To be honest, I was ready to put those
7 question because it's important part of the testimony and the reliability of the
8 potential answers will be adjudicated by the Chamber.

9 MR GOSNELL: [10:28:55] May I suggest, Mr President, that perhaps to allay your
10 concerns that I attempt to ask questions about the periods of time between events and
11 then come back to dates. I won't leave this out entirely, but I thought it was best to
12 proceed in this manner.

13 PRESIDING JUDGE FREMR: [10:29:11] I believe that you are interested in
14 order -- you are interested to get the most reliable testimony, so go ahead and then we
15 will see even at the end of your examination, at least this part, whether to return back.
16 It probably be also of the interest of Prosecution I can imagine.
17 For the moment you may proceed.

18 And, court officer, please connect us with Bunia again.

19 Mr Gosnell, you may proceed.

20 MR GOSNELL: [10:30:04]

21 Q. [10:30:04] Sir, can you tell us, if you can, approximately how much time there
22 was between the time of the attack that you have described in Nyankunde and the
23 time that you left Iga to go to Tchankwanzi? In months or years or weeks. Can you
24 give us an estimation?

25 A. [10:30:39] A few months.

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1 Q. [10:30:47] And how did you get to Tchankwanzi from Iga?

2 A. [10:31:07] A military soldier came to Iga Barrière. And our parents were very
3 strict, to get into this vehicle and go to Tchankwanzi, it was necessary to wait for a
4 while. And the vehicle -- well, myself and three of my friends, we went to Bunia on
5 foot and then we got into this vehicle and there were soldiers aboard this vehicle.

6 Q. [10:31:50] And then where did that vehicle take you?

7 A. [10:32:13] The vehicle in question was parked beside a house very close to the
8 Azanga cinema.

9 Q. [10:32:28] And did you take that vehicle to Tchankwanzi or was there some
10 other means of transportation used?

11 A. [10:32:52] We got into a plane.

12 Q. [10:32:57] And where did that plane go?

13 A. [10:33:12] The airplane landed in Entebbe and left us there.

14 Q. [10:33:20] And then how did you get from Entebbe to Tchankwanzi?

15 A. [10:33:37] From there we got into a vehicle, a vehicle belonging to soldiers and
16 we were taken to Tchankwanzi.

17 Q. [10:33:53] You say that when you were in Iga Barrière your parents were very
18 strict. Can you explain what you mean by that?

19 A. [10:34:22] Our parents didn't want us to go and do this service.

20 Q. [10:34:36] Did you disobey your parents?

21 A. [10:34:56] We obeyed our parents, however -- well, we decided to go to that
22 place and it was because the situation in our village was really bad. And it was
23 caused -- it was caused by the war that was raging.

24 Q. [10:35:23] When you say the situation "was really bad", what do you mean
25 precisely?

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1 A. [10:35:47] Well, I mean -- what I mean is -- is that people were afraid. Even if
2 the attackers had not yet struck in Iga Barrière, people were afraid. And because of
3 this fear, they would go and hide in the bush because they were expecting an attack at
4 any time. So that is why I said that the situation was bad. And that was the Lendu
5 attack.

6 Q. [10:36:38] Can you tell us approximately in what year you left Iga and went to
7 Tchankwanzi? Can you remember what year that was?

8 A. [10:37:04] To my knowledge, the people who were more educated than me
9 said that we went there in 1999.

10 Q. [10:37:34] When you say the people who were more educated than you, to
11 whom are you referring?

12 A. [10:37:44] I'm referring to the people that we went with to do the same
13 training.

14 Q. [10:38:06] And did they tell you that year at the time or was it later that they
15 informed you that that was the year that you went?

16 A. [10:38:34] I am the one who asked them because when we left I was still young.
17 And I asked them what year is it and they told me what year it was.

18 Q. [10:38:54] Did you receive military training at Tchankwanzi?

19 A. [10:39:16] Yes. We did military training and we completed the training.

20 Q. [10:39:28] How long did that training last approximately?

21 A. [10:39:47] The training lasted an entire year. And after that year, we were
22 done.

23 Q. [10:40:04] Were you ever given a uniform at any time while you were at
24 Tchankwanzi?

25 A. [10:40:21] Yes.

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1 Q. [10:40:23] And did that uniform have any marks or letters or insignias on it?

2 A. [10:40:46] Yes. There was writing.

3 Q. [10:40:52] What did the writing say?

4 A. [10:41:09] It was written "APC".

5 Q. [10:41:19] Was there a ceremony at the conclusion of your training of any
6 type?

7 A. [10:41:28] Yes.

8 Q. [10:41:45] Did any political leader from Bunia come and address the
9 ceremony?

10 PRESIDING JUDGE FREMR: [10:41:55] Ms Luping.

11 MS LUPING: [10:41:55] Mr President, I sought not to interrupt so far, but I would
12 ask Defence counsel if he not pose these questions in such a leading manner. The
13 last question was particularly leading.

14 PRESIDING JUDGE FREMR: [10:42:14] Mr Gosnell.

15 MR GOSNELL: [10:42:18]

16 Q. [10:42:20] Did any political figure from anywhere come and address you at
17 that ceremony?

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

19 PRESIDING JUDGE FREMR: [10:42:45] And sorry to interrupt you, Mr Gosnell.

20 My comment on Prosecution objection: I am not saying that I will allow purely
21 leading questions, but - and we discussed this topic several times in the past - but in
22 this kind of testimony, and having into account the capability of this witness, I believe
23 that questions with some leading aspects should be allowed.

24 Please go ahead. But I'm saying not completely leading. I think we are on the same
25 page.

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1 MR GOSNELL: [10:43:31] I appreciate that guidance. Thank you, Mr President.

2 Q. [10:43:35] Mr Witness, can you tell us who it was who came and addressed
3 you at that ceremony at the completion of your training?

4 A. [10:43:54] It was Mr Tibasima.

5 Q. [10:44:02] Did you come -- did you come to leave Tchankwanzi at any time,
6 sir?

7 A. [10:44:33] UNICEF took action and had us leave Tchankwanzi; however, the
8 soldiers spoke to us before we left.

9 MR GOSNELL: [10:44:49] Mr President, we're about to embark on a new topic and
10 I'm not sure when we break, whether it's now or later.

11 PRESIDING JUDGE FREMR: [10:44:57] We should break in one minute if I am not
12 wrong, so if you are ready to touch another topic it would be better to break now.
13 So we are taking our regular 30 minutes break, but I see Mr Bourgon on his feet.
14 Mr Bourgon.

15 MR BOURGON: [10:45:14] Thank you, Mr President. With the leave of the
16 Chamber, I do not intend to come back after the next session unless the Chamber
17 wishes to address the topic I raised in morning.

18 PRESIDING JUDGE FREMR: [10:45:24] I don't think that is necessary. You are
19 free to leave.

20 MR BOURGON: [10:45:29] Thank you, Mr President.

21 MS SAMSON: [10:45:31] Mr President.

22 PRESIDING JUDGE FREMR: [10:45:33] Ms Samson.

23 MS SAMSON: [10:45:34] Thank you. Just one query in relation to the Chamber's
24 order that Mr Ntaganda provide his position on the agreed fact issue. I understood
25 that was to happen within two days of the end of the cross-examination or the end of

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1 the examination, in fact. And while Defence counsel is here, we may perhaps
2 receive an update.

3 PRESIDING JUDGE FREMR: [10:45:54] Mr Bourgon, on that point.

4 MR BOURGON: [10:45:57] It is certainly our intention to file something this
5 afternoon and Defence position on this issue, Mr President. Thank you.

6 PRESIDING JUDGE FREMR: [10:46:05] All right then.

7 So we break now and we will reconvene at quarter past 11.

8 THE COURT USHER: [10:46:13] All rise.

9 (Recess taken at 10.46 a.m.)

10 (Upon resuming in open session at 11.16 a.m.)

11 THE COURT USHER: [11:16:55] All rise.

12 Please be seated.

13 PRESIDING JUDGE FREMR: [11:17:26] In this session we will continue in direct
14 examination of our witness conducted by the Defence.

15 Mr Gosnell, you have the floor.

16 MR GOSNELL: [11:17:42] Mr President, may I let you know that there is high
17 likelihood I will finish within my original estimate.

18 PRESIDING JUDGE FREMR: [11:17:51] Well noted. Thank you.

19 MR GOSNELL: [11:17:53] The document that I used before the break, Mr President,
20 I forgot to tender. Therefore, may I request that DRC-D18-0001-5849, which is tab 8,
21 be admitted into evidence for the truth of its content.

22 PRESIDING JUDGE FREMR: [11:18:14] Prosecution? Any objection?

23 MS LUPING: [11:18:19] No objection, Mr President.

24 PRESIDING JUDGE FREMR: [11:18:23] So the document specified by Mr Gosnell
25 is admitted into evidence as a further Defence exhibit.

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1 Mr Gosnell, please proceed.

2 MR GOSNELL: [11:18:34] The Registry will probably already have noted this, but

3 I think I gave the wrong ERN number. It's actually DRC-D18-0001-5353.

4 THE COURT OFFICER: [11:18:50] We had found out.

5 PRESIDING JUDGE FREMR: [11:18:53] So the error corrected and we can proceed.

6 MR GOSNELL: [11:18:56] Thank you, Mr President.

7 Q. [11:18:59] Now, sir, you indicated before the break that "UNICEF took action

8 and had us leave Tchankwanzi". Did everyone leave Tchankwanzi with UNICEF or

9 only some people?

10 A. [11:19:39] Those under the age of 18.

11 Q. [11:19:43] Did anyone leave with UNICEF who was over the age of 18 as far as

12 you know?

13 A. [11:20:05] Yes. They were also among us because when UNICEF arrived that

14 was the time when we had already spent a long time there. So we got on to vehicles

15 in order to take us to the place where we were meant to go and they noted that the

16 most simple was to repatriate us. So some people stated that they were under the

17 normal age in order to take advantage of that and in order to travel on those vehicles.

18 THE INTERPRETER: [11:20:48] And the interpreter adds: It was when the whites

19 and UNICEF arrived.

20 MR GOSNELL: [11:20:57]

21 Q. [11:20:58] When you say, "some people stated that they were under the normal

22 age", are you referring, when you say "they are normal age", are you referring to the

23 age of 18 years?

24 A. [11:21:14] They declared an age which was not correct, a lower age than their

25 age, and as it took a long time, they said that they were under 18 so that they could

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1 travel on the UNICEF vehicles.

2 THE INTERPRETER: [11:21:57] The Swahili booth states that there is an echo in
3 the room. Could the witness be asked to get closer to the microphone.

4 PRESIDING JUDGE FREMR: [11:22:09] Court officer in Bunia, could you kindly
5 ask Mr Witness to get a bit closer to microphone because we have problems with
6 some echo.

7 Thank you very much.

8 Mr Gosnell, please proceed.

9 MR GOSNELL: [11:22:34]

10 Q. [11:22:34] Were the white people and UNICEF, were they checking in any way
11 the ages that were being given by individuals to make sure that those ages were
12 accurate?

13 A. [11:23:11] When they arrived, things were done in an improvised way. When
14 we were in Tchankwanzi the authorities there didn't want persons from outside to
15 know that there were kadogos, but these white persons, when they arrived, they just
16 turned up, and when they arrived they didn't see us. Later, they changed strategy
17 and they turned up with Red Cross officials, the ICCR --

18 THE INTERPRETER: [11:24:00] ICRC corrects the interpreter.

19 THE WITNESS: [11:24:03] (Interpretation) And they checked on that. Even those
20 who were above the age of 18 also stated that they were under.

21 MR GOSNELL: [11:24:17]

22 Q. [11:24:18] How old was, approximately, if you can estimate, the oldest person
23 who was able to leave with UNICEF?

24 A. [11:24:40] 25 years old. There was one who was 25 years old.

25 Q. [11:24:53] Did that person who --

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1 THE INTERPRETER: [11:24:56] The interpret corrects: There were some who
2 were 25 years old.

3 MR GOSNELL: [11:25:04]

4 Q. [11:25:04] And do I understand correctly that those people who were as old as
5 25 years old said that they were under 18?

6 A. [11:25:25] Yes, yes.

7 Q. [11:25:29] And why would people lie about that?

8 A. [11:25:48] Because we underwent our training and we stayed for a long time at
9 our training centre. There were no vehicles to take us away from the training camp.
10 So when the Red Cross officials arrived in order to get the kadogo, the oldest as well
11 said that they were minors so that they could also leave the training camp.

12 Q. [11:26:24] And when you refer to the word "kadogo" you mean under what
13 age?

14 A. [11:26:44] Under the age of 18.

15 Q. [11:26:52] At the beginning of your testimony today I asked you your name
16 and you said that your name is Zawadi Bahati Richard. Were you known by that
17 name when you were at Tchankwanzi?

18 A. [11:27:30] There they didn't know my name of Bahati Richard Zawadi. They
19 just called me Bahati Richard.

20 Q. [11:27:50] Was anyone else known by the name of Bahati Richard at
21 Tchankwanzi?

22 A. [11:28:07] Nobody.

23 Q. [11:28:13] Where did UNICEF take you after Tchankwanzi?

24 A. [11:28:27] We went to Kiriandongo.

25 Q. [11:28:35] And what was there?

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1 A. [11:28:52] After, before we returned to Congo, they said they were going to
2 identify where our parents were and then we were going to return to Congo.

3 Q. [11:29:07] Before you left Kiriandongo, were you given anything by UNICEF?

4 A. [11:29:19] I'm sorry?

5 Q. [11:29:29] When you left Kiriandongo and went back to Congo, as you've said
6 you did, were you given anything?

7 And I think I can very lightly lead here, Mr President, by asking:

8 Sir, were you given any documentation when you left Kiriandongo?

9 A. [11:29:54] Yes. They gave us a document.

10 Q. [11:30:04] What did that document consist of?

11 A. [11:30:25] They gave a document which attested to the fact that this was a
12 child that was demobilised from the army. It made it possible to show that we had
13 been a victim of the harassment of soldiers.

14 Q. [11:30:48] And how many pages were in this document and did it consist only
15 of writing?

16 A. [11:31:16] This was a two-page document with a cover. So in total it was four
17 pages. When we arrived in Bunia we were provided with another document, with a
18 photograph, passport -- a passport photograph which was attached to it.

19 Q. [11:31:46] Who provided you with that passport photograph that you've just
20 referred to?

21 A. [11:32:06] The UNICEF officials made the document with a photograph.

22 Q. [11:32:16] You say that you arrived back in Bunia. Was there any person or
23 group in Bunia that was supposed to help you after you had returned there?

24 A. [11:32:37] Yes. The SOS Grands Lacs officials were the ones who received us.

25 Q. [11:32:59] And did you stay in Bunia on your return from Uganda or did you

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1 go to live elsewhere?

2 A. [11:33:16] We left Bunia and we returned to our families. Personally, in Iga
3 Barrière I spent two months there. Afterwards, I went to live where I currently live.

4 Q. [11:33:44] Now, when I asked you whether there was any group in Bunia that
5 was supposed to help you after you returned there and you said yes, SOS Grands
6 Lacs, did SOS Grands Lacs in fact provide assistance to you after you returned?

7 A. [11:34:24] We didn't receive direct aid of any kind, but when there was conflict
8 SOS Grands Lacs left Bunia.

9 Q. [11:34:42] How much time approximately was there between your arrival back
10 in Congo and the departure of SOS Grands Lacs because of armed conflict, or
11 conflict?

12 A. I'm sorry?

13 Q. [11:35:15] Between the time that you arrived back in Bunia and the time that
14 you've said SOS Grands Lacs left Bunia because of conflict, that was about how much
15 time? In months or weeks or days or years?

16 A. [11:35:55] Some months, approximately six months they were there for and
17 after that they left Bunia.

18 Q. [11:36:04] Did you have any discussions with anyone from SOS Grands Lacs
19 about receiving educational support?

20 A. [11:36:28] Yes. They helped some of us, those who had a higher level of
21 education.

22 Q. [11:36:39] Did they help you?

23 A. [11:36:52] We didn't have any help whatsoever.

24 Q. [11:36:59] Why did you not receive any help whatsoever from
25 SOS Grands Lacs whereas others did, according to you?

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1 A. [11:37:12] We had a very low level of education. They were preparing how to
2 register us to return to studies, but we didn't have that opportunity.

3 Q. [11:37:40] Did you speak to anyone at SOS Grands Lacs about that issue of
4 receiving educational support for your studies?

5 A. [11:38:02] Yes. We spent a long time without studying. I was with a friend
6 with whom we came from UNICEF. We went to say that we were spending time at
7 the village without studying. We said that -- we even lied, saying "If you don't
8 return us to school, we're going to go back to the army." That was a way of pushing
9 them to return us to school as quickly as possible.

10 Q. [11:38:49] Did you, in fact, ever rejoin any armed group after your return from
11 Tchankwanzi?

12 A. [11:38:59] No, not at all. When UNICEF demobilised me I never returned to
13 the army.

14 Q. [11:39:20] And do you remember to whom precisely you were speaking at
15 SOS Grands Lacs? And if you can't remember their name, perhaps you can tell us
16 their position if you're able to.

17 A. [11:39:51] That was a long time ago. I've forgotten his name. I can't give
18 you a name that I don't know.

19 Q. [11:40:04] Did you ever do anything for him, perform any services for him?

20 A. [11:40:21] When we arrived at his office sometimes he sent us to get cigarettes,
21 to get ground nuts or other things.

22 Q. [11:40:48] And, sir, just to be clear about this, when you say "I never returned
23 to the army" after you were demobilised by UNICEF, does that include not
24 participating in any armed group apart from the army?

25 A. [11:41:19] No. I never joined another group. I abandoned that completely.

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1 Q. [11:41:30] How did you manage to make your living in the years following
2 your demobilisation?

3 A. [11:41:52] We were in a mining zone so we carried out gold digging activities
4 and working in the fields, farming. So whenever there was no gold, you could farm.

5 Q. [11:42:17] May we have DRC-OTP-2081-0072, please. Tab 4. I believe the
6 status of this document is confidential, so I assume it shouldn't be broadcast.

7 PRESIDING JUDGE FREMR: [11:42:42] Noted.

8 MR GOSNELL: [11:42:59]

9 Q. [11:42:59] Sir, if we could focus on number 19 -- well, actually, first, I should
10 ask while we still have the full document available on the screen, have you ever seen
11 the document on the screen in front of us?

12 A. [11:43:28] I've never seen this document.

13 Q. [11:43:33] If we could please zoom in on number 19.

14 If we look over at the column next to your name, the head of the column says
15 (Interpretation) "Place and date of birth". (Speaks English) And what is written there
16 next to your name is (Interpretation) "Bunia 09.7" (Speaks English) and then there is a
17 number that is not entirely clear so I won't read it.

18 Did you ever tell anyone that you were born in Bunia?

19 A. [11:44:39] I always tell the truth. So I don't know.

20 Q. [11:44:48] When you say you don't know, does that mean you can't remember
21 whether you told anyone whether you were born in Bunia, or are you saying that
22 you've never told anyone that you were born in Bunia?

23 A. [11:45:13] I don't know. I know nothing about that.

24 Q. [11:45:19] Did you ever tell anyone that your birth date was the ninth day of
25 the seventh month of any year?

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1 A. [11:45:42] I don't know anything about that. And by the way, I don't even
2 recognise this document.

3 Q. [11:45:49] Have you ever lived in quartier Lumumba?

4 A. [11:46:10] Yes. My father moved to the Lumumba neighbourhood and I
5 moved there with him.

6 Q. [11:46:22] If we move two columns to the right we see the "Nom de la mère"
7 and we say the same "Abitana". Is that a name that you know as being a name of
8 your mother?

9 A. [11:46:42] I do not know that name.

10 Q. [11:46:59] Did you ever go to the Lona Vutsi school?

11 A. [11:47:07] No, I never went to that school.

12 Q. [11:47:19] What is your highest level of educational attainment? What is the
13 highest grade that you reached?

14 A. [11:47:39] I went to school up to the third year of primary school.

15 Q. [11:47:47] Have you ever told anyone that you went to the Lona Vutsi school
16 and that you reached the fifth year of primary?

17 A. [11:48:11] No, I have no knowledge of all these things and I have never stated
18 what you have just said.

19 Q. [11:48:19] Thank you.

20 I'm done with this document.

21 May we have, please, DRC-OTP-2104-0358, tab 10. This is also at least listed as
22 confidential.

23 Now, if we could below up this, please, on your photograph -- or on the photograph.
24 Do you recognise that photograph?

25 A. [11:49:33] Yes, I do.

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1 Q. [11:49:36] Do you know when it was taken?

2 A. [11:49:43] (No interpretation)

3 Q. [11:49:44] Do you know when it was taken and from whom you received it?

4 A. [11:49:51] The photograph was taken at the time of our demobilisation in
5 Kilano (phon).

6 Q. [11:50:22] I want to make sure that we have the name mentioned.

7 "The photograph was taken at the time of our demobilisation in ..."

8 And can you just please repeat what you said, sir, the location where the photograph
9 was taken.

10 A. [11:50:46] The photograph was taken during our demobilisation in Uganda
11 when we were leaving Tchankwanzi at a place known as Kilakonzi (phon).

12 Q. [11:51:10] How able to recognise that this is the photograph that taken on that
13 occasion?

14 A. [11:51:26] When we were in the army we did not comb our hair and we were
15 dirty. And the state of my picture on that photograph reminds me of that time
16 clearly.

17 MR GOSNELL: [11:51:55] If we can now zoom out a little bit.

18 Q. [11:52:01] It says on this document that you were born on 1 January 1987.

19 Does that correspond with any knowledge that you have of your date of birth?

20 A. [11:52:30] Not at all.

21 Q. [11:52:35] Can you recall whether you ever told anyone that that was your
22 date of birth?

23 A. [11:52:50] I have already said that all these things do not add up to what I gave
24 as a statement. I never said this to anybody. To no one whosoever.

25 Q. [11:53:09] It says there that you were born in a place called Nyamukunde; is

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1 that correct?

2 A. [11:53:32] I refute all that. Nyankunde is the place where I went for treatment,
3 but I was not born there.

4 Q. [11:53:45] It says there that you were -- well, the information on the page
5 anyway is that:

6 "Désarmement Groupe Armé d'origine: UPC/RP. Date de Recrutement:
7 27 December 2002. Lieu de Recrutement: Iga Barrière. Grade: Soldat de 1ère
8 Classe".

9 Is any of that true?

10 A. [11:54:26] I have just stated that I was never enlisted in the UPC army. I went
11 to Tchankwanzi. And upon my demobilisation, I did not join any other armed
12 group. And at that time I only wore the APC uniform.

13 Q. [11:54:55] At the bottom it refers to something called, and I'll read French
14 (Interpretation) "Sector of insertion" (Speaks English) And you can see the name of the
15 secteur is said to be Baoa-Bakoe. Did you ever live in that sector?

16 A. [11:55:33] No, I never lived at that place. I don't know anything about this
17 document.

18 MR GOSNELL: [11:55:53] Mr President, I seek to tender this document, not
19 because it's true, but because it's not true and it's clearly associated with the witness's
20 testimony and, therefore, is relevant.

21 PRESIDING JUDGE FREMR: [11:56:05] Prosecution.

22 MS LUPING: [11:56:05] Mr President, whether the Defence seeks to have admitted,
23 the Prosecution would certainly be seeking to have it admitted, but for the truth of its
24 content. And obviously you can decide with the -- the status of the document after
25 the cross-examination, if you should seek to do so.

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1 PRESIDING JUDGE FREMR: [11:56:25] I don't see any reason to postpone decision
2 on that. In fact, your comment, whether for the truth of the content or untruth, in
3 fact I don't see any difference. We have only two categories for the purpose of
4 impeachment and for the, in fact, content itself, so I think it's the second one. And
5 this document is, as specified by Mr Gosnell, is admitted into evidence as a further
6 Defence exhibit.

7 Mr Gosnell, please proceed.

8 MR GOSNELL: [11:57:02] Thank you, Mr President. May we have, please
9 DRC-OTP-0160-0190. Tab 24.

10 If we could please turn to page 0194 of this document.

11 Q. [11:58:32] Sir, have you seen any document that looks anything like this or
12 have you seen this document?

13 A. [11:58:49] I am seeing this document and all the others for the very first time
14 here, these documents that you are showing me.

15 Q. [11:58:58] May we turn, please, to page 0200. Could we scroll up one page
16 because there's a non-redacted version, the previous page. If we could zoom in on
17 number 165, please.

18 And, sir, you don't have the columns there to know what each of these columns refers
19 to, but I can tell you that the fourth column across where it says "Abitana" is the
20 column for the name of the mother of the person mentioned in the second column.
21 And then two columns to the right, we see that the provenance is "Beni". Did you
22 ever live in Beni?

23 A. [12:00:57] No, I never lived there either.

24 Q. [12:01:03] And we see a date there in the column just to the right of Beni which
25 refers to "date d'arrivée" and the date given there is "21/05/04". Can you remember

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1 where you were in May 2004?

2 A. [12:01:41] I do not recognise any of these documents.

3 Q. [12:01:46] And you didn't demobilise from the APC in May 2004, did you?

4 PRESIDING JUDGE FREMR: [12:02:06] Hold on, Mr Witness. Ms Luping.

5 MS LUPING: [12:02:08] Mr President, I understand that counsel is seeking to

6 adapt his line of questioning to the capabilities of the witness, but I do believe that the

7 last question can be rearticulated in a less leading manner.

8 PRESIDING JUDGE FREMR: [12:02:22] In this case, Mr Gosnell, I would support

9 request made by Ms Luping.

10 MR GOSNELL: [12:02:31]

11 Q. [12:02:32] Did you demobilise from the APC in May 2004?

12 A. [12:02:56] I was demobilised in Uganda and I never returned to the army

13 thereafter.

14 Q. [12:03:02] And when you were speaking to the white people and the people

15 from UNICEF when you were at Tchankwanzi, did you tell them the name of the

16 group from which you were -- with which you had been training at Tchankwanzi?

17 Did you name the group?

18 A. [12:03:40] When we were given uniforms with the APC written on those

19 uniforms, that is when I put an end to my services in Tchankwanzi.

20 Q. [12:03:54] Maybe my question was not very clear and I apologise for that.

21 The question I am asking simply is whether you told the UNICEF people that the

22 APC was the group with which you had been training.

23 A. [12:04:32] We did not even know that we were receiving training on behalf of

24 the APC. In any event, we were given military uniforms on which the words "APC"

25 were written.

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1 Q. [12:04:57] Aside from the occasion -- well, did you give information to the
2 UNICEF people that they wrote down when you were being demobilised?

3 A. [12:05:19] I'm sorry?

4 Q. [12:05:22] When you were being demobilised from Tchankwanzi, did you give
5 information about your name, your date of birth, the place that you came from and so
6 on?

7 A. [12:05:56] When I was demobilised we no longer talked about that.

8 Q. [12:06:05] On the four-page document that you say you left Kiriandongo with
9 from UNICEF, did the information about your date of birth, your name, the place
10 from which you were from, did it appear there?

11 A. [12:06:36] When we arrived there, we were very young. They asked us
12 "where are you coming from?" They wanted to know where we were coming from,
13 our origin, and then they took photographs to be able to establish where we were
14 coming from. And then they went to the places where we had come from.

15 THE INTERPRETER: [12:07:02] Request from the Swahili booth: Mr President, the
16 Swahili booth did not quite understand the last part of the witness's answer. Could
17 he kindly be asked to repeat.

18 PRESIDING JUDGE FREMR: [12:07:14] Mr Witness, the interpreters haven't
19 captured the last part of your response. If you remember, could you kindly repeat
20 the last part?

21 THE WITNESS: [12:07:34] (Interpretation) This is what I said: Photographs were
22 taken of us when we were still very young. We did not provide our age at that time.
23 We did not provide our dates of birth. However, they took photographs of us and
24 asked us where we were coming from. And then they took those pictures to our
25 relatives in Bunia. They did not take down any dates. They simply just looked at

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1 us and were aware that we were very young.

2 MR GOSNELL: [12:08:20]

3 Q. [12:08:21] The document that you came back to Bunia with, did you ever show
4 or give that to the people from SOS Grands Lacs?

5 A. [12:08:36] What did you say?

6 Q. [12:08:42] The document that you came back to Bunia with that had been
7 given to you by UNICEF, did you give or show that to the people from SOS Grands
8 Lacs?

9 A. [12:09:02] We provided them with the information which they wrote on the
10 document and which they gave back to us, and we took those documents back to our
11 homes.

12 Q. [12:09:29] Sir, thank you very much for your patience and your answers.

13 MR GOSNELL: [12:09:33] Mr President, that concludes the examination.

14 PRESIDING JUDGE FREMR: [12:09:37] Thank you, Mr Gosnell.

15 Now I would like to ask court officer to inform us how much time the Defence,
16 namely, Mr Gosnell, used for direct examination of this witness.

17 THE COURT OFFICER: [12:10:07] Mr Gosnell has used 1 hour and 36 minutes.

18 PRESIDING JUDGE FREMR: [12:10:11] So just caveat for you, Ms Luping, even if
19 we yesterday indicated that both parties will be granted three hours, our general rule
20 is that normally the counterparty should take the same time. So that is why I'm
21 asking you now, do you believe that you will be able to conduct your
22 cross-examination in those 1 hour 36 minutes?

23 MS LUPING: [12:10:44] Mr President, your Honours, I would refer to previous
24 practice of this Chamber, in particular regarding Witnesses 190 and 907, where the
25 Prosecution used less time than anticipated and the Defence requested and

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1 successfully received more time than was provided the Prosecution.

2 This witness so far has been examined. We've touched upon issues rather
3 superficially, as you may have seen by the various items, whilst the Prosecution is
4 certainly not proposing to go through all of those documents. There are a number of
5 key items that we would like to be able to properly go through with this witness.

6 1 hour 36 minutes in our submission will be insufficient. We would be seeking the
7 full three hours, as the Chamber originally granted to the parties.

8 PRESIDING JUDGE FREMR: [12:11:39] We will decide about this request, in fact,
9 at the beginning of the next session. So now you still have 30 minutes. We will
10 deliberate during the lunch break and then we will give you clear, clear answer to
11 your request.

12 So now please proceed.

13 MS LUPING: [12:12:02] Thank you, Mr President. Thank you, your Honours.

14 QUESTIONED BY MS LUPING:

15 Q. [12:12:09] Good afternoon, Mr Zawadi. My name is Dianne Luping and I'm
16 appearing on behalf of the Prosecution. As you may recall, we have actually met on
17 two prior occasions via video link. Do you recall that, sir?

18 A. [12:12:28] Yes, I do remember that.

19 Q. [12:12:32] Mr Zawadi, my first question is to understand from you when did
20 you first meet with the team for the Defence for Mr Ntaganda? Do you recall what
21 year that was?

22 A. [12:13:02] I have forgotten.

23 Q. [12:13:04] Well, perhaps to give you some guidance, was it this year, was it last
24 year, or was it in a year even prior to that?

25 A. [12:13:27] It was this year, 2017.

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1 Q. [12:13:30] And when you met them this year, was it at the beginning of the
2 year, part way through the year? Can you remember roughly what month?

3 A. [12:13:52] I don't remember whether it was early this year. It must have been
4 in the month of March, but I'm not, I'm not very sure.

5 Q. [12:14:05] I would now ask the court officer to bring up again item 8, tab 8.
6 That's DRC-D18-0001-5353.

7 And this is the electoral card for you, Mr Zawadi, that Defence counsel showed to you
8 just before the break.

9 Now, Mr Zawadi, I'd just like to focus on the names contained first in this document.
10 It's correct, is it, your nom is Zawadi?

11 A. [12:15:02] Yes.

12 Q. [12:15:05] Your post-nom is Dhebanga?

13 A. [12:15:21] Yes.

14 Q. [12:15:22] And your prénom is Richard; is that correct?

15 A. [12:15:31] Yes.

16 Q. [12:15:33] And the date we have on this electoral card is 10 January 2017.

17 And you've explained, Mr Zawadi, that you had two prior electoral cards. Now, it's
18 correct, isn't it, that there have been two previous election periods, so your two prior
19 electoral cards should be dated 2006 and 2011. Is that correct?

20 A. [12:16:13] That's not what I stated.

21 Q. [12:16:18] Well, just so that we're clear, just to avoid any misunderstanding,
22 you stated that prior to the 2017 electoral card, you had two prior cards because you
23 said you had three in total. Is that correct?

24 A. [12:16:39] Yes.

25 Q. [12:16:43] And the previous election times, sir, the other dates of your cards

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1 would have been 2006 and 2011; is that correct?

2 A. [12:17:11] Yes. Those are the two periods that were just mentioned.

3 Q. [12:17:20] And just going back to this card that we currently have before us,
4 Richard Zawadi Dhebanga is the name that you used in your official documents; is
5 that right?

6 A. [12:17:57] The name of Dhebanga is not on any other document.

7 Q. [12:18:07] Just to understand a little bit more clearly your -- your response, you
8 explained that the information contained in this card is the same information as in
9 your cards for 2006 and 2011; is that correct?

10 A. [12:18:31] Yes.

11 Q. [12:18:33] So presumably the name is the same, is it, Mr Richard Zawadi
12 Dhebanga; is that right?

13 A. [12:18:51] The three cards have this name.

14 Q. [12:18:57] And if we look carefully at the card, the name Bahati does not
15 appear on it, does it?

16 A. [12:19:18] The name Bahati is the name I'm called in my village, but it's not on
17 these cards.

18 Q. [12:19:36] And you said that you're known as Bahati. Is it right to say that the
19 name Bahati is a very common name in Ituri?

20 A. [12:19:57] Yes. A lot of people have that name.

21 Q. [12:20:05] Could you explain when you first gave the name Richard Bahati to
22 the Defence?

23 A. [12:20:34] When I met them for the first time that was when I gave them this
24 name.

25 Q. [12:20:41] And when you gave the Defence this name Richard Bahati, did they

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1 check your identification at that time?

2 A. [12:21:02] On the first time I didn't come with my ID card. It was at the
3 second meeting that I went with my card.

4 Q. [12:21:16] And you estimated that you met them for the first time in March of
5 this year. Do you recall roughly how long after March, after that first meeting, it was
6 before you met the Defence team the second time?

7 A. [12:21:42] Two months later.

8 Q. [12:21:48] Now, Mr Witness, I just want to note that, indeed, the information
9 that the Prosecution received from the Defence, and the only information we received
10 about your name on 31 March, 5 and 6 April, 26 April and 17 May is that your name
11 is Richard Bahati.

12 Could I ask the court officer if we could call up the document at item 19, that's tab 19.

13 A. Ndiyo.

14 Q. Sorry, Mr Witness, I haven't actually asked my question.

15 That is DRC-OTP-2104-0370.

16 PRESIDING JUDGE FREMR: [12:23:09] Hold on.

17 Mr Gosnell.

18 MR GOSNELL: [12:23:11] Probably we'll have to cut the feed to the video link,

19 Mr President, in order not to --

20 PRESIDING JUDGE FREMR: [12:23:21] All right.

21 Court officer, please cut the feed.

22 It has been cut.

23 Mr Gosnell, you have the floor.

24 MR GOSNELL: [12:24:14] Mr President, I'm not sure if the current exercise is an

25 attempt to impeach the witness or impeach the Defence.

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1 If it's an exercise to impeach the Defence, it's not appropriate with the witness. If it's
2 an exercise to impeach the witness, it's also not appropriate because the documents
3 that are about to be referred to are not statements of the witness.

4 And I think that the general rule is that if you seek to say that the witness on the stand
5 is saying something different than they have said before, then what should be put to
6 them is something that they've said before, not a representation by the Defence.

7 And Mr President, this entire episode which was brought up back in May of this year
8 was the object of submissions by the Defence about the chain of information, the date
9 that it was actually conveyed to the Prosecution, the fact that there was a regrettable
10 and unfortunate lapse of time between the moment when we received the
11 information about the witness's third name and the time that we disclosed it to the
12 Prosecution.

13 But that delay is our fault, if there's fault to be apportioned. And I would just direct
14 your Honours to transcript 206, at pages 5 through 10, where the matter was fully
15 aired. And I think when you read that context, you will realise that putting this
16 particular document to the witness is not a suitable way to impeach his credibility.
17 Thank you, Mr President.

18 PRESIDING JUDGE FREMR: Ms Luping.

19 MS LUPING: [12:25:49] Mr President, your Honours, the issue related to this
20 witness's name, the timing in which he provided his personal biographical data to the
21 Defence in the Prosecution's submission is relevant. It is relevant to his credibility.
22 I have not finished with my line of questioning on this point. I would ask your
23 Honours to indulge me in setting out the series of questions that I had for this witness
24 on this point. He has held himself out as Richard Bahati, this is the reason, part of
25 the reason, as we understand it, why this witness has been called by the Defence,

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1 likely in response to testimony of prior Prosecution witnesses.

2 The nature of the information provided by this witness to the Defence is of relevance
3 in assessment of his credibility in our submission. We are obviously not seeking to
4 impeach or embarrass the Defence team. Mistakes can be made and that is not
5 purpose of this exercise to embarrass by making this matter a court record.

6 We do need to understand the witness's answers though as to the manner in which he
7 provided details to them because for a three -- for a large period of time the only
8 information provided by the witness to the Defence team that he was known by the
9 name Richard Bahati.

10 And it's relevant as you'll see in the further questions about his parents as well that he
11 has not been forthcoming, in fact, in our submission, evasive too at the times we've
12 met with the witness as to the full names of his parents. And we believe it is for a
13 reason. I will be getting to the records with this witness's name, his name, the names
14 of his parents. But all of this, in our submission, is relevant for the Chamber's proper
15 understanding and assessment of this witness.

16 PRESIDING JUDGE FREMR: [12:27:40] And the document you would like to use,
17 what is this about?

18 MS LUPING: [12:27:45] I can also just simply refer to it. It was an exchange with
19 the Defence team and the Prosecution just to explain that in some instances, not all,
20 the information, biographical information from a witness was provided by way of
21 annexes, but in some instances biographical information, including the name of this
22 witness and/or the names of the witness or information regarding the names were
23 only provided by way of email. And it was simply to read one line to the effect "The
24 witness doesn't have any other names. No nickname is known to the Defence."
25 That was the only line I wish to read out to the witness, and then I want to clarify

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1 exactly when it is that he provided his full details.

2 PRESIDING JUDGE FREMR: [12:28:33] Give me a moment, I will consult my
3 colleagues. It's a matter of principle.

4 (Trial Chamber confers)

5 PRESIDING JUDGE FREMR: [12:29:53] So our ruling is that, in the interest of
6 justice, to make attempt to clarify, that issue, but it's possible that if the questions put
7 in that regard will not be fair, I will prohibit them. But at the moment, Ms Luping,
8 you may proceed.

9 MS LUPING: [12:30:19] Thank you, Mr President. I just note that the document is
10 not yet on the screens. Could we just have clarity as to which evidence channel it's
11 being shown on. That was item 19.

12 THE COURT OFFICER: [12:30:36] It will be displayed on the evidence 1 channel.

13 PRESIDING JUDGE FREMR: [12:30:49] In the meantime, slight correction to the
14 transcript, page 60 of the English version, line 16, instead of "it", should be "attempt",
15 to make attempt to clarify.

16 Do we have now audio connection with Bunia, court officer, because I asked you to
17 cut it?

18 MS LUPING: [12:31:40] I'm sorry, before this doc -- I'm not sure this document is
19 being seen. Is it being seen?

20 PRESIDING JUDGE FREMR: [12:31:45] Not yet, but I think --

21 MS LUPING: [12:31:47] Okay, that's fine.

22 THE COURT OFFICER: [12:31:51] No, because the court officer on field could not
23 hear us.

24 It's fine now. So you can maybe ask our court officer in Bunia to show the document
25 you wish to be shown.

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1 MS LUPING: [12:32:04] Thank you.

2 Q. [12:32:05] Court officer, could I please ask that you turn to -- it's page 14 of the
3 document on the screen. It's 2104-0383. It's at page 0383.

4 And whilst the court officer seeks to find the relevant part, I'm just going to read out
5 to you, Mr Witness, the information that was provided by the Defence on 17 May, and
6 I would just repeat --

7 PRESIDING JUDGE FREMR: [12:32:44] Ms Luping, please slow down because
8 there's a lot of facts and even -- it would be even for the witness to capture all the facts.
9 So please slow down and try maybe to cut those information in some pieces.

10 Otherwise, it will be too compound in my view for this witness.

11 MS LUPING: [12:33:04] That's fair. Thank you, Mr President. Understood.

12 I would like the court officer, please, to zoom in on the first question under the
13 heading "biographical information" under the heading "the witness doesn't have any
14 other names" under "full name". That's it.

15 Q. [12:33:34] So, Mr Witness, I see here, we see here information provided by the
16 Defence to the Prosecution on 17 May. "At this point we had received a name for
17 you, Richard Bahati", and the question was, "Could we have full names for you?"
18 And the response was, "The witness doesn't have any other names. No nickname is
19 known to the Defence."

20 Now, Mr Zawadi, when it states "the witness doesn't have any other names", did you
21 tell the Defence on or before 17 May that Richard Bahati was your only name?

22 PRESIDING JUDGE FREMR: [12:34:25] Hold on, Mr Witness.

23 Mr Gosnell, and could we listen to your objection in the presence of Mr Witness?

24 MR GOSNELL: [12:34:36] Frankly, probably not, Mr President. I'm sorry for that.

25 PRESIDING JUDGE FREMR: [12:34:41] It was my concern. So again please cut

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1 audio connection between us and Bunia for the time of Mr Gosnell's objection.

2 So now you may proceed, Mr Gosnell.

3 MR GOSNELL: [12:35:22] The question is liable to mislead for the following reason.

4 Although -- and this is actually what I was alluding to when I made my previous

5 objection. The document that is now being referred to by my learned colleague and

6 put to the witness as a representation made by the Defence about what the witness

7 has said, this document was subsequently corrected by the Defence. The Defence

8 corrected this information, and indicated clearly that the information had been

9 received prior to 17 May, on 15 May. So if now the question is being put, well, the

10 Defence has told us that by 17 May you hadn't provided the information, that's not an

11 appropriate representation. The Defence corrected this very document that is in

12 front of us. So I, again, Mr President, refer to transcript 206, page 8, lines 7 to 20,

13 where this was corrected. Thank you, Mr President.

14 PRESIDING JUDGE FREMR: [12:36:18] Ms Luping.

15 MS LUPING: [12:36:18] Mr President, there's no intention or attempt to mislead.

16 The information, and I'm going to come to that. My next question in my series of

17 questions is additional information provided by the Defence with a series of names,

18 one name being Richard Dhebanga Zawadi, one being Richard Bahati, one being

19 Zawadi Bahati Richard. We were also given the name Aimé at that point.

20 All I'm seeking to clarify at this point, your Honours, is this information, this one line,

21 that the witness does not have any other names, to understand where did that come

22 from. Now, if it's a mistake from the -- on the part of the Defence, then let the

23 witness explain it. He's giving the evidence.

24 If, in fact, it was the witness who was withholding his name, which is all I'm seeking

25 to clarify this point, then he can simply state, no I wasn't asked and I never said I

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1 didn't have any other names. It's a simple question and I'm not seeking to mislead,
2 your Honours.

3 PRESIDING JUDGE FREMR: [12:37:16] In my view, there is some misleading
4 aspects. Please, at least if you want to put this question also, add what Mr Gosnell
5 said as an explanation given by the Defence, that they corrected it. In the light of this
6 full information, then the question would be fair.

7 MS LUPING: [12:37:36] Understood, Mr President. I'm happy to do so.

8 PRESIDING JUDGE FREMR: [12:37:40] Now, court officer, please connect us with
9 Bunia again.

10 You may proceed, Ms Luping.

11 MS LUPING: [12:38:22] Thank you, Mr President.

12 Q. [12:38:24] Mr Zawadi, on 26 May the Defence did provide various names for
13 you. And I will be asking you questions about that information that they provided
14 in relation to you. But for now I want to understand as at -- because before this, as at
15 the 17 May, we were informed: "The witness does not have any other names".

16 Now, my question is this, Mr Zawadi, either before, whether it was some days before
17 or on 17 May, were you -- did you tell the Defence at any point that you have no other
18 names other than Richard Bahati?

19 A. [12:39:21] Yes. Those are the two names that I told to the lawyers. When I
20 met them, those are the two names that I provided every time I met them.

21 Q. [12:39:40] And the name Richard Bahati, we understand that is the name that
22 you gave to the Defence. My question is slightly different, Mr Zawadi, and I'm sorry
23 if it's not clear. When we have this comment here, which is: "The witness does not
24 have any other names", did you tell the Defence that you had no other names at any
25 point in time? Did you say, "Richard Bahati is my only name"?

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1 A. [12:40:15] They asked me what name I'm known by. I answered that I am
2 called Richard Zawadi Bahati.

3 Q. [12:40:44] And just so we're clear, on 26 May we did get various names for you
4 at that point in time. I'm just going to read so I'm entirely accurate here, and I'll
5 quote:

6 "Out of an abundance of caution, here are the names by which we have information
7 that Witness D-0172 is known. Richard Dhebanga Zawadi, Richard Bahati, Zawadi
8 Bahati Richard, and Aimé." End of quote.

9 And that's 26 May, so that's just under 10 days later.

10 PRESIDING JUDGE FREMR: [12:41:24] Sorry, Ms Luping.

11 Mr Gosnell.

12 MR GOSNELL: [12:41:27] Mr President, I think that it would be fairer to the
13 witness, because the witness has no idea about dates of disclosure or communications
14 inter partes, the date that matters for the witness is the date on which he gave the
15 information. And we in the Defence have told the Prosecution the date on which we
16 received that information. So what would be most fair in my respectful submission
17 to the witness is to tell the witness the date on which he purportedly provided the
18 information.

19 PRESIDING JUDGE FREMR: [12:41:57] Yes, I do admit that dates are relevant in
20 this litigation, even if I'm not sure the witness will be able to take in all the
21 consequences, but, please, Ms Luping.

22 MS LUPING: [12:42:07] Understood. Thank you. Understood, Mr President.

23 Sorry, I didn't mean interrupt. And, in fact, that was my very next question. It was
24 the question if Defence counsel had allowed me articulate it.

25 Q. [12:42:20] Sir, these four names that I have read out to you, Mr Zawadi, when

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1 it is that you were first asked to give your full name and when did you give it?

2 A. [12:42:51] As a human being, I can forget certain details. I can't remember
3 everything.

4 Q. [12:43:02] I'm going to move on now, Mr Zawadi. And I am going to be
5 going back --

6 PRESIDING JUDGE FREMR: [12:43:09] Ms Luping, we have, if I'm not wrong, just
7 two minutes to the end of the session. I'm not sure that your topic would be covered
8 in two minutes. I don't think so.

9 MS LUPING: [12:43:20] You're quite right, Mr President. Perhaps this would be
10 an appropriate moment then to break.

11 PRESIDING JUDGE FREMR: [12:43:26] All right. So we will break now and we
12 will reconvene --

13 Mr Gosnell.

14 MR GOSNELL: [12:43:31] Sorry to interrupt, Mr President. I was wondering if I
15 might be given the opportunity to respond to the Prosecution's request for additional
16 time. I don't know if you're willing to give me an opportunity at some later point, or
17 if now is an appropriate time.

18 PRESIDING JUDGE FREMR: [12:43:43] Yes, I think it's fine because we will decide
19 about that during the lunch break. And I will, just to add, and I also give Ms Luping,
20 then, right to response to your submission, that normally we, as I said, in principle
21 used to grant the counterparty the same time. If there is this kind of surprise, and in
22 this case, still in my view, the leading principle should be that, generally, the cross
23 should be corresponding at least topics and problems covered during the direct
24 examination, even if, according to our conduct of proceedings, we still allow even to
25 take further topics.

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1 So to me, the main reason why to be given more time is some further topics, some
2 very specific problems, which needs more time than during the redirect, something
3 like that.

4 But now you have the floor, and then we will listen to Ms Luping.

5 First, Mr Gosnell, please.

6 Ms Luping, because I would like to give floor first to Mr Gosnell then you. You will
7 have the last --

8 MS LUPING: [12:45:00] Sorry. It's just a procedural request, Mr President. It's
9 just to ask that whilst Mr Gosnell is making his submissions, if we could ask the feed
10 be cut off so that the witness does not hear this exchange, please.

11 PRESIDING JUDGE FREMR: [12:45:13] Yes. Good point. I think we can even
12 cut connection with Bunia totally, both audio and video, and we can free Mr Witness
13 for his lunch.

14 So because of some technical issues, the witness has been asked to leave the room and
15 video. Now he left, and Mr Gosnell, you have the floor.

16 MR GOSNELL: [12:45:59] Thank you, Mr President. You more or less took the
17 words out of my mouth. I would only add one additional point and that is that the
18 estimate itself is a red herring; it's not a relevant consideration. What matters is the
19 time used plus whether there are any special considerations.

20 I only raised this point, Mr President, because I remember myself making the
21 argument about estimates and how that might be relevant and having that argument
22 rejected.

23 And my learned colleague referred to two examples of cross-examinations being
24 extended beyond the time used. I can just give a few examples, Mr President:

25 Transcript 150, page 96; 153, page 27; 132, page 65; Witnesses P-863, P-108, P-888,

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1 P-769 and P-5, amongst many others. The general rule is time used. And, if there
2 are extraordinary justifications, which there may be, that would be the basis for
3 extending time, but usually it's only by a relatively limited amount beyond the time
4 used.

5 Thank you, Mr President.

6 PRESIDING JUDGE FREMR: [12:47:04] Thank you, Mr Gosnell.

7 And now Ms Luping.

8 MS LUPING: [12:47:06] Thank you, Mr President, your Honours. Two key issues:
9 One is the Prosecution could not have anticipated that there would be such a cursory,
10 in our word really frankly, a cursory examination of this witness, 1 hour 36 minutes,
11 when it had been initially estimated at 2 hours and then pushed out to 3.

12 Now, more substantively, though, your Honours, I don't want to quibble necessarily
13 about the time taken by the Defence, they can choose whatever strategy they desire
14 when it comes to their own witness, but in the Prosecution's submission there are a
15 number of key documents relating to this witness, documents with his name,
16 documents that in our submission also contain his parents' names, and this will take
17 quite an amount of time to go through these documents very carefully with witness.

18 We have seen the capacity of this witness. I don't want to belittle him in any way,
19 but there does seem to be a need for additional time for him to understand as we take
20 him through the steps very carefully one by one. I do not want to rush things with
21 this witness. I do not want him to misunderstand the specific suggestions and
22 contentions that I wish to put him. But there are quite a large of number of
23 documents with his name on it and FPLC documents, your Honours. And a number
24 of them have not been shown to him so far in examination-in-chief. They're on our
25 list. Defence chose not to deal with them, that is their prerogative, but we certainly

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1 do want to deal with them and in great depth.

2 We have also certain documents connected to -- in relation to his parents, their
3 identities. They're on the -- it's, you know, been added to the list as well. This will
4 obviously be the key focus in relation to the cross-examination and that in itself could
5 take an hour and a half, your Honours, just relating to his identity and going through
6 those documents.

7 Quite apart from that, he has spoken at some length, but not very long, about his
8 experiences in Tchankwanzi and he has essentially been brought to suggest that he is
9 an individual that a number of Prosecution witnesses have spoken about and there
10 are a number of aspects in relation to the account that he's already given that I wish to
11 explore and need to explore for the Chamber to understand his account of going to
12 Tchankwanzi, the training, the desire to go there and the sharp turnaround and his
13 account that he never joined any army. And to be able to properly go through those
14 issues, your Honour, in our submission we will need the full three hours to properly
15 undertake that exercise.

16 If this was a witness perhaps with a different capacity, I would like to say, if I was
17 being optimistic, that I could complete the cross-examination in two hours, which had
18 been the original estimation, but I do believe, bearing in mind the difficulties, we're
19 also dealing with a video link, documents having to be called up on the other side,
20 that I just want to be realistic. If I can shorten the cross to less than three hours, I will
21 certainly endeavour to do so, your Honours.

22 PRESIDING JUDGE FREMR: [12:50:23] Thank you.

23 And, Mr Gosnell, please briefly.

24 MR GOSNELL: [12:50:25] If I may just reply on the specific issue of whether there
25 has been surprise. The Defence disclosed a statement to the Prosecution of

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1 Mr Zawadi and the cross-exam -- the examination covered almost all the topics that
2 are in the examination and the length of the examination is just about at the original
3 estimate. The original estimate increased because of a new document that was
4 deemed initially potentially very significant and therefore might require a
5 considerable amount of additional time. It turned out not to be case Mr President.
6 So in terms of surprise, I don't believe that there has actually been surprise and I do
7 think it would be unfair to this witness to expect him to endure a three-hour
8 cross-examination.

9 Thank you, Mr President.

10 PRESIDING JUDGE FREMR: [12:51:13] Thank you.

11 And before we leave I would like to ask court officer what time Ms Luping has used
12 so far.

13 THE COURT OFFICER: [12:51:22] Ms Luping has used 18 minutes.

14 PRESIDING JUDGE FREMR: [12:51:25] Eighteen, one-eight? All right.

15 So now we break and we will reconvene at quarter past 2.

16 THE COURT USHER: [12:51:34] all rise.

17 (Recess taken at 12.51 p.m.)

18 (Upon resuming in open session at 2.16 p.m.)

19 THE COURT USHER: [14:16:33] All rise.

20 Please be seated.

21 PRESIDING JUDGE FREMR: [14:17:10] Good afternoon, everybody.

22 Good afternoon, Mr Witness. Before we move to the next part of your
23 cross-examination, I have to deliver two rulings, orally.

24 The first one is an oral ruling --

25 All right, having recommended I share the view of Judge Ozaki, that please, Swahili

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1 interpreters, don't translate these oral rulings to Mr Witness. Otherwise, it's a public
2 decision, but for the special reasons, please do not translate in Swahili.

3 So the first oral ruling concerns the Defence request bearing filing number 2008,
4 seeking protective measures pursuant to Rule 87 of the Rules in the form of use of a
5 pseudonym for the purposes of the trial and voice and face distortion during
6 testimony for, inter alia, Witnesses D-0057 and D-201.

7 In its response, contained in filing number 2019, the Prosecution submits that the
8 Defence has failed to establish the existence of objectively justifiable risks that warrant
9 protecting the two witness's identities from the public when testifying and
10 accordingly argues that the requests should be dismissed.

11 On 11 September 2017, the VWU provided the Chamber with its protective measures
12 assessment for Witness D-0057, indicating that the unit is unable to establish any
13 meaningful facts to support the witness claims that he would be endangered as a
14 result of public testimony and that it, therefore, cannot support the granting of
15 in-court protective measures for this witness.

16 With regard to Witness D-201, however, the VWU indicated in its assessment
17 provided on 26 May 2017 that the use of in-court protective measures would reduce
18 the risk of him being identified by those who may seek reprisals and, therefore,
19 recommended that the Chamber grant the requested measures.

20 As a preliminary matter, the Chamber notes that the confidential redacted version of
21 the request was notified on 14 August 2017 and the response was filed on
22 25 August 2017. In this regard, the Chamber recalls that pursuant to its decision,
23 with filing number 1342, paragraph 14, applicable to the Defence case, pursuant to the
24 decision with filing number 1757, paragraph 8, any responses to requests for
25 protective measures are to be filed within seven days of notification of the request

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1 unless otherwise ordered.

2 The Chamber hereby reminds the parties and participants to comply with this time
3 limit in the future.

4 Turning to the merits of the request. The Chamber will apply the legal standard
5 followed throughout the case and first set out in its decision number 824. The
6 Chamber recalls that it has considered the general security situation in the region to
7 be a potential relevant factor in determining the existence of an objectively justifiable
8 risk to the security and safety of specific witnesses.

9 In this regard, the Chamber notes the information provided by the Registry in its
10 latest report contained in filing number 1980, as well as the Defence submissions and
11 supporting material appended to its request.

12 The Chamber particularly notes the witnesses's areas of residence as well as the
13 particular positions they hold within their respective communities. In addition, the
14 Chamber has taken into account the nature of witnesses's anticipated testimony as
15 detailed in the request and the summaries provided by the Defence, notably in
16 considering where relevant the expected connection to the testimony provided by
17 other witnesses in this case.

18 Finally, in assessing the above circumstances, the Chamber also took into
19 consideration the reported instances in which other witnesses were allegedly
20 threatened as a result of their involvement with the Court.

21 In light of this, and having found that the two witnesses are at increased risk,
22 particularly due to their current positions of employment, the Chamber is satisfied
23 that objectively justifiable risks warrant the protection of Witnesses D-0057 and
24 D-201's identities from the public.

25 The Chamber, therefore, grants the Defence request and orders the implementation of

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1 voice and face distortion during the testimony of the two witnesses as well as the use
2 of pseudonyms for the purposes of the trial pursuant to Rule 87 of the Rules.

3 This concludes the Chamber's ruling.

4 Any request for the floor in accordance in connection with this ruling? I don't
5 see any.

6 And the second ruling concerns a Prosecution request for time which should be
7 allotted for the rest of cross-examination of our witness.

8 The Chamber deliberated, and our ruling is that the Prosecution is allotted two hours
9 in total for that examination.

10 We thoroughly considered arguments presented by both parties and came to
11 conclusion that there are reasons to make exception from the general rule that both
12 parties shall use the same time for examination-in-chief and cross-examination of
13 witnesses.

14 In this concrete case of Witness D-0172, we based our conclusion on time of two hours
15 allotted to the Prosecution on adjudication of the topics covered during the
16 examination-in-chief by Mr Gosnell and the other potentially touched by the
17 Prosecution.

18 They seem to be relevant and requiring challenging details contained in several
19 documents. Together with the need to treat Witness D-0172 in a way corresponding
20 to his capability to testify, it led the Chamber to conclusion that two hours should be
21 sufficient time.

22 As to the documents, the Chamber strongly encourages Ms Luping to use selective
23 approach and focus on the most relevant among them.

24 The Chamber doesn't incline to further extension of that time limit.

25 So Ms Luping, take it into account when organising your further cross-examination.

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1 And two hours and less time that you requested on the other hand, if you take it from
2 the other perspective, it is almost twice more than Mr Gosnell used for
3 examination-in-chief.

4 It completes our ruling and now we can proceed.

5 So the Tanzanian Swahili booth, please, now proceed with us.

6 Ms Luping, you have the floor.

7 MS LUPING: [14:26:56] Thank you, Mr President, your Honours. Before I
8 proceed, I just want to note for the record that Ms Nicole Samson and
9 Ms Claudine Umurungi are no longer in the courtroom with us.

10 PRESIDING JUDGE FREMR: [14:27:06] Well noted and thank you, Ms Luping.

11 MS LUPING: [14:27:14]

12 Q. [14:27:15] So good afternoon again, Mr Zawadi. Now, before the break and
13 in your testimony when it came to discussing your date of birth, you explained to
14 Defence counsel that you did not know your date of birth until your father gave you
15 this information the first time that you got your electoral card; is that correct?

16 A. [14:28:01] What I said is that the date which appears on my voter's card was
17 provided by my father and he did so consciously in order to enable me to obtain a
18 voter's card.

19 Q. [14:28:27] Okay. Mr Witness, I'm going to read to you a passage from today's
20 transcript it's T-245 at page 23. I'll read from line a 15 to 25:

21 "And was it you or was it your father who gave the date of birth that ended up on
22 this card?

23 It was my father who told me to give him this date so that I could finally get it."

24 PRESIDING JUDGE FREMR: [14:28:50] Ms Luping, slow down a bit. Thanks.

25 MS LUPING: [14:28:52] Apologies. Apologies to the interpreters.

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1 "And leaving aside the year, did your father also tell you that this was the day and
2 month on which you were born?"

3 Answer: "All this information came from my father."

4 Question: "Before this occasion when you went to obtain your card, did you know
5 your own date of birth?"

6 Answer: "No, I didn't know my date of birth." End of quotes.

7 So my question is, hopefully a simple one, Mr Witness, which is so before you got
8 your first electoral card, which you confirmed was in 2006, you did not know your
9 date of birth, your correct date of birth before then; that's right, isn't it?

10 A. [14:30:03] I knew my date of birth, but my age was lower than that at which I
11 would have been entitled to receiving an electoral card.

12 Q. [14:30:25] Well, Mr Zawadi, there is a difference between what is recorded that
13 you said to Defence counsel and what you're saying now. Before then you said you
14 did not know your date of birth, it was your father who gave you that information,
15 and now you're saying you did know your date of birth. Could you explain to the
16 Chamber which is the correct answer?

17 A. [14:31:02] This is what I can say: What I said in relation to my date of birth is
18 as follows, at that time I did not know my date of birth, but, you see, at that time I
19 didn't have the required age which would have entitled me to an electoral card, that is
20 why my father asked me to alter my date of birth so that I could be issued an electoral
21 card because those who didn't have electoral cards were harassed, were being
22 harassed by soldiers at that time.

23 Q. [14:31:42] Thank you, Mr Zawadi. That is clear, but just to be clear -- further
24 clear, so in 2006, that is when you learnt that your correct date of birth is 1988; is that
25 right?

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1 A. [14:32:12] Yes.

2 Q. [14:32:12] Right. Now, I'm just going to move on --

3 PRESIDING JUDGE FREMR: [14:32:15] Hold on, hold on, Ms Luping.

4 Mr Gosnell.

5 MR GOSNELL: [14:32:18] I'm sorry to interrupt, but either there was a transcript
6 error or perhaps my learned colleague misspoke. I'm not sure whether that requires
7 correction, but I think if we look at line 9.

8 PRESIDING JUDGE FREMR: [14:32:43] Ms Luping.

9 MS LUPING: [14:32:44] Yes, I believe it's been -- I believe I had said '88. It's
10 possible my New Zealand accent has not been correctly picked up, but indeed the
11 question was meant to be 1988.

12 PRESIDING JUDGE FREMR: [14:32:55] I believe I heard the same. So anyway it
13 should be corrected.

14 MS LUPING: [14:33:01] Thank you for that, Defence counsel.

15 Q. [14:33:04] Now, moving on to my next question, Mr Witness, it's an issue
16 relating to your place of birth. Now, you said -- first of all, you said that you were
17 not born in Nyankunde. This is in response to questions from Defence counsel.
18 That's your position, you say you're not born in Nyankunde?

19 A. [14:33:41] That is correct.

20 Q. [14:33:42] Then can I ask you to explain to the Chamber, Mr Zawadi, why is it
21 that you gave information to the Defence, which they then provided and confirmed
22 on 5 and 6 April and again on 17 May 2017 that your place of birth is Nyankunde?
23 Why is that?

24 A. [14:34:25] Well, I think we -- we all mixed up issues on this point. This is
25 what I said, I was born at Barrière, but we grew up in Nyankunde. We lived in

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1 Nyankunde. While I was a child, I lived in Nyankunde, but I was born at Barrière.

2 Q. [14:34:54] And then just moving to the -- my next topic. Your father's name,

3 Mr Zawadi, you've said in -- in your testimony so far that your father's name is

4 Dieudonné Mateso; is that right?

5 A. [14:35:20] That is correct.

6 Q. [14:35:22] Isn't it correct that his names are also Mateso Dedonga Sukulu?

7 A. [14:35:44] That name that you have read out is not his name.

8 Q. [14:35:50] Well, first of all, Mr Zawadi, can I ask you to confirm that when you

9 met with the Prosecution on 22 June of this year that the name you gave for your

10 father was Mateso Sukulu; isn't that right?

11 A. [14:36:16] Yes, my father's name is Mateso Sukulu. Well, not Mateso Sukulu,

12 it's Mateso Dieudonné. If I mentioned the name Sekulu, it is because that is a name

13 that is borne or used in his family. But his name is Mateso Dieudonné.

14 Q. [14:36:45] Well, when we met with you, Mr Zawadi, you explained that Sekulu

15 is your father's nom; is that right?

16 A. [14:37:06] That is my grandfather's name. My father's father's name.

17 Q. [14:37:11] Just to simplify matters, Mr Zawadi, Sukulu is another name used

18 for your father, yes or no?

19 A. [14:37:31] Well, I don't know whether he used that name or not.

20 Q. [14:37:35] Well, it's unfortunate that we're going to have to waste time on this,

21 but I will ask the court officer to call up the transcript of the meeting that the

22 Prosecution had with you, Mr Zawadi. And that was -- it's tab 22, it's

23 DRC-OTP-2103-1044. And I'm going to read it to you, from page 3, so that's

24 2103-1047, from lines 92.

25 MS LUPING: And I'm not going to wait for it to be called up, your Honours, in

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1 interests of time. I'll simply read it from witness.

2 Sorry, I'll start --

3 PRESIDING JUDGE FREMR: [14:38:29] All right.

4 MS LUPING: [14:38:32] -- from line 89.

5 Q. This is a question about your father.

6 "Could you give us his full names or his names?"

7 Response: "Yes, I'll give you my father's name.

8 Thank you.

9 Mateso, Mateso Dedonga Sukulu."

10 And then you repeat it: "Mateso Dedonga Sukulu."

11 That goes up to line 102.

12 So it's right, isn't it, Mr Zawadi, that those are other names for your father,

13 Mateso Dedonga Sukulu?

14 A. [14:39:14] Well, I'm -- I'm sorry, but you know these things happened several

15 days ago. I'm a human being, I'm not a machine and I cannot remember every single

16 thing that I said.

17 Q. [14:39:28] Well, thank you, Mr Zawadi. I'm not asking you to remember

18 every single thing you said. I'm asking you to remember your father's name, which I

19 would have hoped would not cause too much difficulty. But I will leave the

20 Chamber just to assess your answer for themselves and I'll move on.

21 PRESIDING JUDGE FREMR: [14:39:44] Ms Luping, please, next time refrain from

22 this kind of comment.

23 MS LUPING: [14:39:49] Understood, Mr President.

24 Q. [14:39:52] And, Mr Zawadi, just to clarify because another name given to us by

25 the Defence for your father is Jacques, this was a name given to us on 4 May this year.

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1 Is that a name that is a correct name for your father, Jacques?

2 A. [14:40:18] No. Jacques is my father's elder brother's name.

3 Q. [14:40:27] And moving on to your parents ethnicity, Mr Zawadi, your -- both
4 your parents are Hema Nord or Gegere; is that correct?

5 A. [14:40:52] Yes, that's correct. They are of the Gegere ethnic group.

6 Q. [14:40:57] And you've mentioned that you stayed for some time in a place
7 called Babokela. Now, that's a Bira village, isn't it?

8 A. [14:41:10] Ndiyo.

9 Q. And do you have family then who are also of Bira ethnicity?

10 A. Ndiyo.

11 Q. And who's side of the family is that on?

12 A. [14:41:21] Yes.

13 Q. [14:41:22] I'm sorry, I'm speaking too fast.

14 Whose side of the family is the Bira family? Is that your father or your mother?

15 A. [14:41:42] I do not have any relatives on the Bira side. All my parents are
16 from the Gegere ethnic group. They are Hema north.

17 Q. [14:41:58] All right. I'm just -- there appear to be two responses from you,
18 Mr Witness, because the first response to my question "Do you have family who are
19 of Bira ethnicity and the answer we have, at least in the English is "Ndiyo", which I
20 understand -- and in French it has indeed been translated as "yes". And then later
21 you're saying you do not have any relatives who are Bira. Which is the correct
22 answer, Mr Witness?

23 A. [14:42:45] My two parents are of the Hema north ethnic group.

24 Q. [14:42:52] And now just a question about your religion, Mr Zawadi, do you
25 belong to the CECA 20 church, that's the Communauté Évangélique au Centre de

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1 l'Afrique?

2 A. [14:43:22] I belong to the CE39 church.

3 Q. [14:43:28] Now I'm just going to move back in time, Mr Zawadi, and deal with
4 your testimony where you spoke about what was happening just before you went to
5 Tchankwanzi for military training.

6 And you said, that's at page 25 of today's transcript, lines 22/23, when speaking of an
7 attack on Nyankunde where you were living and you said there was, and I quote,
8 "war between different ethnic groups".

9 Now, isn't it right that between those different warring ethnicities that there was a
10 war between the Lendu-Ngiti against the Hema?

11 A. [14:44:21] That is correct.

12 Q. [14:44:33] Now, Mr Zawadi, you've explained some of the reasons why you
13 decided to go to Tchankwanzi for military training, and you did -- you said that, "We
14 had received information that the Lendu were killing people and we had to go to
15 Tchankwanzi to do military service."

16 Could you -- first of all, could you explain who gave you that information? From
17 whom did you hear that you needed to go to do your military service in
18 Tchankwanzi?

19 A. [14:45:28] Well, a vehicle came to come and get people from the village and
20 that is where I received that information.

21 Q. [14:45:44] And they were calling for people to come for training so they could
22 be part of a Hema militia; is that right, to protect the community?

23 A. [14:46:10] No, that wasn't so. Everyone saw that the village was -- well, you
24 see, it was voluntary. Everyone volunteered. It was volunteer recruitment because
25 it was necessary to flee from war, flee from war. So all the young people decided to

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1 go into the vehicle and do their military service.

2 Q. [14:46:39] And the military service was for a Hema militia; is that right?

3 A. [14:46:54] No, there was no difference. Even an Alur person or Hema, even
4 the Lendu, there were some of them amongst those people --

5 THE INTERPRETER: [14:47:04] Interpreter --

6 THE WITNESS: [14:47:06] -- as well as the Bira people.

7 THE INTERPRETER: [14:47:08] Interpreter correction: In the previous reply the
8 witness did mention that the village had been decimated, page 86, line 1.

9 MS LUPING: [14:47:18]

10 Q. [14:47:19] So it's your testimony, Mr Zawadi, that Lendu were part of this
11 group that went to -- sorry, to Tchankwanzi for military training? Is that your
12 testimony?

13 A. [14:47:41] Yes. It wasn't an army just with Hema people; it was an army with
14 all kinds of different people. There were Alur people as well. It was a mixture.

15 Q. [14:47:54] And Iga-Barrière where you left from, would you agree that's a
16 predominantly Hema location?

17 A. [14:48:13] Yes, the Hema are in the majority there, but the recruitment wasn't
18 just in Barrière. The recruits came from several different places.

19 Q. [14:48:28] And you've explained that you first travelled on foot before you
20 reached Azanga cinema; is that right?

21 A. [14:48:43] Yes.

22 Q. [14:48:44] And so you travelled on foot from Iga-Barrière, which is about 25
23 kilometres away from Bunia; is that right?

24 A. [14:49:00] Yes.

25 Q. [14:49:00] And as you were born in 1988, sir, as this was in the year 2000, you

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1 would have been 12 years old you made that journey; is that right?

2 A. [14:49:16] Yes.

3 Q. [14:49:23] You've explained that there were three friends with you. Am I
4 right in saying that they're about the same age as you?

5 A. [14:49:41] Yes. My friends, the ones I was with, when we got to Bunia their
6 parents came to fetch them. As for myself, I was recruited the same day but my
7 friends went back home and they did not do military service.

8 Q. [14:50:08] And these friends of yours they were also Hema?

9 A. [14:50:22] Yes.

10 Q. [14:50:24] Now, I would like to show you a document now, and this is relevant
11 to your demobilisation from Tchankwanzi.

12 If I could ask the court officer to call up document at tab 7, and that is

13 DRC-OTP-0134-0626. And court officer, if I could ask that you go to page 638.

14 I see there appears to be some difficulties getting the document called up. Could I
15 just ask the court officer in Bunia, is there a hard copy of tab 7 on the other side? We
16 had sent through the documents for -- to be printed out. Could the witness please be
17 provided with a hard copy of the item at tab 7 if there's a problem remaining?

18 PRESIDING JUDGE FREMR: [14:52:37] And this delay shouldn't be included in
19 Ms Luping's allotted time.

20 MS LUPING: [14:52:45] Thank you, Mr President.

21 THE COURT OFFICER: Could I please ask the court officer in the field office to
22 confirm if he can show that document to the witness because we are encountering
23 some technical issue here in The Hague. Thank you very much.

24 THE COURT OFFICER: [14:53:21] (Via video link) Could I have the reference
25 number once again, please, so I can find the electronic version that's on the laptop

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1 directly.

2 MS LUPING: [14:53:35] Certainly, court officer. I shall repeat that. It was the
3 item at tab 7 of the binder, and the ERN is DRC-OTP-0134-0626. And I would ask
4 that you turn to page 0638. It's page 13 of the document.

5 THE COURT OFFICER: [14:54:11] And Ms Luping, if the document is confidential,
6 can I please ask you to --

7 MS LUPING: [14:54:16] It's public.

8 THE COURT OFFICER: [14:54:18] Thank you.

9 THE COURT OFFICER: [14:54:20] (Via video link) (Interpretation) I have found the
10 document. Just two minutes, please.

11 THE COURT OFFICER: [14:55:25] Just for your information, it seems that the
12 images haven't been properly uploaded into eCourt and this is the reason why we
13 cannot -- we can only publish the first page of the document. However, my
14 colleagues in Bunia has the electronic version and can show it to the witness.

15 MS LUPING: [14:55:43] Thank you, court officer. And I -- correct me if I'm wrong,
16 I do believe that hard copy binders should also have been distributed to
17 your Honours and to all the parties and participants in the interest of time. So I
18 would ask if the parties and participants and your Honours turn to tab 7.

19 And as soon as the document and the page 0638 has been brought before the witness,
20 court officer in Bunia, could you please confirm that so I can start my questions,
21 please.

22 PRESIDING JUDGE FREMR: [14:56:20] I think using hard copies is fine with the
23 Chamber.

24 THE COURT OFFICER: [14:56:47] (Via video link) (Interpretation) Your Honour,
25 for the time being, I cannot confirm that the witness has the document.

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1 PRESIDING JUDGE FREMR: [14:57:05] What prevents you from showing this
2 document to Mr Witness?

3 THE COURT OFFICER: [14:57:18] (Via video link) It would appear that I have the
4 document, but the download is rather slow.

5 MS LUPING: [14:57:31] Mr President, I just --

6 THE COURT OFFICER: [14:57:33] (Via video link) (Interpretation) (Inaudible) hard
7 copy.

8 PRESIDING JUDGE FREMR: [14:57:45] Ms Luping, do you have any better idea
9 how to proceed?

10 MS LUPING: [14:57:49] Well, if, obviously, if the court officer has a hard copy
11 there, that would be the best way to proceed. If not, there -- I don't know technology
12 wise if it's possible to show the document on the Elmo and for that to be seen via
13 video. Is that possible?

14 PRESIDING JUDGE FREMR: [14:58:06] Yes.

15 MS LUPING: [14:58:07] Thank you.

16 PRESIDING JUDGE FREMR: [14:58:08] Please, court officer --

17 MS LUPING: [14:58:09] Then if we could use the Elmo, court officer, and assist
18 with that. It's just page 638 we want shown.

19 THE COURT OFFICER: [14:59:32] The document is displayed on the evidence 2
20 channel. It will be sent via the video link to the Bunia field office, and I will ask
21 Ms Luping to confirm which part of the document you would like to be displayed.

22 MS LUPING: [14:59:50] Thank you, court officer. Could I ask that, first, if we
23 scroll down, just to look at the title of this document. Yes. And I'm going to note
24 again for the record, it's page 638 only to be seen. Yes, we can stop there. There's a
25 heading "Guerre interethnique en Ituri"

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1 THE INTERPRETER: Inter-ethnic war in Ituri.

2 MS LUPING: It says: (Interpretation) "Finally UNICEF thinks about child
3 soldiers."

4 (Speaks English) Now, there is an article about the demobilisation that took place.

5 Q. [15:00:31] And, Mr Zawadi, am I correct that this document was shown to you
6 during your witness preparation session by Defence counsel, is that right, you've seen
7 this once before?

8 A. [15:01:02] When you -- when they called me here in Bunia?

9 Q. [15:01:06] Yes. We have a record from your witness preparation session of 7
10 September 2017 --

11 A. [15:01:15] (No interpretation)

12 Q. [15:01:16] -- that you were shown this item and asked questions about it; do
13 you recall that?

14 A. [15:01:37] Well, those things happened a long time ago. I've already
15 forgotten.

16 Q. [15:01:42] All right. Mr Zawadi, this -- I'm referring to events last week on 7
17 September, but I'll remind you. You were shown the lists of names of people in this
18 list and you were asked if you recognised any names.

19 And I'd like the court officer to focus in on the first name, on the top right, the number
20 1. That's the name Bahati Balidja Joël, said to be born in 1992 at Dheu, D-H-E-U.

21 THE COURT OFFICER: [15:02:27] (Via video link) Your Honour.

22 PRESIDING JUDGE FREMR: [15:02:32] Yes, please.

23 THE COURT OFFICER: [15:02:33] (Via video link) The document is now available
24 for the witness.

25 PRESIDING JUDGE FREMR: [15:02:38] Very well.

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1 Mr Witness, can you read? I think you can't, you can't read.

2 MS LUPING: [15:02:46] I'm happy to assist, Mr President. I'm going to --

3 THE WITNESS: [15:02:53] (Interpretation) the font is very small and I can't quite
4 make it out, but I do remember that the document was shown to me the day before
5 yesterday. I -- I acknowledge that.

6 PRESIDING JUDGE FREMR: [15:03:16] So Ms Luping will, she's being allowed to
7 do it. She will read out the relevant passages.

8 MS LUPING: [15:03:25]

9 Q. [15:03:25] I'm just going to read the name, number 1 on this list "Bahati

10 Balidja Joël, born in 1992 at Dheu."

11 My question is this, Mr Zawadi: This is a name of someone you recognised, isn't that
12 right?

13 A. [15:03:54] Yes, I know that person.

14 Q. [15:03:56] And isn't it right that you said that Bahati Balidja was about eight or
15 nine years old and trained with you in Tchankwanzi; is that right?

16 A. [15:04:18] Yes, he was very young. The two of us were the youngest ones,
17 Bahati Balidja and myself. We were the youngest ones within the group.

18 Q. [15:04:33] Yes, and you -- just to go back on that point, you explained, didn't
19 you, during that witness preparation that Bahati Balidja Joël, being 8 or 9 at the time,
20 that he was the youngest and that you were the second youngest; is that right?

21 A. [15:05:09] Yes.

22 Q. [15:05:09] And if we scroll down to the item 17, and I'm going to read it. It
23 says, "Zawadi Richard, or Richard, born in 1986 at Iga Barrière." And you were also
24 shown this name; is that right?

25 A. [15:05:33] Yes, it was shown to me.

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1 Q. [15:05:34] Now, you have explained that you didn't actually know your correct
2 date of birth until about 2006, but this information here, this person Richard Zawadi
3 born in Iga Barrière, that's you, isn't it?

4 A. [15:06:07] This is a document that was brought the day before yesterday?
5 The one that was shown to me?

6 Q. [15:06:25] Yes, that's right. And actually if I get the court officer to scroll up,
7 right to the top, please.

8 I just want to show the witness the date of this and what this document is. Still
9 scrolling further up, please. Right to the very top of the document. And further
10 again. Stop there. Thank you.

11 And I'm going to read that, Mr Zawadi. It says "Les Coulisses" and it says -- well,
12 sorry. It says number 126 from 1 June to 20 June 2003. So this is a newspaper
13 article, sir, from Les Coulisses. It is a Colombe Plus newspaper. Have you heard of
14 that newspaper?

15 A. [15:07:43] Well, how is it that I'm to know what you just asked me?

16 Q. [15:07:51] If you don't know the answer, that's also not a problem, Mr Zawadi.
17 I just want you to understand where this comes from because you asked where it was
18 from, so I'm just explaining.

19 But going back to the names, and I read to you Zawadi Richard and it's a person born
20 in Iga Barrière. It's in the same list as the name of the child that you recognised, or
21 child at that time, the eight or nine-year-old. You're in that same group that's listed.
22 Richard Zawadi, that's you, isn't it?

23 A. [15:08:32] Yes.

24 Q. [15:08:33] Thank you.

25 At this stage I would ask to have just this one page entered, admitted as evidence,

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1 Mr President.

2 PRESIDING JUDGE FREMR: [15:08:43] Defence, your position?

3 MR GOSNELL: [15:08:47] I certainly don't think that -- we oppose the request in
4 respect of the entirety of the document and in fact all the information that my learned
5 colleague wishes to tender by way of the document has already been adduced orally.
6 Thank you, Mr President.

7 PRESIDING JUDGE FREMR: [15:09:06] Ms Luping.

8 MS LUPING: [15:09:09] Thank you, Mr President. Indeed, the -- whilst the names
9 or the references have been read into the record, I do believe that it would be of use
10 for the Chamber when it comes to deliberate in many months' time, quite a long time
11 from now potentially, to have this one page -- I'm not seeking to have the entirety of
12 the document entered as evidence. Just the one page that has been shown to the
13 witness, and he's confirmed that his name appears in this record and that the name of
14 a young child, Bahati, is also in the record.

15 PRESIDING JUDGE FREMR: [15:09:39] So, Mr Gosnell, briefly please.

16 MR GOSNELL: [15:09:44] Mr President, there are about 40 other names on this
17 page with birth dates. Witness has given no verification that he has any knowledge
18 as to their ages or their birth dates, so we object on that basis.

19 PRESIDING JUDGE FREMR: [15:09:57] The objection is overruled. To be brief, I
20 share argument presented by Ms Luping, and even if for its relevance for us is just
21 what has been read out by Ms Luping. Still, the context of this page also could be of
22 the assistance to the Chamber.

23 So this page specified by Ms Luping is admitted into -- in evidence as a further
24 Prosecution exhibit.

25 And it's for the -- for the purpose of impeachment or for the purpose of the truth of

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1 the content, Ms Luping?

2 MS LUPING: [15:10:39] Mr President, I would say for the truth of its content. The
3 witness has confirmed his name as contained in this record. He's confirmed the
4 name of another child. Obviously, the Chamber can assess the rest of the
5 information contained in this document, but it certainly supports what he has said in
6 our contention.

7 PRESIDING JUDGE FREMR: [15:10:57] All right, then. So for the purpose of the
8 truth of the content.

9 Please proceed, Ms Luping.

10 MS LUPING: [15:11:02] Thank you, Mr President.

11 Q. Now, when you were being demobilised, Mr Zawadi, you explained that you
12 and others were brought to a place called Kiriandongo in Uganda, isn't that right?

13 A. [15:11:25] Ndiyo.

14 Q. [15:11:26] And this was not a topic that was addressed during
15 examination-in-chief, but --

16 A. [15:11:32] Yes.

17 Q. [15:11:33] -- sorry. But I'd like to read you a passage from your witness
18 statement at paragraph 6, and I quote:

19 "Chef Kahwa (Interpretation) Chief Kahwa came and asked us to return to civilian
20 society. He said to us that once we were adults we could take part in the fighting of
21 our own free will. That day, he was wearing civilian clothing. Most of the people
22 who were there, including myself, did not want to be demobilised or to give up our
23 weapons. However, we had no choice."

24 (Speaks English) Now, first of all, can you confirm that this information contained in
25 your witness statement is correct?

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1 A. [15:12:50] It's correct.

2 Q. [15:13:06] And whilst you were in Kiriandongo you explained that UNICEF
3 and others came and interviewed people there; isn't that right?

4 Sorry, my question was indeed not very clear.

5 A. [15:13:33] Could you repeat?

6 Q. [15:13:37] When you were at Kiriandongo with the other recruits from the
7 Tchankwanzi training, isn't it right that UNICEF, staff from UNICEF and other NGOs
8 came and they met with the trainees to find out who were children amongst you?
9 Isn't that right?

10 A. [15:14:16] Yes.

11 Q. [15:14:16] And wasn't the point of that to demobilise any children amongst
12 you?

13 A. [15:14:32] Yes.

14 Q. [15:14:36] And you said that there were people who were more than 18 who
15 tried to pretend that they were children, one as old as 25; is that right?

16 A. [15:15:03] Yes.

17 Q. [15:15:06] But this UNICEF-led team, they spent about three days, didn't they,
18 to determine how many of -- there were roughly 693 individuals were in fact children;
19 isn't that correct?

20 A. [15:15:34] Yes.

21 Q. [15:15:36] There was a process, wasn't there, you've explained that your
22 information was recorded, there was a four-page document for you; is that right?

23 A. [15:15:58] Yes.

24 Q. [15:16:00] And they were assessing who or -- who was eligible or not to be
25 repatriated; isn't that right?

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1 A. [15:16:18] Yes.

2 Q. [15:16:21] Now, in terms of what happened to those children after the
3 demobilisation in Uganda, I would like to turn to another passage from your
4 statement. Again this is item 3, DRC-D18-0001-5855. It's from paragraph 8. And I
5 quote to you:

6 (Interpretation) "At that time inter-ethnic tension had intensified. And I learnt that
7 a peace committee had been set up in Mandro and that it was possible to receive
8 training there. Some of my comrades with whom I had been in Tchankwanzi who
9 used to live at Iga Barrière decided to go to Mandro. They -- some of them told me
10 'Your group was given good training in Tchankwanzi, why don't you come along?'"
11 (Speaks English) End of quote.

12 "(Interpretation) "I however decided not to go to Mandro."

13 (Speaks English) Is that an accurate record of what you said, Mr Zawadi?

14 A. [15:18:18] Yes. Yes.

15 Q. [15:18:22] So there were some who had been trained in Tchankwanzi who then
16 went on for a separate military training at Mandro; is that right?

17 A. [15:18:41] Yes.

18 Q. [15:18:43] And you've said that this was when the inter-ethnic tension
19 intensified. And that was in 2002, wasn't it?

20 A. [15:19:04] Yes.

21 Q. [15:19:04] And you said that you yourself were asked "Why is it you're not
22 going for training at Mandro?" Isn't that right?

23 A. [15:19:22] Yes.

24 Q. [15:19:22] And really this was because of the inter-ethnic tension that there
25 was really pressure to protect your Hema community; is that right?

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1 A. [15:19:55] Well, I refused to go there, but the others went. I had already been
2 disappointed by those people since the time in Uganda and I was no longer going to
3 be part of that service.

4 Q. [15:20:14] Now, this inter-ethnic tension in 2002, this was between the -- well,
5 largely between the Lendu-Ngiti and the Hema; is that right?

6 A. [15:20:32] Yes.

7 Q. [15:20:33] And this training that some of your friends and colleagues went to
8 in Mandro, this was also from about June to, say, August 2002; is that right?

9 A. [15:20:54] Yes.

10 Q. [15:20:54] Now, in Iga Barrière, which you've confirmed was a predominantly
11 Hema community, it's right there was a UPC/FPLC base there, yes?

12 A. [15:21:17] It was a region that was under the control of the UPC.

13 Q. [15:21:25] Yes. And apart from the control over the whole of the region, isn't
14 it right that Iga Barrière specifically, that there was a UPC/FPLC base located in
15 Iga Barrière itself? Isn't that right?

16 A. [15:21:48] No, it wasn't there. It was near Iga Barrière. Most of the troops
17 were at Iga Barrière.

18 Q. [15:22:01] And the local community living in Iga Barrière, the largely Hema
19 community there, they supported the UPC/FPLC, didn't they?

20 A. [15:22:24] Well, there were some UPC troops at that area.

21 Q. [15:22:32] Thank you. But my questions are different, Mr Zawadi. It's about
22 the local civilian population living there. Isn't it right that the population in Iga
23 Barrière largely support the UPC/FPLC?

24 A. [15:22:59] Yes, many of them did.

25 Q. [15:23:03] And even to this day, there's still a lot of support for the UPC

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1 at -- from people living in Iga Barrière; isn't that right?

2 A. [15:23:24] Yes.

3 Q. [15:23:27] Now, going back to the training in Mandro that a number of your
4 colleagues went to, friends and colleagues you said, the ones that -- including ones
5 that had been in Tchankwanzi with you, am I right in saying that some of them at
6 least who went to Mandro for the training they were about the same age as you at the
7 time?

8 A. [15:23:54] When the training took place in Mandro I was much older.

9 Q. [15:24:13] Yes. You've explained you're born in '88, so in 2002 you would
10 have been about 14 years old; isn't that right?

11 A. [15:24:29] Yes, but I wasn't there.

12 Q. [15:24:32] Yes, you've said that. But I'm just asking now the question about
13 the friends of yours who did decide to go. Isn't it right that some of them were about
14 your age, yes?

15 A. [15:24:50] Yes, some of them.

16 Q. [15:24:52] And these friends, they were about 14 as well?

17 A. [15:25:02] Yes, some of them.

18 Q. [15:25:05] And they were also Hema?

19 A. [15:25:11] Yes.

20 Q. [15:25:12] And these friends of yours that we've just talked about just now,
21 some of them also stayed and became soldiers of the UPC/FPLC; isn't that right?

22 A. [15:25:30] Yes.

23 Q. [15:25:33] All right. Now, you've -- you've already said, you've testified,
24 you've said that you never joined the UPC, you've never joined any armed group;
25 that's your testimony, isn't it?

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1 A. [15:25:54] Yes.

2 Q. [15:25:55] Now, during your witness preparation on 12 September 2017, so this
3 is just a few days ago, Mr Zawadi, you were asked -- and I'm going to quote to you
4 actually the specific passage from the witness preparation note. That's item 11,
5 DRC-D18-0001-5865. And I quote:

6 "Mr Gosnell asks if the witness ever went to the DDR office and represented himself
7 as a former member of the UPC to gain some financial support; the Witness says no."
8 End of quote.

9 Is that right, Mr Zawadi, that you never tried to pretend that you were with the UPC
10 or FPLC to try to get some kind of money or benefit?

11 A. [15:26:55] Not at all. I never made such a declaration.

12 Q. [15:27:01] And at -- is it right that you never represented yourself as being part
13 of an armed group when it just was not true; is that right? You never held yourself
14 out and told somebody you were part of an armed group when it was not true?

15 A. [15:27:28] No, I never stated that. In fact, I didn't even have time to do so.

16 Q. [15:27:36] All right. So I just want to really in my mind understand your
17 testimony better, Mr Zawadi. So if I understand it, you said that in 2002 the
18 inter-ethnic tension had intensified, so it's even worse than in 2000; is that right?

19 A. [15:28:04] Yes, that is correct. The war was very intense.

20 Q. [15:28:10] And your community was putting pressure on you and other young
21 people, they were -- basically because they felt they needed you even more than
22 before; is that right?

23 A. [15:28:34] Yes.

24 Q. [15:28:35] Now, at this particular point in time when you have said that you
25 said, no, you're not joining, isn't it right that you've said also that you had no support

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1 to go back to school, so you didn't go back to school at this time, did you?

2 A. [15:28:58] That's correct.

3 Q. [15:29:01] But in spite of these -- this situation, is it right then that according to
4 your testimony you decided you were not going to help your community, you didn't
5 want to do anything to help them; is that right?

6 A. [15:29:36] That is correct.

7 Q. [15:29:36] Well, Mr Zawadi, isn't the truth, though, the truth of the matter that
8 you -- I haven't finished my question, I'm sorry, Mr Zawadi.

9 A. [15:29:51] What you say is true.

10 Q. [15:29:53] Isn't the actual truth, though, Mr Zawadi, that in 2002 you did join
11 the UPC/FPLC? Now, isn't that the truth?

12 A. [15:30:11] No, I did not go back to the UPC as I have already told you.

13 Q. [15:30:21] Well, I'm going to ask that the court officer call up some documents.
14 One of them -- two of them you've already been shown.

15 And I would like to go through these documents very slowly and very carefully.

16 Now, the first document, and court officer, if there is a way I would like these two
17 documents to be side by side, to be split on the screen. And the first is the -- at item
18 4, it's tab 4, DRC-OTP-2081-0072. If we could see that first of all.

19 And then on the other side of the screen, if we could please see item number 24, that
20 is DRC-OTP-0160-0190, at page 0200.

21 If I could just ask the court officer if there's any technical glitches, if it is possible to
22 split the screen? I'm just seeing one record at the moment.

23 THE COURT OFFICER: [15:32:15] We'll try. I'm already surprised that eCourt is
24 actually working, so we're on the right way. Thank you.

25 MS LUPING: [15:33:31] Okay, thank you, court officer.

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1 Q. [15:33:33] So, Mr Zawadi, you should have in front of you two documents that
2 you've already been shown and already been asked questions about this and I wanted
3 to ask you a number of questions too.

4 Now, I want to draw your attention to the record on the right first. And first we see
5 at -- I want you to look at the line number 19 and the name "Zawadi Richard", and
6 you'll see a date of birth. You've had the 9 July shown to you. I'm now going to
7 bring your attention to the year of birth. What we have is first of all the number 8.
8 Now, the second number there appears to be a mix of both the number 6 and the
9 number 8. Would you agree with me?

10 PRESIDING JUDGE FREMR: [15:34:25] Sorry, court officer, would it be possible to
11 in some way highlight this line just to facilitate Mr Witness's role?

12 MS LUPING: [15:34:36] And could I also ask the court officer not to zoom in on
13 just the year. We need to see the whole of the line. If we go out and not see the
14 whole line, then it might defeat the purpose of my current exercise I'm afraid. I want
15 to see the whole line, all the information in that line.

16 THE COURT OFFICER: [15:34:55] Mr President, it's not possible to highlight the
17 right place, but we could use the cursor to show the witness where he has to --

18 PRESIDING JUDGE FREMR: [15:35:06] At least please lead him to the right line,
19 yes.

20 MS LUPING: [15:35:11] Perfect.

21 Q. [15:35:11] So we have -- I just repeat my question, Mr Zawadi. We have a
22 date of birth here, it says 9 July and you were not brought -- your attention was not
23 brought to the year and I'm going to do that now. That is a number 8, the first
24 number is 8; is that correct?

25 Mr Zawadi, is there a problem? You're not answering my question. I will repeat it:

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- 1 That first number for the year of birth for this Richard Zawadi it says "8", doesn't it,
2 for the year? Is there an 8 there? The first number is 8; would you agree with me?
- 3 PRESIDING JUDGE FREMR: [15:36:14] Please put cursor, court officer, put cursor.
4 Mr Witness, can you see the small thing moving on the screen which now targeting
5 the number mentioned by Ms Luping? Can you see it?
- 6 MS LUPING: Sorry, I --
- 7 THE WITNESS: [15:36:41] (Interpretation) No. No, I don't see anything.
- 8 MS LUPING: [15:36:44] I would just ask the court officer or court usher to keep the
9 cursor on the 8 and not move it around. I think that may cause further confusion.
10 If you could move the cursor down, if we could have it after the number 7. So we've
11 got a line that says "09.7" --
- 12 PRESIDING JUDGE FREMR: [15:37:01] It's --
- 13 MS LUPING: [15:37:02] Line 19, court usher. Thank you. Yeah, if you go along
14 and you see "Bunia le 09.7", go up. Thank you. And after the 7 please keep the
15 cursor there. Thank you.
- 16 Q. [15:37:12] Now, Mr Zawadi, you can see a circle with a red cross in the middle
17 of it. Do you see that circle with a red cross? Yes or no, sir?
- 18 THE COURT OFFICER: [15:37:42] (Via video link) (Interpretation) Mr President, the
19 witness has a hard copy in his hand. He is able to look at it.
- 20 PRESIDING JUDGE FREMR: [15:37:52] And please, court officer in Bunia, could
21 you lead him, show him what details are in the interest of Ms Luping. At the
22 moment it's line 19 and the number at the end of the second column.
- 23 MS LUPING: [15:38:15] Mr President.
- 24 THE WITNESS: [15:38:22] (Interpretation) I can see it.
- 25 MS LUPING: [15:38:24]

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1 Q. [15:38:24] And that's a number 8, isn't it? There's two numbers and the first
2 one is an 8.

3 A. [15:38:39] Yes.

4 Q. [15:38:40] And the number after that appears to be a merger of the numbers 6
5 and 8; would you agree with me?

6 A. [15:38:57] Yes.

7 Q. [15:38:57] And if we go along using the cursor, please court usher, to quartier
8 Lumumba, "village d'origine résidence". Quartier Lumumba you've confirmed is
9 where you were living at the time. And I just want to then move on to the name of
10 the father. The name there is Mateso; is that right? There's a name Mateso there?

11 A. [15:39:36] Yes.

12 Q. [15:39:38] And if we move along for the "nom de la mère" we see the name
13 Abitana; is that correct?

14 A. [15:39:57] I don't know that name.

15 Q. [15:39:58] I'm just asking that you see this name first. I'll be asking you
16 questions about it in a moment. But you see the name Abitana; is that right?

17 A. [15:40:14] Yes, I can see it.

18 Q. [15:40:16] Now, I'd like the court officer or court usher to move the cursor over
19 to the second document and that is DRC-OTP-0160-0200, at item 24. That's tab 24.
20 And we're looking at line 165. I'd like you to first of all bring the cursor to the name
21 Zawadi Richard.

22 The name is Zawadi Richard is there; isn't that right?

23 Mr Witness, can you see this? There seems to be sort of long pauses here. Can you
24 see the name Zawadi Richard, yes or no, please? It's along line 165, it's the little
25 round circle with a red cross, it's right under the name Zawadi Richard. Do you see

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1 that?

2 A. [15:41:30] It's not very clear on the screen before me.

3 Q. [15:41:34] Does the -- does the court officer in Bunia have a hard copy for the
4 witness that he can also show to the witness so he has the hard copy before him as
5 well, please? It's at tab 24 and it is DRC-OTP-0160-0190.

6 THE COURT OFFICER: [15:42:08] (Via video link) (Interpretation) Your Honour,
7 are we looking at the same document or is it a different document?

8 PRESIDING JUDGE FREMR: [15:42:19] Ms Luping, please lead them.

9 MS LUPING: [15:42:21] Yes. Court officer, I'll repeat my information. This is a
10 document at tab 24 of the binders, the document number is DRC-OTP-0160-0190 and I
11 ask that you turn to page 0200.

12 And could I ask --

13 THE COURT OFFICER: [15:43:04] (Via video link) (Interpretation) Mr President, I
14 will need a few minutes to show the witness the document.

15 PRESIDING JUDGE FREMR: [15:43:10] I'm afraid we will have to stop now
16 because, court officer, how much time still is remaining to the two-hour limit for
17 Ms Luping's examination?

18 THE COURT OFFICER: [15:43:27] Ms Luping has used 1 hour and 26 minutes,
19 leaving 34 minutes.

20 PRESIDING JUDGE FREMR: [15:43:32] So we'll have to adjourn anyway, we will
21 continue with this exercise because if I am not wrong our time expires at quarter
22 to -- sorry, I am completely wrong, so please proceed. But again, this time of, you
23 know, technical problems shouldn't be included in time allotted to Prosecution. So
24 we have to subtract.

25 MS LUPING: [15:44:01] Thank you again, Mr President.

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1 So, court officer in Bunia, do you have that document now in front of the witness?

2 THE COURT OFFICER: [15:44:18] (Via video link) (Interpretation) No, not yet,

3 Mr President.

4 THE COURT OFFICER: [15:45:34] We have zoomed in on the proper line here

5 from The Hague and we have sent via video link, so maybe the witness can now see

6 the proper line.

7 MS LUPING: [15:45:46] Thank you, court officer.

8 Court officer in Bunia, could you please assist the witness by pointing out to him the

9 information at line 165 on the left side of the screen. Could you physically point that

10 out to him, please. Yeah, if you could show him on the screen line 165.

11 Q. [15:46:08] Now, Mr Witness, can you see the name Zawadi Richard? Can you

12 see that?

13 THE COURT OFFICER: [15:46:15] (Via video link) Yes, Mr President. It's clearer

14 on the screen and the witness is able to see it now.

15 PRESIDING JUDGE FREMR: [15:46:20] Very well.

16 MS LUPING: [15:46:22] Thank you.

17 Q. [15:46:23] So can you confirm, Mr Zawadi, that the name is Zawadi Richard

18 first on this first column?

19 A. [15:46:44] Yes.

20 Q. [15:46:45] And we have a year here -- an age here of 16 years old. I just want

21 to explain to you, Mr Zawadi, that this document, the one on the left, is dated

22 from 2004, whilst the document on the right is from 2002.

23 So just bring your attention first to the age; 16 years as at 2004. And contrast to the

24 year of birth in the other document which has what looks like '88 or '86.

25 Now I'd like to go to the next column, which is the name of the father and the name of

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1 the mother. Can you see, Mr Zawadi, that there is the same name of the father and
2 same name of the mother on the left side as there is on the right document. Can you
3 see that, sir? We have a father named Mateso Sukulu, yes? Can you see, sir, that
4 the name -- yep, that the name Mateso Sukulu is a match with the name Mateso in the
5 other document. Can you see that?

6 A. [15:48:12] Yes, I can see it.

7 Q. [15:48:15] And would you agree with me that this person, this person
8 Richard Zawadi, that you see listed on the left document also has the same name of
9 the mother as the person who is listed in the document on the right, yeah? They
10 both -- the mother's name is Abitana; is that correct?

11 A. [15:48:47] Yes, I can see the name, the way that the names have been written
12 down on these documents, but I have no idea about anything other than that. I have
13 no idea.

14 Q. [15:49:01] Well, one step at a time, Mr Witness. Would you agree with me
15 that the person Richard Zawadi on the left and the Richard Zawadi on the right, first
16 of all, that they have the same name, Richard Zawadi; is that right?

17 A. [15:49:28] Yes, I agree that those -- with those names in these documents, but I
18 don't know how these names came to be listed in these documents.

19 Q. [15:49:41] Thank you, Mr Zawadi. I will be coming to that. There's no fear
20 of that. But I just want to focus first on the information contained in these two
21 documents.

22 Now, would you also agree with me that they have the same mother, Abitana, and
23 the same father, Mateso Sukulu; is that right?

24 A. [15:50:16] Yes.

25 Q. [15:50:17] And this document on the right, which comes from 2002, it has, as

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1 we looked at before, a date of birth that appears to be either 1988 or '86. So just
2 assume for one moment this is somebody born in 1988. Would you agree then that
3 this would be somebody who would be approximately 14 years old as at 2002; is that
4 right?

5 A. [15:50:50] Yes.

6 Q. [15:50:52] And then if we go back to the document on the left, and you've got
7 the age 16, then you've got this person, the person Richard Zawadi, by 2004. So
8 that's just two years later, they then turn 16; isn't that right?

9 A. [15:51:29] That's the way it's written down. That's what you see. I can only
10 take note of it.

11 Q. [15:51:36] So this person with the same name, Richard Zawadi, in the both
12 documents, same name of mother, same name of father, would you agree with me
13 that this person is the same person in both these records; this is the same Richard
14 Zawadi?

15 PRESIDING JUDGE FREMR: [15:51:52] Hold on, Mr Witness.

16 Mr Gosnell.

17 MS LUPING: [15:51:55] And if we could please that the objection is made with the
18 cut off of sound.

19 PRESIDING JUDGE FREMR: [15:52:02] But I think I can even assume what
20 Mr Gosnell is going to say, because I think Ms Luping, Mr Witness was right. In fact,
21 you are asking him to confirm what we all can see, including him. We are asking
22 him, we are testing his mathematic skills whether this date correspond to 14 or 18 age,
23 16 years age. So please go to the substance: And he said I didn't wrote that; so, you
24 know, this comparison is fine but we all can see what you are reading out, so.

25 MS LUPING: [15:52:39] Understood, Mr President. The question was whether

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1 the witness would accept that this person in a 2002 document and the same person
2 in 2004, whether it's the same person. That's all I want him to answer.

3 PRESIDING JUDGE FREMR: [15:52:50] And how he could confirm that?

4 MS LUPING: [15:52:53] By seeing that it is the same mother, Abitana, and same
5 father.

6 PRESIDING JUDGE FREMR: [15:52:58] But it is his opinion, evaluation, is it not,
7 his testimony. Please, I don't allow this question.

8 MS LUPING: [15:53:05] Understood, Mr President. I will move on.

9 And I would ask the court officer in Bunia, do you have a third item as a hard copy,
10 item 25, and that is DRC-OTP-0160-0002.

11 I'm just going to repeat the question for the court officer in Bunia. Is there a hard
12 copy of the document at tab 25? Is the witness, please, able to be shown a hard copy
13 document. That's DRC-OTP-0160-0002. I would like the two existing documents
14 please to be kept up on the screen here in the headquarters.

15 THE COURT OFFICER: [15:54:24] (Via video link) We do not have a hard copy,
16 your Honour; we only have an electronic copy.

17 PRESIDING JUDGE FREMR: [15:54:34] Ms Luping, I was also informed that
18 there's some logistic problems so you should adjust way of your questioning to that.

19 MS LUPING: [15:54:42] That is fine. Fine, Mr President. I will ask the court
20 officer, if you could remove the document on the right-hand side of the screen, that's
21 2081-0072, for one moment and if you could then show the item 25, the third record,
22 DRC-OTP-0160-0002, and if you could go to page 0014. I'm interested in particular
23 at line 112.

24 Just for the court usher's information, it was at page 14, the document on the right,
25 but I did want the document on the left to remain. Thank you. And if -- I'd like you

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1 to ensure that the whole line of 112 can be seen. I'm not sure if is cut off. Yeah, it is
2 a little bit. It needs to be moved slightly to the left.

3 PRESIDING JUDGE FREMR: [15:57:27] Couldn't we, Ms Luping, start from the left
4 side and move to right side?

5 MS LUPING: [15:57:32] Yes, the only problem is, Mr President, we don't have the
6 left side either. It's gone. It's disappeared from the screen. We've lost the left side
7 and the right side is not properly centred, so we can't see the full line. Thank you.

8 Q. So all right, Mr Witness, I would like to take you back to line -- where is it? It's
9 line 165. No, that's the wrong document, court usher. It was DRC-OTP-0160-0190
10 that needed to be on the left.

11 PRESIDING JUDGE FREMR: [15:58:21] And, Ms Luping, guidance from my part,
12 if you want again to make this exercise with comparison of two documents, please
13 read out yourself and I will just check whether you are reading out it properly, than
14 to ask Mr Witness whether he can read because it will obviously further delays.

15 MS LUPING: [15:58:39] Understood. And that's not a problem, Mr President.
16 Will do.

17 THE COURT OFFICER: [15:59:10] (Via video link) (Interpretation) Your Honour,
18 we have the document, but the line number, if someone could specify the line
19 number.

20 MS LUPING: [15:59:22] Thank you, but we appear to have the document up. If I
21 could be reduced a bit so that we could have the whole line. All right. I
22 need -- yeah. A little bit bigger, but we need to see everything right up to CE.
23 Thank you. That's enough.

24 Q. [15:59:40] So, Mr Witness, I'm going to read to you at line 165 we just looked at
25 that before, the Richard Zawadi in this 2004 document referring to age 16; father,

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1 Mateso Sukulu; mother, Abitana; place of origin there is Iga Barrière. And then we
2 have at the very end there's a reference to "CE". This is under the heading "religion".
3 Now, you've already explained that your religion is the CE39 church; is that correct,
4 Mr Zawadi?

5 A. [16:00:34] I recognise this denomination, but as for the document, I'm not
6 familiar with the document.

7 Q. [16:00:44] Now, in the document on the right, which is from the same
8 organisation, you see in the same handwriting the name on line 112 again as Zawadi
9 Richard, age 16 from Barrière, demobilised on 25 May 2004. And this is -- the person
10 on the far column is the person to whom the individual is released.

11 Now, Mr Zawadi, I would suggest to you, and this is the Prosecution's position, that
12 the person Richard Zawadi named in the three records I've now shown to you are, in
13 fact, you. This person has the same name as you, Richard Zawadi. In 2002, you,
14 too, were aged 14. In 2004, you, too, were aged 16. It has the same name of the
15 father as you have acknowledged, Mateso Sukulu, the same religion, CE, you've
16 confirmed that you belong to the CECA 39 church. And this person, too, was
17 released to their father in the same way you've admitted you were after you went for
18 training in Tchankwanzi. Now, isn't it right, sir, that this is you?

19 A. [16:02:42] No, it's not me. There were several people who lied and took other
20 people's names. Some people showed some documents with other people's names.
21 It's impossible.

22 Q. [16:03:00] Now, you have said that your mother's name is not Abitana; is that
23 correct, you deny that?

24 A. [16:03:18] Yes.

25 MS LUPING: [16:03:18] Court officer, I'd like you to bring up just one document

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1 now to make all our lives easier. It's at tab 10, item 10, and this is

2 DRC-OTP-2104-0358. This is the fiche of identification of demobilisation.

3 Q. [16:04:13] Now, Mr Witness, can you see the document in front of you?

4 You've been shown this before. Can you see it?

5 A. [16:04:22] Yes, I can see it.

6 Q. [16:04:27] Now, this photograph you've acknowledged is a photograph of you,
7 right? This is you?

8 A. [16:04:41] Yes, I agree. This is indeed my photograph.

9 Q. [16:04:48] And you'd also agree that it has your name, yes, it's Zawadi
10 Dhebanga Richard?

11 A. [16:05:02] I agree.

12 Q. [16:05:04] And you also have confirmed that another name for your father is
13 Dieudonné Mateso; isn't that right?

14 A. [16:05:19] Yes.

15 Q. [16:05:20] And the name we have here is an Abitana Ditosi. Now, you've
16 agreed, you've acknowledged that part of your mother's name is Ditosi; isn't that
17 right?

18 A. [16:05:43] Ditosi is the name of my mother, but Abitana is not the name of my
19 mother.

20 Q. [16:05:50] Now, well, we've seen three records recording a Richard Zawadi
21 with the name Abitana for mother, including this one, which has your photograph
22 and your full name. And if I just want to understand your testimony, Mr Zawadi,
23 because these three different records with names that I have now suggested to you,
24 the Prosecution's position is that it's you, these details are from -- recorded by three
25 different people, three different times, three different organisations. We have a 2002

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1 document was the first one I showed you of an FPLC Mandro document; then
2 the 2004 record was written by an NGO known as the PAV, the P-A-V; and now then
3 we have a third one which is the national DDR record from March 2005.
4 Now, is it your testimony that three different people from three different
5 organisations all recorded your mother's name Abitana wrongly; is that your
6 testimony?

7 PRESIDING JUDGE FREMR: [16:07:11] Hold on, Mr Witness.

8 Mr Gosnell.

9 MR GOSNELL: [16:07:14] Speculation and argumentative, Mr President.

10 THE WITNESS: [16:07:24] (No interpretation)

11 PRESIDING JUDGE FREMR: [16:07:26] Objection is sustained, Ms Luping.

12 MS LUPING: [16:07:28] I'm happy to rephrase, Mr President, but I do believe the
13 witness has to have an opportunity to explain the denial of a name that appears in
14 three records. So I will rephrase my question.

15 PRESIDING JUDGE FREMR: [16:07:36] You can just even ask him whether he still
16 does insist, in light of this, but not to ask him for explanation whether these people
17 were erring, so please rephrase (Overlapping speakers).

18 MS LUPING: [16:07:49] All right. I'll rephrase the question.

19 Q. [16:07:55] Is it your testimony still then, sir, that your mother and nobody that
20 is related to you is referred to as Abitana in spite of these documentations that have
21 been shown to you?

22 A. [16:08:24] There aren't any.

23 Q. [16:08:25] Now, during your witness preparation session with the Defence,
24 and I refer to item 11, that's DRC-D18-0001-5865 and you were asked about this
25 document currently before you, Mr Zawadi, and you were asked about the DDR and

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1 you acknowledged that you are aware of the national demobilisation programme
2 known as the DDR programme that existed after the war; isn't that right?

3 A. [16:09:19] You're talking about the demobilisation of the APC or the
4 demobilisation when I left Uganda?

5 Q. [16:09:25] I'm referring to the national programme, sir. You were just asked a
6 more general question by Defence counsel, if you'd ever heard of the national
7 demobilisation programme that started in about 2004 after the war. And isn't it right
8 that you confirm that you have heard of it?

9 A. [16:09:59] Yes, I said that to a lawyer.

10 Q. [16:10:05] And you have said repeatedly now that you were only demobilised
11 the one time by UNICEF in 2001 and you have claimed that this photograph that we
12 see is the same one as from UNICEF.

13 Now, isn't it right that the information --

14 A. [16:10:26] Ndiyo.

15 Q. [16:10:26] Thank you. My question is this, Mr Zawadi, that the information
16 contained in this record from 2005, that it cannot just be a straight extraction of
17 information from the UNICEF record? First of all, there's a date of recruitment
18 written here which is 27 December 2002. Isn't that a year after your demobilisation
19 from UNICEF?

20 A. [16:11:06] Yes.

21 Q. [16:11:07] And it says here that the place of recruitment where you were
22 recruited by the UPC/RP was Iga Barrière and now that can't just simply be
23 information from the UNICEF records, can they be, because you were demobilised
24 from Uganda; isn't that right?

25 A. [16:11:26] Pardon?

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1 Q. [16:11:27] Well, you've suggested, Mr Zawadi, that this information contained
2 in this demobilisation comes from the UNICEF demobilisation process, you've
3 referred to the photograph. My question is this: That reference to a place of
4 recruitment, Iga Barrière, that cannot have come from UNICEF, can it, from the 2001
5 demobilisation process?

6 PRESIDING JUDGE FREMR: [16:11:54] Hold on, Mr Witness.

7 And please the Swahili interpreters, don't translate.

8 THE WITNESS: [16:12:07] (No interpretation)

9 THE INTERPRETER: [16:12:08] Message from the interpreters --

10 PRESIDING JUDGE FREMR: What is the -- what is the message?

11 THE INTERPRETER: Message from the interpreters: We are working in relay
12 mode. If you could just allow us one second.

13 THE WITNESS: [16:12:27] (Interpretation) I talked a lot about this subject. I'm
14 even confused.

15 PRESIDING JUDGE FREMR: [16:12:34] All right. And now Swahili booth, please
16 do not translate Mr Gosnell's probably it will be submissions.
17 Please go ahead.

18 MR GOSNELL: [16:12:43] Mr President, the question posits to the witness as if it's
19 something that the witness has said and I quote "You've suggested Mr Zawadi that
20 this information contained in this demobilisation comes from the UNICEF
21 demobilisation process." I would like a transcript reference for that proposition
22 because I don't recall the witness having said that.

23 PRESIDING JUDGE FREMR: [16:13:06] Ms Luping.

24 MS LUPING: [16:13:20] Mr President, what I'm referring to is information from
25 this witness that the photograph comes from UNICEF and that he did not provide

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1 this information in any other demobilisation process and that he was only in one
2 demobilisation process.

3 PRESIDING JUDGE FREMR: [16:13:37] The source of this reference?

4 MS LUPING: [16:13:39] He both -- in his testimony, he has said that this was a
5 photograph he recognises from UNICEF. I don't believe that that is the reference my
6 learned colleague is seeking.

7 PRESIDING JUDGE FREMR: [16:13:50] You mean testimony today?

8 MS LUPING: [16:13:52] In today's testimony he confirmed that the photograph
9 was a photograph taken by UNICEF. He recognised it, and he has further said that
10 he's only been involved in one demobilisation process and that this -- the information
11 he provided -- there was information he provided to the UNICEF officers during that
12 demobilisation process. What I'm trying to clarify, Mr President, through these
13 series of questions is, how could this other information have been obtained if he only
14 went through that one demobilisation process.

15 PRESIDING JUDGE FREMR: [16:14:30] Mr Gosnell.

16 MR GOSNELL: [16:14:32] I want my objection to be absolutely clear. The
17 objection was not about the witness having said that the photograph had come from
18 the UNICEF process. The witness did say that, that was clear. The part that I think
19 could mislead or confuse the witness is the suggestion that he also said that the
20 information contained in this document came from the UNICEF demobilisation
21 process. I do not believe that's what the witness said, and I think it would be
22 confusing and inappropriate to put that proposition to him.

23 PRESIDING JUDGE FREMR: [16:15:04] Ms Luping.

24 MS LUPING: [16:15:05] Mr President, I am not trying to confuse the witness. I'm
25 happy to also rephrase it slightly if your Honours should prefer.

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1 PRESIDING JUDGE FREMR: [16:15:12] I think it would be to the satisfaction of all
2 of us, please.

3 MS LUPING: [16:15:16] Certainly.

4 Is the live feed now connected, or it is connected and we just didn't have
5 interpretation.

6 PRESIDING JUDGE FREMR: [16:15:22] Now, please, you may translate as well,
7 Swahili booth.

8 MS LUPING: [16:15:29]

9 Q. [16:15:29] Mr Zawadi, I'm going to rephrase my question. Now, you've said
10 you only went through one demobilisation process and that was in Uganda; is that
11 correct?

12 A. [16:15:57] Yes, in Uganda. The people who demobilised us, those people
13 were UNICEF. That's the reality.

14 Q. [16:16:08] But the reality, isn't it, Mr Zawadi, that you were in fact then
15 involved in two further demobilisation processes. First, in 2004, we've seen one
16 demobilisation record with your details and now a third demobilisation process in a
17 document dated 2005.

18 Now, in light of the documents that you've seen, two further demobilisation records.
19 Is it still your testimony, are you still maintaining the position that you were not
20 demobilised from the UPC and RP?

21 A. [16:17:03] Well, this is what I said. I did not work with the UPC. I was not
22 demobilised by the UPC. In fact, right now I am -- I'm tired.

23 PRESIDING JUDGE FREMR: [16:17:13] Court officer, at the moment how much
24 time still remains to the end of two hours granted to Ms Luping?

25 THE COURT OFFICER: [16:17:26] 13 minutes, Mr President. One-three.

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1 PRESIDING JUDGE FREMR: [16:17:36] Frankly saying, I would like
2 to -- Ms Luping, do you think you would be really able to finish in 13 minutes? We
3 will not grant you anyway more, but if -- if it would be even less, it would be better.
4 But I don't see it reasonable to adjourn this witness only because of remaining
5 13 minutes until Monday.

6 MS LUPING: [16:17:57] If I can, I would certainly endeavour to finish and
7 complete the witness's cross-examination now, Mr President.

8 PRESIDING JUDGE FREMR: [16:18:08] So court officer, is that any problem for the
9 Registry staff? I know that it's not very pleasant. Thank you very much for your
10 support. And I promise that we will shorten second or third session on Monday
11 adequate time.

12 So now but you have to come again on Monday.

13 Now, Ms Luping, please proceed.

14 MS LUPING: [16:18:37] Thank you.

15 Q. [16:18:39] Now, Mr Zawadi, you've explained that you had heard about the
16 national demobilisation process that -- and this record is from 2 March 2005. Isn't it
17 right that the DDR officers, the CONADER officers took photographs of combatants
18 being demobilised when they took the records?

19 A. [16:19:18] I would like to have some time to think about this point because I'm
20 not able to provide an answer on this part. It's difficult for me.

21 Q. [16:19:30] Could you explain why it's difficult for you, Mr Zawadi? It's just a
22 question of whether you knew or learnt that there were -- when the DDR officers
23 demobilised people and took records, it was on the same day, and they took
24 photographs that day. It --

25 PRESIDING JUDGE FREMR: [16:19:45] Hold on, Mr Witness.

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1 Mr Gosnell.

2 MR GOSNELL: [16:19:48] Mr President, I probably should have objected to the
3 previous question, but now I object to this question. We're exploring matters about a
4 process, details in a process that the witness says he didn't participate in. How is he
5 going to answer that question? I'm not surprised by the witness's answer,
6 Mr President.

7 PRESIDING JUDGE FREMR: [16:20:08] Ms Luping.

8 MS LUPING: [16:20:09] Mr President, I think the Prosecution needs to have an
9 opportunity to put its case to the witness, that he should have known, because it is
10 our position that this is a photograph; it is a genuine document, that he should have
11 known and he should know that this photograph would have been taken of
12 combatants. He's admitted at least that he knows of the national demobilisation
13 process.

14 PRESIDING JUDGE FREMR: [16:20:28] We will see. The objection is overruled.
15 Please proceed.

16 MS LUPING: [16:20:33] Thank you, Mr President.

17 Q. [16:20:34] So, Mr Witness, isn't it right that the CONADER or national
18 demobilisation agents, when they demobilised, people would take photographs on
19 that day that they would take those records? You can just say yes or no.

20 PRESIDING JUDGE FREMR: [16:20:56] Mr Gosnell.

21 MR GOSNELL: [16:20:57] Mr President, yes or no is not fair because the witness
22 may not know.

23 PRESIDING JUDGE FREMR: [16:21:02] It's correct. Mr Witness, take it into
24 account when giving your answer.

25 THE WITNESS: [16:21:19] Well, if I misspoke, please forgive me. What I said is

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1 that I can provide an answer, but I need time to think. I don't know if I've explained
2 myself properly. Please give me some time to think.

3 MS LUPING: [16:21:31]

4 Q. [16:21:32] Well, Mr Zawadi, I'll let you respond to that question when you've
5 thought about it further. I'm going to move on to my next question for now, though.
6 And you were asked questions about the place of reinsertion named in this document.
7 And if the court usher could please scroll down so we can see the place of reinsertion
8 on the document. And it says Baoa-Bakoe. Now, isn't it right, Mr Zawadi, that a
9 place called Baoa-Bakoe is a location that neighbours Iga Barrière?

10 A. [16:22:15] No, it is not near Barrière.

11 Q. [16:22:20] If it's not near Iga Barrière, then where is it then, can you explain
12 that?

13 A. [16:22:35] Some were demobilised at Nizi on behalf of UPC, some seven
14 kilometres from Barrière, while others were demobilised here in Bunia. So the
15 demobilisation took place at two locations.

16 Q. [16:22:51] Now, Mr Zawadi, we've shown you two demobilisation records,
17 one from 2004, the other from 2005. Isn't it right, Mr Zawadi, that in Iga Barrière
18 children under the age of 15, 16 and 18 were re-recruited by the UPC and FPLC, isn't
19 that correct?

20 A. [16:23:25] There were children, yes.

21 Q. [16:23:29] And I'd now like to turn to tab number 10. Sorry, we've got it up
22 already. I just want to refer to the information here, Mr Zawadi, that says "Grade".
23 And it says a soldier of the first class. Now that's correct, Mr Zawadi, that you were
24 in fact a soldier within the UPC/FPLC, and I would suggest to you that you were a
25 private and a fusilier. That's right, isn't it?

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1 A. [16:24:13] I was a soldier with the APC where I was trained in Uganda.

2 Q. [16:24:21] If the court officer could please pull up item 24, and that's

3 DRC-OTP-0141-0009. And I'd like to bring the witness's attention to line 515 on

4 this list.

5 I'm going to move on to a different question. I'm conscious of time. While this is

6 being brought up, I'm going to move on to a different question.

7 Now, Mr Zawadi, you have confirmed that your father's name is Dieudonné Mateso,

8 right?

9 A. [16:25:16] Yes.

10 Q. [16:25:18] Is it correct, am I right in suggesting that he was the personal

11 secretary to Jean de Dieu Tinanzabo?

12 A. [16:25:45] My father? Secretary to a member of parliament? Really?

13 PRESIDING JUDGE FREMR: [16:26:03] So could you kindly finish your response

14 so you are saying "My father, secretary to a member of parliament? Really?" So

15 answer, you know about that or the answer is yes, no? What is your answer?

16 THE WITNESS: [16:26:31] (Interpretation) I am not sure the question that was

17 put to me.

18 MS LUPING: [16:26:35]

19 Q. [16:26:35] Is he or is he not the personal secretary to Jean de Dieu Tinanzabo?

20 A. [16:27:01] The secretary of Tinanzabo? Of his company or his personal

21 secretary? I don't understand your question.

22 Q. [16:27:11] I'll keep it more simple: Has your father ever worked for Jean de

23 Dieu Tinanzabo, yes or no?

24 A. [16:27:34] If you're talking about SOS Grands Lacs, yes, I agree because at that

25 time he was his secretary.

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1 Q. [16:27:43] Now, moving on to a different question. Now, during your second
2 witness preparation session on 12 September, you were alone in the Bunia location for
3 the video link with (Redacted) -- sorry, I will have to ask this question in
4 private session. And I apologise.

5 PRESIDING JUDGE FREMR: [16:28:03] Court officer, let's move into private
6 session. And at the same time, how much time remains, please?

7 (Private session at 4.28 p.m.) * Reclassified partially in public

8 THE COURT OFFICER: [16:28:15] We're in private session. The Prosecution has
9 two minutes left. And I would like to know if we need to redact a certain name?

10 MS LUPING: [16:28:32] Yes. Thank you, court officer. We will need to have
11 that name redacted. And I will now ask the question.

12 PRESIDING JUDGE FREMR: [16:28:38] Please do.

13 MS LUPING: [16:28:39]

14 Q. [16:28:39] Mr Zawadi, is it correct that you were with (Redacted)
15 (Redacted) in the premises via video link before the other Defence counsel met with
16 you via -- with -- sorry at your witness preparation?

17 A. [16:29:09] Yes, we were together.

18 Q. [16:29:12] And he was the only Defence team member in the Bunia side at the
19 time you met with the Defence team, and you were with him before the video
20 recording took place; is that right?

21 A. [16:29:34] Ndiyo.

22 Q. And you had the opportunity --

23 A. Yes.

24 Q. [16:29:36] You had the opportunity to speak to him before and after that
25 witness preparation session, including about the UNICEF document -- the UNICEF

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1 photo that you claimed was a -- sorry, the fiche demobilisation; is that correct?

2 A. [16:30:09] When he was here we were shown those documents, when he was
3 present here with us.

4 Q. [16:30:16] And you were alone with him before the video recording started; is
5 that right?

6 A. [16:30:35] Yes, only two of us.

7 Q. [16:30:36] And you are Facebook friends with (Redacted); is that correct?

8 A. [16:30:49] Yes. Since the lawyers arrived, he is the one who invited me to join
9 Facebook, and then I promptly received his photograph on Facebook.

10 Q. [16:31:10] And the name that you use on Facebook it's Richard Zawadi, isn't it?

11 A. [16:31:20] Yes.

12 Q. [16:31:20] And so this is - and this is my final question, Mr President,
13 your Honours - so the name that your friends and colleagues know you by is
14 Richard Zawadi, isn't it, it's not Richard Bahati?

15 A. [16:31:47] Yes.

16 MS LUPING: [16:31:48] Mr President, I have no further questions for the witness,
17 but I would seek to have a further document admitted that I didn't seek to have
18 admitted before. It's for the purposes -- it's the transcript of the telephone recording
19 of the meeting that the Prosecution had with Mr Zawadi. And the passage where he
20 gave the information about his father's name, that he said he did not recall, and that's
21 relating to Mateso Dedonga Sukulu. The Prosecution would like to have this
22 admitted.

23 PRESIDING JUDGE FREMR: [16:32:27] Mr Gosnell.

24 MR GOSNELL: [16:32:28] No objection. However, I would ask that the entire
25 prior recording be admitted for context.

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1 PRESIDING JUDGE FREMR: [16:32:38] Ms Luping.

2 MS LUPING: [16:32:39] No objection to that, Mr President. We would actually,
3 you know, be quite happy for the entirety to be admitted.

4 PRESIDING JUDGE FREMR: [16:32:47] So having into account the positive
5 positions of both parties, this document is admitted into evidence as a further
6 Prosecution exhibit in extent proposed by Mr Gosnell.

7 So now we finish.

8 Mr Gosnell.

9 MR GOSNELL: [16:33:13] Mr President, I'm sorry, but I have a few questions on
10 re-direct with your leave, probably, probably less than four minutes if it goes well.

11 PRESIDING JUDGE FREMR: [16:33:26] I don't know, this it's cruel, but I think still
12 it is reasonable. Please proceed for four minutes.

13 And I thank you for interpreters, type recorders and guards' indulgence.

14 Please proceed.

15 MR GOSNELL: [16:33:39] Thank you, Mr President.

16 MS LUPING: [16:33:40] Sorry, Mr President, I just want to note that we're in
17 private session still. I don't know if Defence counsel --

18 PRESIDING JUDGE FREMR: [16:33:47] Yes, it's my next question to Mr Gosnell.

19 Do you want to stay --

20 MR GOSNELL: [16:33:51] The first question will have to be in any event --

21 PRESIDING JUDGE FREMR: [16:33:56] Please.

22 QUESTIONED BY MR GOSNELL:

23 Q. [16:33:58] Sir, do your friends and colleagues in addition to knowing you by
24 the name Richard Zawadi also know you by the name Richard Bahati?

25 A. [16:34:17] Yes, many of them.

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1 Q. [16:34:19] You say you were in the video conference room with
2 (Redacted) prior to the video being activated. Did you discuss the document
3 that was the document that was discussed during the interview entitled "fiche
4 d'identification du demobilise" about which you were asked questions by the
5 Prosecution? Did you discuss that document at all with (Redacted) prior to the
6 commencement of the video call?

7 A. [16:35:13] The lawyers showed me the documents when we were with
8 (Redacted)

9 Q. [16:35:19] And when you say "lawyers", are you referring to me?

10 A. [16:35:33] No. No, not you. People who came to prepare me here in Bunia
11 who have already returned to The Hague, those are the ones I'm talking about.

12 Q. [16:35:46] I think I need to be a bit more precise with my question, sir. My
13 question is before I spoke with you on video link, when you were in the very same
14 room that you're in now, and we discussed the DDR document, the fiche
15 d'identification du demobilise, did you discuss that document with (Redacted)
16 before discussing it with me?

17 A. [16:36:30] No, no, I did not talk with him about that.

18 Q. [16:36:34] At page 91 of today's transcript you talked about Bahati Balidja Joël.
19 Do you remember where Bahati Balidja Joël ended up after being demobilised from
20 Tchankwanzi?

21 A. [16:37:05] What I remember is that he went back to work.

22 Q. [16:37:10] And where was that?

23 A. [16:37:20] He went back to the FNE.

24 THE INTERPRETER: [16:37:28] Says the witness.

25 MR GOSNELL: [16:37:29]

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1 Q. [16:37:30] The FNE, the Lendu combatant group?

2 A. [16:37:39] Yes.

3 Q. [16:37:42] And you testified today that you and he were the youngest trainees
4 at Tchankwanzi; do you remember that?

5 A. [16:38:03] Yes.

6 Q. [16:38:05] And you also said at page 99 of today's transcript that "friends from
7 Tchankwanzi went to Mandro, some of them were about 14 as well." If you were the
8 youngest along with Joël, if you were the youngest recruits at Tchankwanzi, those
9 who went to Mandro were actually older than you, weren't they?

10 PRESIDING JUDGE FREMR: [16:38:36] Ms Luping.

11 MS LUPING: [16:38:37] Objection, Mr President. The witness confirmed that
12 they were the same age. He stated 14 and I think it's inappropriate to have this very
13 leading also form of question. And I would like the counsel to read back the
14 witness's response to him where he clearly stated they were the same age.

15 PRESIDING JUDGE FREMR: [16:39:00] Mr Gosnell, I find this objection
16 well-founded, so either rephrase or ...

17 MR GOSNELL: [16:39:10]

18 Q. [16:39:10] Mr Witness, do you confirm that the others, others than Joël and you,
19 the others at Tchankwanzi were older than you?

20 Let me just repeat that because maybe it doesn't come through.

21 Sir, do you confirm that you and Joël were the youngest trainees at Tchankwanzi and
22 that the others were older than you?

23 A. [16:39:56] Yes.

24 Q. [16:39:58] And does that include those who came back from Tchankwanzi and
25 lived in Iga Barrière?

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1 A. [16:40:16] Yes, some of them.

2 Q. [16:40:20] Were any the same age or younger?

3 A. [16:40:44] Well, those of us who were the youngest were at Barrière, two of us,
4 but the others who were older were also there and elsewhere.

5 MR GOSNELL: [16:40:59] Thank you, Mr President. No more questions.

6 PRESIDING JUDGE FREMR: [16:41:02] Ms Luping. No request?

7 MS LUPING: [16:41:06] Apologies, Mr President, if you just give me
8 approximately 10 seconds. I just want to re-read that last response.

9 PRESIDING JUDGE FREMR: [16:41:13] Please.

10 MS LUPING: [16:41:33] I do have two topics that I want to briefly touch upon that
11 would take two minutes I believe.

12 PRESIDING JUDGE FREMR: [16:41:42] Two minutes sharp, Ms Luping.

13 QUESTIONED BY MS LUPING:

14 Q. [16:41:46] So Mr Zawadi, you've just -- I'm going to go back and read what you
15 just said:

16 "Were any of them the same age or younger?"

17 "Well, those of us who were the youngest were at Barrière, two of us, but the other
18 who were older were also there and elsewhere."

19 Now, when you were talking about those who received training at Mandro,

20 Mr Zawadi, I asked you if any of your friends who received training at Mandro, and
21 this is in 2002, were the same age as you and you confirmed you were 14 at the time,
22 and you said some of us, some of them, yes, were 14. Now, is that correct, sir, that
23 some of the friends of yours who went for training in Mandro were the same age as
24 you who were 14?

25 A. [16:42:42] Yes, I said that there were some.

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1 Q. [16:42:46] And my second topic and final topic and this relates to the young
2 Bahati Balidja Joël who we saw in a demobilisation record as having been born
3 originally in Dheu and who you said was eight or nine years old. Now, isn't it right
4 that he was also of Hema ethnicity?

5 A. [16:43:17] Yes, he's Hema. He was Hema.

6 Q. [16:43:22] Sir, I would suggest to you, Mr Witness, that it would not make any
7 sense for a Hema to join the FNI Lendu combatants.

8 PRESIDING JUDGE FREMR: [16:43:32] I will not allow this question. It is
9 argumentative.

10 MS LUPING: [16:43:35] I would rephrase my question then, Mr President.

11 PRESIDING JUDGE FREMR: [16:43:37] It would be the last question.

12 MS LUPING: [16:43:39] Last question.

13 Q. [16:43:40] Bearing in mind he's Hema and you've confirmed the FNI were
14 Lendu, could you be mistaken, Mr Zawadi, as to the group, that the armed group that
15 Bahati Balidja joined, isn't it more likely that he joined the Hema militia?

16 PRESIDING JUDGE FREMR: [16:43:58] Mr Gosnell.

17 MR GOSNELL: [16:43:59] Objection, Mr President.

18 PRESIDING JUDGE FREMR: [16:44:01] I'm fine with how it has been rephrased.

19 THE WITNESS: [16:44:21] (Interpretation) Well, that is why I said that after we
20 returned from Uganda, shortly thereafter, he joined the FNI. *There were still APC
21 soldiers in Bunia and the UPC training in Mandro had not yet begun. It is
22 subsequently that he went for training in Mandro. And with the onset of the war he
23 went to Mongbwalu *where he stayed. But then later on he said that he was not a
24 Hema, that he was a Lendu. And I -- but I knew him to be a soldier. So he *said
25 that in order to spare his life, in order not to be killed.

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1 PRESIDING JUDGE FREMR: [16:45:19] Your time is over, Ms Luping.

2 MS LUPING: [16:45:21] Thank you, Mr President.

3 I do not have any further questions for you, Mr Zawadi.

4 PRESIDING JUDGE FREMR: [16:45:26] Now let's move into open session.

5 (Open session at 4.45 p.m.)

6 THE COURT OFFICER: [16:45:34] We are in open session, Mr President.

7 PRESIDING JUDGE FREMR: [16:45:44] Thank you.

8 Mr Witness, I have to, on behalf of the whole Chamber, to thank you that you

9 testified. I can imagine that it was not easy experience for you, but I hope that your

10 testimony will help us in our effort to find the truth. So I thank you and we wish

11 you a safe journey home.

12 And one additional comment, I believe, having heard your testimony, that couldn't be

13 really any reason for any reprisals, so I think you have no reason to fear.

14 And now point of organisation, first of all, I would like to thank you very much, all

15 those who remained with us almost half an hour over extra, over our extended,

16 extended last session. Thank you very much, the Chamber appreciates that deeply.

17 Otherwise, we will continue tomorrow and don't forget -- not tomorrow -- on

18 Monday, and don't forget we will start at 9.30 with the next witness.

19 I thank you and I wish you a nice relaxed weekend.

20 THE COURT USHER: [16:46:52] All rise.

21 (The witness is excused)

22 (The hearing ends in open session at 4.47 p.m.)

23 RECLASSIFICATION REPORT

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

25 the public reclassified and lesser redacted version of this transcript is filed in the case.