

Trial Hearing
WITNESS: DRC-OTP-P-0758

(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 3
7 Tuesday, 22 November 2016
8 (The hearing starts in open session at 9.33 a.m.)
9 THE COURT USHER: [9:33:05] All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: [9:33:34] Good morning, everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: [9:33:39] 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: [9:33:57] Thank you, court officer.
19 Now appearances, you can just limit yourself on changes, if any, compared to
20 yesterday.
21 MS SAMSON: [9:34:05] Good morning, Mr President, your Honours. There are no
22 changes for the Prosecution.
23 PRESIDING JUDGE FREMR: [9:34:10] Thank you, Ms Samson. Defence.
24 MR GOSNELL: [9:34:13] Good morning, Mr President. No changes for the Defence.
25 Thank you.

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1 PRESIDING JUDGE FREMR: [9:34:18] Thank you, Mr Gosnell.

2 Legal Representatives of Victims.

3 MS PELLET: [9:34:24] (Interpretation) Thank you, your Honour. No change for the
4 child soldiers.

5 MR SUPRUN: [9:34:31] (Interpretation) Good morning, your Honour, your Honours,
6 for the victims of the attacks today, Anne Grabowski, associate lawyer, and myself,
7 Dmytro Suprun, counsel with the Office of Public Counsel for Victims.

8 PRESIDING JUDGE FREMR: [9:34:48] Thank you, Ms Pellet.

9 Thank you, Mr Suprun.

10 Madam Witness, good morning. Are you feeling okay to finish your testimony
11 today?

12 WITNESS: DRC-OTP-P-0758 (On former oath)

13 (The witness speaks Swahili)

14 THE WITNESS: [9:35:00] (Interpretation) Yes.

15 PRESIDING JUDGE FREMR: [9:35:02] Good. So as usual, I have to remind you
16 that you are still under oath, which means that you have to speak the truth and
17 nothing but the truth. And the same as yesterday, if you would feel unwell at some
18 moment of your testimony, please let us know and we can make immediately a break
19 like yesterday. Have you understood all that?

20 THE WITNESS: [9:35:34] (Interpretation) Yes.

21 PRESIDING JUDGE FREMR: [9:35:37] Good. So now I am giving the floor to
22 Mr Gosnell.

23 Mr Gosnell, do you want to proceed in open or in private session?

24 MR GOSNELL: [9:35:47] Private session, Mr President.

25 PRESIDING JUDGE FREMR: [9:35:50] Understandable.

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

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

3 THE COURT OFFICER: [9:36:21] We are in private session, Mr President.

4 PRESIDING JUDGE FREMR: [9:36:23] Thank you, court officer. Mr Gosnell, please
5 proceed.

6 MR GOSNELL: [9:36:27] Thank you, Mr President.

7 QUESTIONED BY MR GOSNELL: (Continuing)

8 Q. [9:36:31] Good morning, Madam Witness.

9 Yesterday we have left off talking about your interview with the Prosecution back in
10 (Redacted) and you told us that you were shown a photograph of a person whom you did
11 not recognise. We have checked with the Prosecution whether they have a record of
12 this photograph having been shown to you and they say that they do not. Are you
13 quite sure that you were shown a photograph during that interview in (Redacted) and
14 asked whether you could recognise or identify the person?

15 A. [9:37:18] They showed me a photograph. I didn't recognise the person.

16 Q. [9:37:35] Have you at any time fought with any Lendu combatant groups?

17 A. [9:37:55] You said?

18 Q. [9:38:04] Did you ever fight alongside or with or on the side of the Lendu?

19 A. No.

20 Q. [9:38:30] You testified yesterday that your father is -- I'm sorry, that was on
21 Thursday, at page 84, that (Redacted)

22 (Redacted) is that right?

23 A. [9:38:59] My father, at that time he (Redacted)

24 Q. [9:39:09] And you've anticipated my next question, Madam Witness, because I
25 was going to ask you whether he was in fact (Redacted) at the time of the events that

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- 1 you have been describing, at the time that you say you were abducted.
- 2 Madam Witness, did you hear my last question, whether he was (Redacted) back at the
- 3 time that you say you were abducted, which was (Redacted)
- 4 A. [9:40:29] Yes. Until today he's still (Redacted)
- 5 Q. [9:40:39] And how long, if you know, before you were abducted was he (Redacted)
- 6 How many years, if you can remember?
- 7 A. [9:41:04] I don't know.
- 8 Q. [9:41:10] And (Redacted)
- 9 (Redacted)
- 10 A. [9:41:36] I haven't understood what you said.
- 11 Q. [9:41:44] Is your father (Redacted)
- 12 A. [9:41:58] I don't know if he's (Redacted) He himself knows that, if he's
- 13 (Redacted) I can't know that.
- 14 Q. [9:42:16] The soldiers who arrested you at (Redacted) did not know
- 15 (Redacted) is that right?
- 16 A. [9:42:36] No, they didn't know.
- 17 Q. [9:42:46] Because if they had known that (Redacted)
- 18 (Redacted) correct?
- 19 A. [9:43:08] Yes.
- 20 Q. [9:43:11] And according to you, if they had known that (Redacted)
- 21 (Redacted) correct?
- 22 A. [9:43:26] Yes.
- 23 Q. [9:43:30] And they certainly would not have recruited you to fight within the
- 24 ranks of the UPC, correct?
- 25 A. [9:43:49] Yes.

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1 Q. [9:43:53] Can you tell us and do you know whether your (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [9:44:36] Madam Witness, I'd like to read to you from a report which is in

6 English, so unfortunately I cannot show it to you in a language that you understand,

7 but I will read it and it will be translated to you. And this is DRC-OTP-2062-0374,

8 tab 15. And if we could turn to page 0376, please.

9 Madam Witness, the document that's in the process of coming up is a report that I

10 understand you looked at last week with interpreters from the Office of the

11 Prosecutor, and this report is entitled (Redacted)

12 dated (Redacted) by (Redacted)

13 And then if we turn to page 0379, which is page 3 of the document, it says that (Redacted)

14 (Redacted) And then if we could turn, please, to

15 page 388, ERN page 0388, which is 12, page 12 of the document, there is a description

16 of an interview conducted by this organisation with you. And this is the first

17 interview that we have with you.

18 Can you remember, Madam Witness, that you met some people sometime in the

19 middle of (Redacted) to talk about the events that you have been describing here yesterday

20 and last week?

21 A. [9:48:07] Yes.

22 Q. [9:48:07] How many of them were there who were there interviewing you, if

23 you can remember?

24 A. [9:48:23] I no longer remember. That was a very long time ago.

25 Q. [9:48:30] Were they white?

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1 A. [9:48:47] There were whites as well, but I no longer remember well.

2 Q. [9:48:53] And in what language were you communicating?

3 A. [9:49:10] I spoke in Swahili.

4 Q. [9:49:20] Now, one of the things that is said here and which according to the
5 information provided by the Prosecution was read to you last week and which you
6 did not contradict when it was read to you, or correct, is the following sentence,
7 which I will quote:

8 (Redacted)

9 (Redacted)

10 (Redacted) End quote.

11 Did you tell the people who were interviewing you that the people who arrested you

12 (Redacted)

13 A. [9:50:45] I haven't understood what you've just said.

14 Q. [9:50:51] Did the people who arrested you say to you, (Redacted)

15 (Redacted)

16 A. [9:51:14] They didn't say that to me.

17 Q. [9:51:21] And during your interview in (Redacted) did you tell the interviewers
18 whether the people who arrested you (Redacted)

19 A. [9:51:48] They didn't know.

20 Q. [9:52:00] Did the people interviewing you know you personally, or were they
21 strangers to you?

22 A. [9:52:19] You're speaking about which persons?

23 Q. [9:52:25] The group that came to interview you in (Redacted) which included whites,
24 as you've told us, did those people who were interviewing you know you personally
25 or were they strangers to you?

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1 A. [9:53:03] They were people that I didn't know. It was just at that time that we
2 met the first time.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [9:54:40] At paragraph 28 of your statement, which I understand your Honours
9 have a hard copy of, and I will not call it up because it is in English, but for the record
10 I will say that it is DRC-OTP-2058-0194, page 0199.

11 Madam Witness, you say that on the first day of your training at Camp Lingo, you
12 were, and I quote, "taught how to sing military songs (Redacted)

13 How were you able to sing these songs if you cannot (Redacted) Or were you
14 not able to sing these songs?

15 A. [9:56:09] Where it concerned the songs, I could sing.

16 Q. [9:56:21] And you could sing well enough to not arouse any suspicion as to your
17 ethnicity?

18 A. [9:56:38] No. Where it concerned the songs, you can sing in a language even if
19 you don't know that language. You can sing well without being able to speak in that
20 language.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. [9:58:10] How many people in total were at Camp Lingo while you were being
2 trained there?

3 A. [9:58:30] You want the number of recruits? Or the number of soldiers?

4 Q. [9:58:37] Can you tell me both?

5 A. [9:58:50] There were a lot of them. Lingo was a large camp.

6 Q. [9:59:05] Let's try and break it down then and start out with approximately how
7 many soldiers there were. Can you tell us approximately how many soldiers there
8 were?

9 A. [9:59:29] There were a lot of soldiers.

10 Q. [9:59:36] Can you recall whether there were more than 20 or less than 20 soldiers?
11 Is that possible for you to recall?

12 A. [9:59:59] Twenty is a small number.

13 Q. [10:00:05] Does that mean you think there were more than 20 soldiers there at
14 Camp Lingo when you were training?

15 A. [10:00:25] There were more than 20 of them.

16 Q. [10:00:33] Now, I'd like to ask you some questions now about when it was that
17 you say you were arrested. And you've told us that it was in your (Redacted) of
18 primary school that you were arrested and --

19 A. [10:01:07] Ndiyo.

20 Q. [10:01:10] And what you said on Thursday of last week was, "It wasn't at the
21 end of the year, it was actually mid school year."

22 Do you remember that?

23 A. [10:01:46] I said that we had not finished the year. We had actually stopped
24 our studies because of the war.

25 Q. [10:02:02] So you're saying that you stopped your studies not because you were

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1 arrested but because classes had been interrupted by the war; is that correct?

2 A. [10:02:18] Yes.

3 Q. [10:02:22] And are you sure that it was the (Redacted) of primary when your
4 studies were interrupted?

5 A. [10:02:42] I was in my (Redacted)

6 Q. [10:02:47] And can you provide us with any details that assist us in
7 understanding how you remember specifically that it was the (Redacted) of primary
8 school when you were arrested?

9 PRESIDING JUDGE FREMR: [10:03:16] Just for the record, we lost the light in the
10 courtroom for two or three seconds, and now hopefully everything is okay, so we can
11 proceed.

12 MR GOSNELL: [10:03:44]

13 Q. [10:03:44] Madam Witness, did you ever finish the (Redacted) of primary school?

14 A. [10:04:04] No. After that I didn't continue my studies.

15 Q. [10:04:20] And how long before the normal end of the school year, according to
16 you, were classes interrupted by the war, if you can remember that?

17 A. [10:04:55] I don't remember.

18 Q. [10:04:59] Well, let's look at a document that you were shown yesterday by the
19 Prosecution, which is tab 9, (Redacted)

20 And before I ask you questions about this document, Madam Witness, is it right that
21 you never went to secondary school?

22 A. [10:05:52] Yes, I never went to secondary school.

23 Q. [10:05:58] And you didn't even finish your primary education, did you?

24 A. [10:06:14] I only went as far as the (Redacted)

25 Q. [10:06:20] And you've told us, am I correct, that you didn't even complete the

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1 (Redacted) did you?

2 A. [10:06:38] Yes.

3 Q. [10:06:39] Now, this document - if we could perhaps increase the size - in the
4 middle of the screen is entitled, and I'll read French, (Redacted)

5 (Redacted)

6 Now you understand, Madam Witness, do you, that this is a report that comes out at
7 the end of a school year, correct?

8 A. [10:07:29] Yes.

9 MR GOSNELL: [10:07:32]

10 Q. May we turn to (Redacted) And the date of this document, incidentally, which
11 is on the front page, is said to be (Redacted) And then at the bottom of this page we
12 see the beginning of a list of those who have succeeded, those who have passed this
13 year, and the subtitle says in French, (Redacted)

14 And then if we turn the page we see, (Redacted) and yesterday
15 you told us that was you. Is that correct?

16 A. [10:09:10] Yes.

17 Q. Now, if you were arrested midway through the school year when you were in
18 the (Redacted) grade of primary, that means that you were arrested before (Redacted)
19 correct?

20 A. [10:09:44] I don't know.

21 Q. [10:09:49] Do you know how it is that you received a final grade and that you
22 passed this year if, as you have told us, school was cancelled midway through this
23 (Redacted) of primary for you?

24 A. [10:10:28] I don't know.

25 MR GOSNELL: [10:10:33] I'm done with this document.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

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5 (Redacted)

6 (Redacted)

7 (Redacted) It is from an

8 institution said to be called the (Redacted)

9 (Speaks English) (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 MR GOSNELL: [10:23:36] And could we turn now, please, to (Redacted) of this

14 document. And for the record that is (Redacted) And then in the middle

15 of the page, (Redacted) on the screen in front of us, it says, (Redacted)

16 Q. [10:24:18] Does that accurately spell and record your own name?

17 A. [10:24:27] Yes.

18 Q. [10:24:31] And do you know why your own name, your first name and your last

19 name, would appear on a document seeming to come from a secondary school and

20 indicating your performance and your enrolment at that school?

21 A. [10:25:06] That's not me.

22 Q. [10:25:08] That that's another person named (Redacted)

23 A. [10:25:26] It's another person. It's not me.

24 Q. [10:25:31] Did you personally know this other person who had the same name

25 as you?

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1 A. [10:25:48] I don't know her.

2 Q. [10:25:53] Did anyone in your family ever tell you that there was another person
3 with the same name as you?

4 A. [10:26:09] *No, these are not... These are names related to the ethnicity.
5 (Redacted) This is a name that is linked to the
6 language.

7 THE INTERPRETER: [10:27:05] I apologise, my microphone was not on for the last
8 answer.

9 MR GOSNELL: [10:27:12] Mr President, I would like to tender the first page of this
10 document and the page that we have been looking at. For the record, that would be
11 (Redacted) of that document.

12 PRESIDING JUDGE FREMR: [10:27:32] And the purpose, for the purpose of
13 impeachment, or --

14 MR GOSNELL: [10:27:37] Yes, Mr President.

15 PRESIDING JUDGE FREMR: [10:27:39] Prosecution?

16 MS SAMSON: [10:27:40] No objection, your Honour.

17 PRESIDING JUDGE FREMR: [10:27:42] So those two pages specified by Mr Gosnell
18 are admitted for the purpose of impeachment of this witness as a further Defence
19 exhibit.

20 MR GOSNELL: [10:28:01] I'm done with this document, now, please.

21 Q. [10:28:07] Madam Witness, when you encountered the people who you say were
22 UPC soldiers at (Redacted) you had seen UPC soldiers before (Redacted) correct?

23 A. [10:28:34] Yes.

24 Q. [10:28:36] In fact, you had seen them before (Redacted) is that
25 correct?

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1 A. [10:28:53] I didn't understand.

2 Q. [10:28:56] You had seen them before at this particular (Redacted)

3 (Redacted)

4 A. [10:29:13] Yes.

5 Q. [10:29:14] And at paragraph 8 of your statement, which for the record is

6 2058-0194, you say that they always (Redacted) Is that correct, that they

7 always (Redacted)

8 A. [10:29:43] Yes.

9 Q. [10:29:45] And at paragraph 13 of your statement you also say, and I quote:

10 "Before this day, I had seen the UPC soldiers (Redacted) and I knew their uniform."

11 Is that correct, that before your arrest you had seen UPC soldiers (Redacted) and that

12 you knew their uniform?

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

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. [10:31:41] When you were arrested (Redacted) was not the first time that you

21 saw UPC soldiers, correct, (Redacted)

22 A. [10:32:00] Yes.

23 Q. [10:32:01] So can you tell us, as best you can recall, how long before your arrest

24 was the first time that you saw a UPC soldier or a person whom you knew to be

25 affiliated with the UPC?

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1 A. [10:32:37] I haven't understood the question.

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [10:33:50] Had it been going on for several months by the time that you were
9 arrested, as best you can recall?

10 A. [10:34:12] I don't remember.

11 THE INTERPRETER: [10:34:23] I no longer remember, corrects the Swahili
12 interpreter.

13 MR GOSNELL: [10:34:26]

14 Q. [10:34:26] I suggest to you that the first time that there was anyone identifiable
15 as a UPC soldier in (Redacted) Is it possible that you were in fact
16 arrested in 2003 rather than in 2002?

17 A. [10:34:51] It was in 2002.

18 Q. [10:35:07] Can you remember what part of the year in 2002?

19 A. [10:35:30] I don't remember if -- I don't remember the month it was.

20 Q. [10:35:39] Can you remember if it was in the first part of the year or the second
21 half of the year?

22 A. [10:35:59] I haven't understood.

23 Q. [10:36:03] Was it rainy or dry season, if there is such a distinction that you're
24 aware of?

25 A. [10:36:22] I don't remember any longer.

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1 Q. [10:36:26] But in any event, you're sure that it was 2002; is that correct?

2 A. [10:36:37] Yes.

3 MR GOSNELL: [10:36:43] (Redacted)

4 Q. [10:37:16] Madam Witness, do you remember that in (Redacted) you yourself
5 participated in filling out some forms that you understood would lead to you being
6 recognised as a victim participating (Redacted)

7 A. [10:37:58] I remember.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. [10:39:32] And just above this fingerprint, it says in French, which I will read,
19 (Interpretation) "I certify that the information figuring in this form is correct, to the
20 best of my knowledge."

21 (Speaks English) You understood that by placing your fingerprint on this document
22 that you were certifying that the information contained therein was correct, to the
23 extent that you knew; correct?

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

25 Q. [10:40:15] And you didn't provide any false or incorrect information on this

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1 form, did you?

2 A. [10:40:39] Yes.

3 Q. [10:40:42] When you say "yes," I understand you to mean that you did not
4 provide any false information. Correct?

5 PRESIDING JUDGE FREMR: [10:40:52] Ms Samson.

6 MS SAMSON: [10:40:53] Yes, it's just in relation to the question about the witness
7 not providing any incorrect information. Counsel is certainly aware that the witness
8 corrected information contained in this application form during the witness
9 preparation session. So I just don't want to induce the witness into any error.

10 Thank you.

11 PRESIDING JUDGE FREMR: [10:41:13] Noted. Mr Gosnell.

12 MR GOSNELL: [10:41:16] Well, any error has now been -- the witness is now
13 informed about any error so I assume I don't need to reformulate my question, but I'll
14 proceed to a different question, which is:

15 Q. [10:41:28] Where were you seated or where -- how did this form come into being?
16 Were you sitting next to somebody else who was filling it out?

17 A. [10:41:51] What did you say?

18 Q. [10:41:52] Were you with someone when this form was filled out?

19 A. [10:42:06] I no longer remember.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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9 (Redacted)

10 (Redacted)

11 (Redacted)

12 MR GOSNELL: [10:43:39]

13 Q. [10:43:39] Now, Madam Witness, what it says there at item 5 --

14 MR GOSNELL: I'm sorry, I'm actually realising I'm on the wrong page. Could we

15 please go to (Redacted) And if we could zoom in, please, on the last line under paragraph

16 1. Yes, thank you.

17 Q. [10:44:21] Now, Madam Witness, there's a description of events, and on the last

18 line it says the following in your application to be recognised as a victim (Redacted)

19 (Redacted) and I quote in French, (Interpretation) "It was in (Redacted) 2003 that they

20 were abducted. When the event or the events occurred, please state what day,

21 month and year that the events took place." "(Redacted) 2003" is written thereafter.

22 (English) Did you give as the date on which you were arrested by the UPC in the

23 (Redacted) that you filled out the date of (Redacted) 2003 as the date when

24 you were abducted?

25 A. [10:45:35] I've forgotten all of that.

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1 Q. [10:45:44] So you're saying that you may have provided that information, in fact,
2 at that time?

3 A. [10:45:57] I no longer know.

4 Q. [10:46:02] And this form was filled out back in (Redacted) That would have
5 been (Redacted) from the date of the arrest. Would you agree with me that
6 your memory of that event would be fresher and clearer at that time than it is today?

7 A. [10:46:35] No. At that time I didn't know everything but now I can remember
8 some details.

9 Q. [10:46:58] But When you say that you didn't know everything, does that mean
10 that you obtained information afterwards about events that had occurred?

11 A. [10:47:20] I'm sorry, what were you saying?

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Now, Madam Witness, that's very complicated language and you certainly don't need
25 to know every bit of it, but the aspect of it that I do want to ask you about is whether

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1 you were at any time, as best you can recall, informed that your (Redacted)

2 (Redacted) had been rejected on the basis that you were too

3 old at the time of the events.

4 A. [10:50:19] I don't know.

5 Q. [10:50:21] You don't remember perhaps whether (Redacted) informed you of
6 that at any time?

7 Madam Witness, can you remember if (Redacted) ever mentioned anything to you
8 about this?

9 A. [10:51:14] Tell me what?

10 Q. [10:51:17] Did he ever tell you that you had been rejected as a victim before the
11 ICC?

12 A. [10:51:38] No, I don't know.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 And here the question is, "When did the event or events occur? If possible, please
3 specify days, months and years."

4 And written on this form it says "(Redacted) 2002." Did you tell the person assisting
5 you with this form that it was (Redacted) 2002 that you had been taken by the UPC?

6 A. [10:55:31] Yes.

7 Q. [10:55:35] Now, this seems to say or suggest that (Redacted)

8 (Redacted)

9 you provided different information as to the date when you were arrested. Can you
10 recall whether you learned anything, whether any event happened? Did anything
11 happen between those dates that caused you to change your memory of when you
12 were arrested?

13 A. [10:56:11] When we were filling in the forms, I wasn't thinking straight.

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 MR GOSNELL: [11:01:18] Mr President, I regret to have to interrupt in the middle of
13 a line but we are at the time and I don't want to fatigue the witness.

14 PRESIDING JUDGE FREMR: [11:01:27] It depends, if you would be able to wrap up
15 in, I guess in five minutes, it would be still fine, I believe, both with Chamber and
16 Madam Witness, so. I mean this topic or this issue.

17 MR GOSNELL: [11:01:38] If I can have five minutes, I would be most grateful, and if
18 the witness is willing to forebear with me.

19 PRESIDING JUDGE FREMR: [11:01:45] Madam Witness, you would like to
20 complete the questioning on this issue, so would it be fine with you to continue for
21 the next five minutes?

22 THE WITNESS: [11:01:59] (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: [11:02:04] I appreciate that, Madam Witness.

24 So, Mr Gosnell, please proceed.

25 MR GOSNELL: [11:02:08] Thank you very much.

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1 If we could just go down to the bottom of the page.

2 Q. [11:02:15] (Redacted)

3 (Redacted)

4 (Redacted) Do you remember anything about him having prepared

5 this declaration in conjunction with you filling out your second victim application

6 form?

7 A. [11:02:55] I've forgotten all that. These things happened a very long time ago.

8 I've forgotten so many things about this.

9 MR GOSNELL: [11:03:11] If we can just scroll back up the screen for one moment.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Madam Witness, this appears to be an application form that you filled out at the

16 beginning of (Redacted), and down at the second question of this page, which is quote in

17 French, (Interpretation) "When did the event or events occur?"

18 (Speaks English) In response, quote, (Interpretation) "I was abducted on (Redacted)

19 2002."

20 (Speaks English) How is it, Madam Witness, that (Redacted)

21 (Redacted) when you put down a month when you believe you were abducted,

22 that here in this form you were able to put this precise date of (Redacted) 2002 as the

23 date of your arrest?

24 A. [11:06:01] I've forgotten everything. I found these documents again only here.

25 I've forgotten everything that I said in (Redacted) I can't remember any more.

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1 MR GOSNELL: [11:06:17] Thank you very much.

2 Mr President, I would propose to stop there.

3 PRESIDING JUDGE FREMR: [11:06:23] All right. So now let's move into open
4 session.

5 (Open session at 11.06 a.m.)

6 THE COURT OFFICER: [11:06:42] We are in open session, Mr President.

7 PRESIDING JUDGE FREMR: [11:06:44] Thank you, court officer.

8 First for update on timing, Mr Gosnell, so far, according to our measuring, you have
9 used 1 hour 50 minutes.

10 And now, since we continued a bit longer, we have to shift our break accordingly so
11 we will break until and we will resume at 11.40.

12 THE COURT USHER: [11:07:21] All rise.

13 (Recess taken at 11.07 a.m.)

14 (Upon resuming in open session at 11.42 a.m.)

15 THE COURT USHER: [11:42:23] All rise.

16 Please be seated.

17 PRESIDING JUDGE FREMR: [11:42:53] We will now continue with further part of
18 cross-examination of our witness conducted by Defence. And I suppose, Mr Gosnell,
19 that we will continue in private session.

20 MR GOSNELL: [11:43:13] Yes, Mr President.

21 PRESIDING JUDGE FREMR: [11:43:15] So, court officer, let's move into private
22 session.

23 (Private session at 11.43 a.m.) *(Reclassified partially in public)

24 THE COURT OFFICER: [11:43:31] We are in private session, Mr President.

25 PRESIDING JUDGE FREMR: [11:43:35] Thank you, court officer. And now,

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(Private Session)

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1 Mr Gosnell, please proceed.

2 MR GOSNELL: [11:43:45] Thank you, Mr President.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 Do you have any knowledge of why (Redacted) would think that at the time you
- 11 were abducted you were living with (Redacted)
- 12 A. [11:50:02] I don't know.
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

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5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted) Do you have any

9 knowledge as to why (Redacted) would say that you were abducted from (Redacted)

10 A. [11:54:10] I don't know. What I know is that I was abducted (Redacted)

11 MR GOSNELL: [11:54:25] (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Did you tell that to the people who came and spoke to you in the middle of (Redacted) from

19 the (Redacted)

20 A. [11:56:30] I know that I met (Redacted) but I don't remember what we talked

21 about.

22 Q. [11:56:40] So you don't recall whether you did or did not say that you were

23 (Redacted)

24 A. [11:57:00] I was abducted (Redacted)

25 (Redacted)

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ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. [12:03:15] And does this map accurately record the locations of those two places
6 as you know them?

7 A. [12:03:25] Yes, I think so.

8 MR GOSNELL: [12:03:39] Mr President, I tender this document.

9 PRESIDING JUDGE FREMR: [12:03:44] Prosecution?

10 MS SAMSON: [12:03:45] No objection, your Honour.

11 PRESIDING JUDGE FREMR: [12:03:47] So this document is admitted into evidence
12 as a further Defence exhibit.

13 MR GOSNELL: [12:03:57]

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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ICC-01/04-02/06

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 A. [12:10:24] I did not hear.

5 MR GOSNELL: [12:10:30] Mr President, I tender this document.

6 PRESIDING JUDGE FREMR: [12:10:35] Prosecution?

7 MS SAMSON: [12:10:37] No objection, your Honour.

8 PRESIDING JUDGE FREMR: [12:10:38] This document is admitted into evidence as
9 a further Defence exhibit.

10 MR GOSNELL: [12:10:52]

11 Q. [12:10:52] Madam Witness, what is your date of birth?

12 A. [12:11:04] I was born on (Redacted)

13 MR GOSNELL: [12:11:57] (Redacted)

14 Q. [12:12:23] Madam Witness, is the date that you have just given us as your date
15 of birth the date of birth as you have always thought it to be, or did your
16 understanding of your own date of birth change at some time?

17 A. [12:13:02] The date that I have provided is my true date of birth.

18 Q. [12:13:11] Yes, I understand that. What I'm asking you is a slightly different
19 question which is whether at any time you came to realise or understand that the date
20 of birth that you thought was your date of birth was in fact not your date of birth?

21 A. [12:13:41] I don't know.

22 Q. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Speaks English) Is this the date that you gave for your date of birth when you were
3 being assisted in filling out your (Redacted) victim application form?

4 A. [12:15:02] I do not remember.

5 Q. [12:15:06] And do you remember whether there was any discussion about
6 whether you should put an exact date or an approximate date?

7 A. [12:15:36] I do not remember what I discussed with those people.

8 MR GOSNELL: [12:15:50] (Redacted)

9 (Redacted)

10 Q. [12:16:25] The people (Redacted) who was white who met
11 with you sometime before the middle of (Redacted) say or record that you are at the time of
12 the interview (Redacted) years old and that at the time of the events 15. Do you remember
13 providing that information to them?

14 A. [12:17:07] I really do not remember everything that we discussed. I have just
15 seen this information here now, but I have forgotten everything else.

16 MR GOSNELL: [12:17:26] (Redacted)

17 If we could have the least redacted version, please, of this document. The same
18 version that was shown by the Prosecution.

19 Q. [12:18:54] Madam Witness, do you remember last Thursday when you were
20 shown this document you told us that this was the first time you had ever seen it?

21 A. [12:19:08] Yes.

22 Q. [12:19:12] But this document does in the last line make reference to another
23 document, it refers to you having what is described here as an identity card. Did
24 you have an identity card at the end of (Redacted), as best you can recall?

25 A. [12:19:51] I do not know. I really do not know.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 MR GOSNELL: (Redacted)

10 Now this is a carte d'électeur, and it says that your place of birth is (Redacted). Now that
11 information is not correct, is it?

12 A. [12:22:24] Yes.

13 Q. [12:22:26] It's not correct because you were born (Redacted), correct?

14 A. [12:22:34] Yes.

15 Q. [12:22:40] Now looking at this identification card, or this card, this cart
16 d'électeur, can you remember whether you any version of this card or anything that
17 looked similar to this card before you had this card?

18 A. [12:23:15] I do not understand your question.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [12:26:00] Now, I know that you've already told us earlier that you cannot

9 remember when you got this card, but can I ask you to just provide us with a general

10 idea whether you know whether you've had this card for more or less than five years?

11 A. [12:26:32] Are you asking me for the date on which the card was issued to me?

12 Q. [12:26:44] Yes.

13 A. [12:27:00] Not a long time ago.

14 Q. [12:27:06] I'm done with this card and I would like to move now, madam, to

15 a different subject, which involves the battles that you say that you fought in with the

16 UPC. And you've told us that you fought in three battles, (Redacted)

17 (Redacted); do you remember that?

18 A. [12:27:42] Yes.

19 Q. [12:27:45] And you told us in respect of the battle of (Redacted) that it started on

20 a Saturday and that then there was a second day of fighting on a Monday, right?

21 A. [12:28:04] Yes.

22 Q. [12:28:06] And on the first day the fighting was very difficult.

23 A. [12:28:18] Yes.

24 Q. [12:28:21] And you were ordered to retreat.

25 A. [12:28:38] I have not understood your question.

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1 Q. [12:28:43] At some point during that first day, am I correct that UPC soldiers
2 were ordered to retreat by their commanders?

3 A. [12:29:08] It was on a Saturday.

4 Q. [12:29:14] It was on a Saturday that they were ordered to retreat, correct?

5 A. [12:29:27] Yes.

6 Q. [12:29:30] And am I correct that on the first day the soldiers retreated all the way
7 back to (Redacted)?

8 A. [12:29:56] I do not remember.

9 Q. [12:30:02] Well, at paragraph 79 of your statement, which I don't think we need
10 to pull up because there are copies available, you say, and I quote: "I know UPC
11 soldiers pillaged that day because I saw them carrying pillaged goods when we met
12 at (Redacted) whilst retreating."

13 And I have to correct myself: It's not (Redacted)

14 Madam Witness, do you recall that the soldiers retreated to (Redacted)?

15 A. [12:31:01] I have forgotten everything.

16 Q. [12:31:07] But one thing you did remember, because you told us during your
17 testimony yesterday, is that the UPC soldiers had pillaged in (Redacted), correct?

18 A. [12:31:23] Yes, they looted.

19 Q. [12:31:31] Amongst the items that you say they had pillaged were beds.

20 A. [12:31:43] Yes.

21 Q. [12:31:45] How were the soldiers able to, in the midst of this intense fighting, in
22 the midst of a retreat carry beds all the way to (Redacted)?

23 A. [12:32:25] The highest ranking officers asked -- told the soldiers with the lower
24 rank to carry them, or civilians. I'm not talking about wooden beds, I'm talking more
25 of mattresses.

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1 Q. [12:32:58] And then there was, during the second day of attack by the UPC on
2 the Monday also a retreat, was there not, which ended up with the UPC being
3 confined to positions in (Redacted); is that correct?

4 A. [12:33:13] Yes.

5 Q. [12:33:25] And you don't remember the month or the year in which this fighting
6 occurred?

7 A. [12:33:39] I don't remember.

8 Q. [12:33:43] How are you able to remember the days of the week on which the
9 attack occurred but not the month or the year in which it occurred?

10 A. [12:34:04] I don't know the exact date.

11 Q. [12:34:19] Well do you know the month?

12 A. [12:34:34] No. Even the month during which the fighting took place, I don't
13 know that.

14 Q. [12:34:44] Do you know the year?

15 A. [12:34:59] No, I don't know.

16 MR GOSNELL: [12:35:04] Could we have DRC-OTP-2067-2084, please, tab 6. And
17 if we could please go to page 2093.

18 Q. Again, Madam Witness, this is your victim application form dated
19 (Redacted), which you signed and you have read over last week. And there is
20 mention of the places where you fought.

21 And what it says is the following: (Interpretation) "I was sent to the front to fight
22 against the Lendu in (Redacted)
23 (Redacted)

24 (Speaks English) Perhaps we can even zoom in so the witness has the benefit of
25 seeing that line.

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1 Do you remember any recollection that the battle that you claim you took part in
2 occurred in (Redacted)?

3 A. [12:37:26] When the combat took place.

4 Q. [12:37:42] I'm not sure whether perhaps all of the witness's answer was recorded
5 or translated, or perhaps the witness just stopped.

6 I'll just pose the question again: Does this remind you that the battle that you believe
7 that you took part in in (Redacted)?

8 And Madam Witness, if you don't remember or this passage has not reminded you or
9 refreshed your memory, then of course you can just tell us that, there's no problem.

10 A. [12:39:17] Personally, I don't know the date.

11 Q. [12:39:26] The difficulty, Madam Witness, that I have in understanding your
12 description is that neither during this battle in (Redacted) nor in any other battle during
13 (Redacted)

14 (Redacted). Can you comment upon that?

15 PRESIDING JUDGE FREMR: [12:39:52] Ms Samson.

16 MS SAMSON: [12:39:53] Thank you, your Honour. It's the form of the question.
17 It's phrased as though counsel is giving evidence. Thank you.

18 PRESIDING JUDGE FREMR: [12:40:02] Mr Gosnell.

19 MR GOSNELL: [12:40:08] I'm putting a proposition.

20 PRESIDING JUDGE FREMR: [12:40:17] Moreover, I believe that, you know, this
21 kind of questioning is a bit beyond, I would say, concrete witness capability.

22 MR GOSNELL: [12:40:27] That may be, Mr President, but I also have duties to
23 your Honours to put matters on the record now with the witness rather than only
24 later.

25 PRESIDING JUDGE FREMR: [12:40:40] All right. Ms Samson.

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1 MS SAMSON: [12:40:43] It is the form of the question, your Honour. I understand
2 that the Defence is trying to put a proposition to the witness, to suggest an answer to
3 the witness, but the way in which the question was framed was as though it is
4 a confirmed fact that there was no other situation that this witness's evidence could be
5 parallel to and it is to that phrasing that I object. Thank you.

6 PRESIDING JUDGE FREMR: [12:41:06] Yes, I get the point. So, Mr Gosnell, at least
7 I think you should rephrase it.

8 MR GOSNELL: [12:41:18]

9 Q. Well, Madam Witness, how long, if I can put it like this, how long, do you know,
10 did the UPC remain in this position, (Redacted), if you know? And of
11 course, if you don't know, you can tell us that too.

12 A. [12:41:56] Are you talking about Monday or Saturday?

13 Q. [12:42:02] Following Monday, after Monday, how long was that the situation in
14 (Redacted)

15 (Redacted)

16 A. [12:42:40] I don't know how many -- how long, how many days they stayed
17 there. I was further away so I didn't know then what was happening in (Redacted).

18 Q. [12:42:53] You have told us that you did know that Hema and Gegere people in
19 (Redacted) were warned about the impending operation or attack, but that Lendus were
20 not informed; do you remember that?

21 A. [12:43:17] Yes.

22 Q. [12:43:26] How do you know that the Lendu were not informed?

23 A. [12:43:42] Because they were enemy. You don't give your enemy information.

24 You don't say to your enemy, "I am currently preparing this." No, you prepare
25 yourselves in secret so that you surprise the enemy and kill the enemy.

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(Private Session)

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1 Q. [12:44:10] And after this battle at (Redacted), you went to fight in (Redacted); is that
2 correct?

3 A. [12:44:20] Yes.

4 Q. [12:44:25] In terms of months, can you provide an estimate as to how long after
5 (Redacted) the fighting at (Redacted) occurred?

6 A. [12:44:51] I don't remember.

7 Q. [12:44:56] Do you remember saying that there were no Hema civilians in
8 (Redacted) at the time of your battle there?

9 A. [12:45:16] I don't remember that.

10 Q. [12:45:27] At paragraph 95 of your statement you say, quote: "I saw the bodies
11 of the dead Lendu civilians. I knew they were from the Lendu ethnic group because
12 at that point there were no Hema civilians there."

13 That's from your statement to the Prosecution in (Redacted). Does that refresh your
14 memory, that there were no Hema civilians in (Redacted) at the time of the UPC attack
15 there in which you say you participated?

16 Madam Witness, is it fair to say that you can't remember now whether there were any
17 Hema civilians there?

18 A. [12:47:13] I can remember.

19 Q. [12:47:27] Does that mean that you can remember that there were no Hema
20 civilians there, only Lendu civilians?

21 A. [12:47:52] It's them that we went to fight.

22 Q. [12:47:59] And the victims were Lendu, correct?

23 A. [12:48:20] I didn't understand your question properly.

24 Q. [12:48:27] Those who were killed during the attack that you describe
25 participating in were Lendu; is that right?

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1 A. [12:48:54] There were also some of our soldiers who were killed.

2 Q. [12:49:04] There was no mass killing of Hema civilians there, according to you?

3 A. [12:49:25] No. We were not killing the Hema. That wasn't us.

4 MR GOSNELL: [12:49:42] May we have DRC-OTP-0109-0215, please, which is tab 32.

5 And if we could turn, please, to page 0217.

6 Q. [12:50:36] And Madam Witness, just for the record so you know, this a report

7 from the (Redacted). It's entitled (Redacted)

8 (Redacted)

9 (Redacted)

10 And then it says, at paragraph 5, and I quote: (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 Madam Witness, do you remember that the attack on (Redacted) that happened that

16 you are describing was actually an attack by Lendu combatants against (Redacted) and

17 not an attack by UPC combatants?

18 A. [12:52:42] We went to fight in (Redacted). I don't know who started the attack,

19 but we went from (Redacted) to (Redacted) to fight.

20 Q. [12:53:05] And one of the things you said yesterday in response to the question

21 "During the battle at (Redacted), how were people killed? By which means, which

22 weapons or other way were they killed?" And that's at page 59 of the transcript.

23 Your first answer in response to that question was "There were rifles, arrows and

24 lances."

25 And then you were asked a further question about whether the UPC was using

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1 arrows and lances and rifles during the (Redacted) battle, and then you said: "The
2 UPC used rifles and the others didn't have rifles."

3 And then you were asked: "Did the UPC kill people during the battle only using
4 rifles or did they use other weapons?" And then you said: "What I saw was the
5 UPC using firearms." Do you remember that?

6 A. [12:54:27] Yes.

7 Q. [12:54:37] Are you sure that the group with whom you were fighting was not
8 also using arrows and lances, as you appear to have said in your first answer?

9 A. [12:55:01] They didn't have any.

10 Q. [12:55:08] Now, you testified that after the battle in (Redacted), you went to
11 a cassava field and you stayed with a family who gave you some clothes; do you
12 remember that?

13 A. [12:55:35] Yes.

14 Q. [12:55:36] How long did you stay with this family?

15 A. [12:55:56] I can't remember any more, but it wasn't many days, it was a few
16 days.

17 Q. [12:56:02] Do you remember anyone's name at the family?

18 A. [12:56:17] I've already forgotten their names. I don't remember.

19 Q. [12:56:23] And can you tell us approximately where this was, where did they
20 live when you stayed with them?

21 A. [12:56:39] The family lived in (Redacted). It was a little bit
22 on the outskirts, but it was still (Redacted).

23 Q. [12:57:02] And that's not far from (Redacted), is it?

24 A. [12:57:15] It's a long way.

25 Q. [12:57:20] Well, how far would you say it is?

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1 A. [12:57:39] I can't tell you.

2 Q. [12:57:44] It's not too far to walk, is it, Madam Witness, between (Redacted)

3 (Redacted)

4 A. [12:57:59] Yes, a person could go there on foot.

5 Q. [12:58:08] (Redacted) at that time, correct?

6 A. [12:58:17] Yes.

7 Q. [12:58:20] At paragraph 97 of your statement, you say that you went back to

8 Lingo camp from this family because, and I quote: "I had nowhere else to go after I

9 left my family who sheltered me."

10 Is there a particular reason why you could not go back and live and find shelter with

11 (Redacted)

12 A. [12:59:00] At what point?

13 Q. [12:59:03] Following the time in the cassava field and when you stayed with this

14 family after the battle at (Redacted)?

15 A. [12:59:16] (Redacted) lived a long way away and I didn't even think about that.

16 Q. [12:59:50] If the conditions were as you have described them at the Lingo camp,

17 wouldn't you have thought of returning to live (Redacted) when you had the

18 opportunity to do so?

19 A. [13:00:22] It was possible, but at that point I didn't think I'd be able to go and

20 live (Redacted) or in my family because we were smoking

21 cannabis. That changes a person's thoughts.

22 MR GOSNELL: [13:00:47] Thank you, Mr President. I don't propose to tax your

23 patience with time a second time today.

24 PRESIDING JUDGE FREMR: [13:00:55] All right. Let's move into open session for

25 the remainder.

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1 (Open session at 1.01 p.m.)

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

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

4 So update on timing. Mr Gosnell, so far you have used three hours, five minutes,
5 which should mean that you still have at your disposal one hour, 55 minutes. At this
6 moment do you envisage that you will need all that time?

7 MR GOSNELL: [13:01:43] I might be able to finish in less, Mr President. I will have
8 to review my notes and I'll be, of course, as efficient as I can possibly be.

9 PRESIDING JUDGE FREMR: [13:01:54] Because you might know that there is also
10 request from your colleague that would require some adjustment of our tomorrow
11 schedule and it will also depend on whether we will be able to start the next witness
12 this afternoon or not. So, frankly, I think it would be even in the interest of your
13 colleague if you could finish a bit earlier. In this connection, Ms Samson, do you
14 envisage any need for redirect?

15 MS SAMSON: [13:02:28] I have no re-examination at the moment, your Honour.

16 PRESIDING JUDGE FREMR: [13:02:32] Okay. So we will see.

17 At the moment we break and we will resume at half past 2.

18 THE COURT USHER: [13:02:43] All rise.

19 (Recess taken at 1.02 p.m.)

20 (Upon resuming in open session at 2.31 p.m.)

21 THE COURT USHER: [14:31:20] All rise.

22 Please be seated.

23 PRESIDING JUDGE FREMR: [14:31:47] Good afternoon, everybody.

24 Our schedule is relatively tight today, so let us not wait any minute and let's -- there
25 are some changes. Thank you. Ms Grabowski, please.

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1 MS GRABOWSKI: [14:32:03] Mr President, I just wanted to put on the record that

2 Mr Suprun has left this afternoon. Thank you.

3 PRESIDING JUDGE FREMR: [14:32:08] Thank you very much, Ms Grabowski.

4 Otherwise I don't see any changes.

5 So we will now directly continue with cross-examination conducted by Defence,

6 concretely by Mr Gosnell.

7 Mr Gosnell, you have the floor.

8 MR GOSNELL: [14:32:23] Thank you, Mr President. And I can already indicate

9 that I may be able to finish in maybe even less than an hour if we're lucky.

10 PRESIDING JUDGE FREMR: [14:32:35] I think it would be good, not only for the

11 Court but also for your colleague.

12 MR GOSNELL: [14:32:41]

13 Q. [14:32:42] Madam Witness, I'd like to ask you some questions about --

14 PRESIDING JUDGE FREMR: [14:32:45] Sorry, sorry. Hold on. We are still in

15 open session.

16 So I guess let's move into private session because the upcoming questions require

17 that.

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

19 THE COURT OFFICER: [14:33:02] We are in private session, Mr President.

20 PRESIDING JUDGE FREMR: [14:33:06] And thank you, court officer, to remind

21 me that.

22 Mr Gosnell, please proceed.

23 MR GOSNELL: [14:33:12] Thank you, Mr President.

24 Q. [14:33:14] Madam Witness, I'd like to ask you some questions about someone

25 whose name came up yesterday, or at least his designation, and it has to do with the

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1 person known as (Redacted). And I'm going to ask you come questions
2 about this and can we agree that when I ask you about (Redacted) I am in fact asking you
3 about "(Redacted)".

4 Madam Witness, let me just clarify that. It's just that I am going to use the English,
5 (Redacted), when I ask my questions and I just want to make sure we understand and are on
6 the same page because (Redacted), as I understand it in your language, is understood as a gun.
7 But when I ask you about (Redacted). Do we understand that?

8 A. [14:34:41] Yes, I do.

9 Q. [14:34:42] Thank you. Now, yesterday you said that after the training you
10 were raped by (Redacted). Do you remember having said that?

11 A. [14:34:58] Yes.

12 Q. [14:34:59] Can you tell us approximately how many times that happened?

13 A. [14:35:17] I don't know how many times, but he would (Redacted)
14 and it is at that time that he raped me.

15 Q. [14:35:27] And was that during your training as well or only after your
16 training?

17 A. [14:35:53] It was before and even after that the training.

18 Q. [14:35:58] And can you give an idea, an estimate as to over what period of time
19 that was occurring, over what period of months?

20 A. [14:36:27] Well, I didn't count the days or the months, I didn't take stock of
21 that.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. [14:37:16] Would it be fair to say that you saw him frequently?

2 A. [14:37:40] I'm not sure I have understood your question.

3 Q. [14:37:46] Can you give an estimate as to how many times per week you
4 would see him while you were at Camp Lingo, just approximately.

5 A. [14:38:11] Well, I didn't take stock or count, (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [14:43:20] And this statement, at least as its recorded here, doesn't make any
9 reference to you having served as (Redacted) bodyguard or personal escort. Do you
10 know of any reason why that is not recorded in this first ever interview with you?

11 A. [14:43:51] I do not know.

12 Q. [14:43:58] I'd like now to show you a video which is the third excerpt of video
13 that was shown to you during your meetings with the Prosecution, and it's
14 (Redacted) without sound.

15 THE COURT OFFICER: [14:44:56] The video is going to be displayed on the
16 evidence 2 channel.

17 (Viewing of the video excerpt)

18 MR GOSNELL: [14:45:22] (Microphone not activated)

19 THE INTERPRETER: [14:45:25] Microphone, please.

20 PRESIDING JUDGE FREMR: [14:45:27] Mr Gosnell, please switch on.

21 MR GOSNELL: [14:45:30] We'll just play this excerpt a second time. The witness
22 was shown this video twice, so I think we should see it all twice. And the end of the
23 excerpt, by the way, is (Redacted)

24 (Viewing of the video excerpt)

25 MR GOSNELL: [14:46:16]

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1 Q. [14:46:17] Do you recognize anyone on the video that has been shown to you?

2 PRESIDING JUDGE FREMR: [14:46:50] Madam Witness, could you kindly answer
3 the question.

4 THE WITNESS: [14:47:01] (Interpretation) Yes.

5 MR GOSNELL: [14:47:05]

6 Q. [14:47:06] And which person do you recognize? And if you want us to go
7 back, we can go back if it's not pictured in front of you.

8 PRESIDING JUDGE FREMR: [14:47:40] Madam Witness, now you can see (Redacted)
9 (Redacted). So do you recognize anyone?

10 THE WITNESS: [14:47:51] (Interpretation) I would like the entire video to be
11 played again, please.

12 MR GOSNELL: [14:47:57] Certainly. And in fact we can even go one step further,
13 Mr President, to assist the witness and we're going to stop it at (Redacted)

14 PRESIDING JUDGE FREMR: [14:48:11] All right.
15 (Viewing of the video excerpt)

16 MR GOSNELL: [14:49:00]

17 Q. [14:49:00] Do you recognize this person, Madam Witness?

18 A. [14:49:08] Yes.

19 Q. [14:49:09] And who is that, according to you?

20 A. [14:49:24] It's Bosco.

21 MR GOSNELL: [14:49:30] Let's continue to the end of the excerpt, please, and we'll
22 just stop at (Redacted).

23 Q. [14:49:45] Other than the man whom you've identified as Bosco, (Redacted)
24 (Redacted), have you recognized anyone else in this video from the
25 beginning up until the end?

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1 A. [14:50:01] I cannot see very clearly.

2 MR GOSNELL: [14:50:23] Let's play the entire video one more time so that it's as
3 clear as possible.

4 (Viewing of the video excerpt)

5 MR GOSNELL: [14:51:17] Let's just remove the video.

6 Q. And let me ask you whether, other than the one person whom you've identified,
7 did you identify or recognize anybody else?

8 A. [14:51:32] No, I did not recognize anyone else.

9 Q. [14:51:44] So you don't recognize any of the other people on this video as
10 being (Redacted)?

11 A. [14:52:05] I have forgotten what his face looked like.

12 Q. [14:52:13] Now, you testified -- now, you testified that Bosco came to visit you
13 on one occasion and that he brought you a cow. Do you remember that?

14 A. [14:52:38] Yes.

15 Q. [14:52:42] Did anyone else ever bring you a cow?

16 A. [14:52:54] No. It happened only once.

17 Q. [14:53:02] Did anyone else ever bring you meat?

18 A. [14:53:11] No.

19 MR GOSNELL: [14:53:15] Can we have once again DRC-OTP-2062-0374, page
20 0389.

21 Q. And before we even get to this passage I can already ask, Madam Witness, are
22 you sure that it was Bosco Ntaganda who brought you the cow? Or was it perhaps
23 Thomas Lubanga who brought you the cow?

24 A. [14:54:01] Until I left the UPC, I never saw Thomas Lubanga. The only
25 person I saw was Bosco.

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1 Q. [14:54:14] Well, on the page in front of us, again, we have an excerpt from the
2 (Redacted) interview that was conducted with you (Redacted)
3 (Redacted), and it describes that you were taken to Lingo, and then you say, quote:
4 "We ate very poorly, sometimes only boiled corn grains. One day we ate meat. It
5 was Thomas Lubanga who brought it. Thomas Lubanga came after we had finished
6 our training."

7 Isn't that what you said (Redacted)

8 (Redacted)

9 A. [14:55:17] Well, I no longer remember what the question was during that
10 (Redacted) interview. All I know is that I did not talk about -- I did not talk to this
11 person. (Redacted) But about all the
12 other persons, I have forgotten everything.

13 Q. [14:55:46] Let's return now to the video, please, and if we could play back
14 (Redacted). For the record, that's (Redacted). So we will start at
15 (Redacted)

16 (Viewing of the video excerpt)

17 MR GOSNELL: [14:56:39]

18 Q. [14:56:39] Is that the man whom you say came to Lingo camp and brought you
19 a cow?

20 A. [14:56:52] Yes.

21 Q. [14:56:54] And if I told you that that was not Bosco Ntaganda, would that
22 cause you to reconsider whether it was in fact Bosco Ntaganda who came to Lingo
23 camp and brought you a cow?

24 A. [14:57:22] He mentioned his name himself.

25 Q. [14:57:31] And how far away from him were you at the time that he mentioned

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1 his name himself?

2 A. [14:58:01] In Lingo we had something of a field and he was some distance
3 away from us at the centre of the field, delivering his speech. And I was there with
4 my colleagues who were other recruits, female recruits.

5 Q. [14:58:29] And your training lasted three months; is that right, approximately?

6 A. [14:58:40] Yes.

7 Q. [14:58:42] And you say you were arrested in (Redacted), correct?

8 PRESIDING JUDGE FREMR: [14:58:57] Ms Samson.

9 MS SAMSON: [14:58:58] Yes, I don't recall the witness ever indicating the date
10 upon which she was arrested in testimony.

11 PRESIDING JUDGE FREMR: [14:59:06] Mr Gosnell.

12 MR GOSNELL: [14:59:08]

13 Q. [14:59:10] Madam Witness, you've said in your statement to the Office of the
14 Prosecutor, have you not - and if necessary we can pull it up - that your best
15 recollection of when you were arrested or abducted was (Redacted). Is that right?

16 A. [14:59:39] I do not remember the month, the month in which I was arrested,
17 but I only remember the year.

18 Q. [14:59:49] At paragraph 8 of your statement, quote:

19 "In (Redacted) on a date and time that I don't remember, I left home on foot to go and
20 (Redacted). On the way there I came across a (Redacted)."

21 And then you go on to describe being arrested. Do you remember having said that
22 in your (Redacted) statement to the Prosecution investigators?

23 A. [15:00:33] Yes, I said that, but I could not remember the month. All I
24 remember is the year.

25 Q. [15:00:40] And that year is (Redacted), correct?

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1 A. [15:00:46] Yes.

2 Q. [15:00:53] Madam Witness, I put it to you that Mr Ntaganda could not have
3 visited you when you say he did at Camp Lingo because Camp Lingo did not exist
4 until after the battle that occurred in (Redacted). Can you comment on that?

5 A. [15:01:35] I do not know. I did not count the days so I don't know which
6 month it was and I did not even know what day was Sunday because I was in Lingo.

7 Q. [15:01:58] And neither (Redacted) could have been there because there
8 was no Camp Lingo until after (Redacted)?

9 A. [15:02:34] I found that the Lingo camp existed already.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 MR GOSNELL: [15:06:35] Mr President, I seek to tender the video that's still on the
9 screen.

10 PRESIDING JUDGE FREMR: [15:06:42] And could you just repeat the excerpts
11 where we start and we finished.

12 MR GOSNELL: [15:06:50] Yes. It is (Redacted)

13 (Redacted), and the image that was identified by the witness appears at (Redacted).

14 PRESIDING JUDGE FREMR: [15:07:14] Thank you. Ms Samson.

15 MS SAMSON: [15:07:16] No objection, your Honour.

16 PRESIDING JUDGE FREMR: [15:07:17] So video specified by now by Mr Gosnell
17 is admitted into evidence as a further Defence exhibit.

18 MR GOSNELL: [15:07:27] And, Mr President, I would also seek to tender one
19 further document and that is DRC-OTP-2062-0374, but just the excerpt concerning the
20 interview with the witness.

21 Now, I'm fully aware, your Honour, of the Chamber's policy on these matters, but I
22 do believe that it would be in this case in the interests of justice for your Honours to
23 have full sight of the documentation of the interview, for the purposes of
24 impeachment only, Mr President.

25 PRESIDING JUDGE FREMR: [15:08:08] Is it this interview with NGO?

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1 MR GOSNELL: [15:08:17] Yes, with the NGO.

2 PRESIDING JUDGE FREMR: [15:08:18] Prosecution.

3 MS SAMSON: [15:08:19] We oppose the request, your Honour, on the basis of the
4 Chamber's previous rulings on the same issue. Where prior statements have been
5 put to witnesses in cross-examination, those parts are fully on the record already.

6 The evidence -- the record itself does not need to be flooded with additional pieces of
7 information. And what would be unfortunate would be if this statement were to go
8 in and then additional pieces from that statement not put to the witness then are used
9 in argument to further impeach her where she hadn't been given an opportunity to
10 comment. Thank you.

11 PRESIDING JUDGE FREMR: [15:08:53] All right. In this case I can be brief. The
12 objection is sustained and I can fully refer to arguments made by Ms Samson.
13 Now, Mr Gosnell, you may proceed.

14 MR GOSNELL: [15:09:09] That concludes my cross-examination. Thank you,
15 Mr President.

16 Thank you, Madam Witness.

17 PRESIDING JUDGE FREMR: [15:09:15] All right. Now, Ms Samson, you
18 indicated that you most likely will not make any request for redirect. Do you
19 maintain this position?

20 MS SAMSON: [15:09:28] I do, your Honour. There is no need for redirect.
21 Thank you.

22 PRESIDING JUDGE FREMR: [15:09:32] Thank you. To be precise, Mr Gosnell
23 has used 3 hours 41 minutes.

24 I have just one question for Madam Witness.

25 Madam Witness, if I made my notes well, you said at the end of examination-in-chief

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1 and after, yes, also after examination by Ms Pellet, that you don't consider yourself
2 marriable, marriageable. Do you remember that? Because we asked you about
3 your family. You said you are still single, you don't have children, and at the end
4 you said you don't consider yourself marriable. Do you remember that?

5 THE WITNESS: [15:10:26] (Interpretation) Yes.

6 PRESIDING JUDGE FREMR: [15:10:27] I don't want to touch this probably
7 sensitive issue in depth but could you be at least a little bit more specific why you
8 came to this conclusion, if it has something to do with your previous membership
9 within the UPC?

10 THE WITNESS: [15:11:02] (Interpretation) I said that because given the way I was
11 raped, the way I suffered there, I think that for the moment I no longer would want to
12 be with a man.

13 PRESIDING JUDGE FREMR: [15:11:34] Thank you, Madam Witness. And for the
14 record, I would like to add that Madam Witness was crying when giving this answer.
15 I don't have any further questions. Do my colleagues have any questions? No.
16 Now let's move into open session.

17 (Open session at 3.11 p.m.)

18 THE COURT OFFICER: [15:11:59] We are in open session, Mr President.

19 PRESIDING JUDGE FREMR: [15:12:07] Thank you very much, court officer.

20 Madam Witness, it concludes your testimony. I would like on behalf of the whole
21 Chamber to thank you for making such a long journey and testifying before this
22 Court. I can imagine that it was sometimes very hard experience to testify,
23 especially that some parts of your testimony was even maybe painful to you, but we
24 strongly believe that your testimony will assist us in our effort to find the truth.
25 So again I thank you very much, and we all wish you safe journey home.

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1 And now, court usher, please assist Madam Witness to leave the court.

2 (The witness is excused)

3 PRESIDING JUDGE FREMR: [15:13:19] And now we will break, I would expect at
4 least for 10 minutes, simply to give you time and also to give the time to Registry to
5 make all preparation necessary for the next witness.

6 So now we break.

7 THE COURT OFFICER: [15:13:41] All rise.

8 (Recess taken at 3.13 p.m.)

9 (Upon resuming in open session at 3.30 p.m.)

10 THE COURT USHER: [15:30:25] All rise.

11 Please be seated.

12 PRESIDING JUDGE FREMR: [15:30:55] Good afternoon, everybody and especially
13 to those, to Mr Witness and to those who joined us for the afternoon session. That is
14 why we will have to make some additional record of appearances. So I would ask
15 Prosecution to make update on that.

16 MS LUPING: [15:31:23] Good afternoon, Mr President. Good afternoon, your
17 Honours. I will be questioning the witness this afternoon, myself, Dianne Luping,
18 trial lawyer; otherwise the composition of the Prosecution team remains the same.
19 We have two additional individuals who have joined the team now, Janine Ensing,
20 intern, and Ms Laura Morris, assistant trial lawyer.

21 PRESIDING JUDGE FREMR: [15:31:48] Thank you, Ms Luping.

22 Defence, any changes? I don't think so.

23 MR GOSNELL: [15:31:55] No, Mr President.

24 PRESIDING JUDGE FREMR: [15:31:57] The same with Legal Representatives of
25 Victims.

1 All right. So first, in relation to our new witness, there is an outstanding Prosecution
2 request for special measures under Rule 88 *which bears the filing number 1579. The
3 Chamber has also received the VWU's vulnerability assessment which recommends
4 that reading assistance be available, if necessary, and having regard to the assessment,
5 the Chamber grants the measure as recommended by the VWU.

6 With regard to the necessity of breaks, the Chamber will monitor the situation
7 carefully.

8 For the purposes of timing for this witness, as indicated in our Rule 68(3) decision,
9 which bears the filing number 1640, the Prosecution shall have 45 minutes to examine
10 the witness, which shall include the process of seeking admission of the witness
11 material under Rule 68(3) as well as its supplementary examination of the witness.

12 The Defence has been permitted 2 hours for cross-examination of the witness.

13 Further, the Chamber has taken note of the Defence notice of objections to the use or
14 admission of certain documents and it will address any such objections if and when
15 they arise.

16 Now nothing prevents us from turning to the scheduled testimony.

17 So, Mr Witness, again, good afternoon. I would like to highlight that you are called
18 to testify in the case against Mr Bosco Ntaganda and you will be soon asked questions
19 both by the Judges and lawyers in this courtroom. And in this connection I would
20 like to guide you as follows:

21 Please listen carefully to those questions. It's very important that you make sure that
22 you understand the question.

23 Mr Witness, there's no need to answer immediately. Then I will ask you at the end
24 of my guidance whether you did understand. So please hold on for the moment and
25 I will continue with my guidance.

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1 So, as I said, it's very important that you make sure that you understand the question,
2 and if you do not understand, feel free to ask for the question to be repeated. We as
3 a Chamber want you to tell the truth and tell us what you saw, heard and sensed
4 yourself. If you didn't see or hear it yourself but you found out some other way,
5 then you should explain how.

6 You also may not remember all details, and it doesn't matter. Please testify just on
7 that which you really remember. Don't guess. Don't make things up. There is
8 nothing wrong in saying, "I don't know" or "I don't remember."

9 So now I'm asking you, Mr Witness, do you understand all this?

10 WITNESS: DRC-OTP-P-0761

11 (The witness speaks Swahili)

12 THE WITNESS: [15:35:56] (Interpretation) Yes, I have understood you clearly.

13 PRESIDING JUDGE FREMR: [15:36:03] Very well, Mr Witness. Now another
14 issue: Protective measures are put in place to ensure that your identity is not
15 revealed to the public. In practice it means that the public cannot see your face and
16 that your voice is being disguised so that the public cannot recognize it.

17 We will refer to you only as "Mr Witness" and ensure that your name and any other
18 information that risks revealing who you are is not broadcast to the public.

19 Therefore, whenever you need to describe anything that might reveal your identity,
20 we will do so in so-called private session so that no one outside the courtroom can
21 hear your answer. Do you understand that, Mr Witness?

22 THE WITNESS: [15:37:16] (Interpretation) Yes.

23 PRESIDING JUDGE FREMR: [15:37:18] Fine. Now, Mr Witness, our court usher
24 will provide you with piece of paper with the text of the solemn undertaking. So
25 please make your solemn undertaking to tell the truth by reading out the declaration

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1 on the piece of paper in your hands.

2 THE WITNESS: [15:37:45] (Interpretation) I solemnly declare that I will speak the
3 truth, the whole truth and nothing but the truth.

4 PRESIDING JUDGE FREMR: [15:38:02] All right, Mr Witness. It means you are
5 now under oath, so you need to be aware that it is an offence within the jurisdiction of
6 this Court to give false testimony. Do you understand that?

7 THE WITNESS: [15:38:26] (Interpretation) Yes, I understand very well.

8 PRESIDING JUDGE FREMR: [15:38:31] Very good, Mr Witness. And finally a
9 few practical matters you should have in mind when giving your testimony. It's
10 important to speak into the microphone, to speak clearly and to speak at a slow pace
11 to allow the interpreters to translate everything. What is also very important, you
12 should only start speaking when the person asking you the question has finished.
13 When a question is asked, please do not respond immediately, just take your time,
14 count at least to three and only - one, two, three - and only then give your answer
15 because this pause is essential for us to properly record and translate what you are
16 saying.

17 If you have any questions during your testimony, do not hesitate to let us know by
18 raising your hand and we will then give you the opportunity to speak.

19 Have you understood all that, Mr Witness?

20 THE WITNESS: [15:39:53] (Interpretation) Yes, I have understood you very well.

21 PRESIDING JUDGE FREMR: [15:39:56] Fine. So we will then start your
22 testimony.

23 Prosecution, I see that Ms Luping will conduct this examination, so Ms Luping, you
24 have the floor.

25 MS LUPING: [15:40:08] Thank you, Mr President.

26

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1 QUESTIONED BY MS LUPING:

2 Q. [15:40:12] And good afternoon, Mr Witness. We have met before. My name
3 is Dianne Luping, I'm a trial lawyer with the Office of the Prosecutor. I just want to
4 give you one reminder, sir, as mentioned by the Presiding Judge which is that we
5 have very limited time, only 45 minutes, so that I would ask that you listen very
6 carefully to my questions and please only answer the questions as posed.

7 MS LUPING: And, Mr President, with your leave, I would ask for leave to move
8 into private session and also to ask my initial questions in a leading manner relating
9 to the witness's background.

10 PRESIDING JUDGE FREMR: [15:40:52] Fine with me.

11 Just to assure myself, Mr Gosnell, no objection to use leading questions at the
12 beginning?

13 MR GOSNELL: [15:40:58] No, Mr President.

14 PRESIDING JUDGE FREMR: [15:41:01] Fine. Court officer, let's move into
15 private session.

16 (Private session at 3.41 p.m.)

17 THE COURT OFFICER: [15:41:14] We are in private session, Mr President.

18 (Redacted)

19 (Redacted)

20 (Redacted)

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13 (Open session at 4.34 p.m.)

14 THE COURT OFFICER: [16:34:19] We are in open session, Mr President.

15 PRESIDING JUDGE FREMR: [16:34:27] Thank you. And in the remaining time

16 I would like to deal with the issue of timing. So according to my report I was given,

17 you just now exhausted 45 minutes but I see there were some, you know, I would say

18 special issues. How much time, Ms Luping, you need, you would need to finish or

19 to your complete your supplementary examination?

20 MS LUPING: [16:34:51] Mr President, your Honours, I think you may have

21 appreciated some of the difficulties that can be faced with this particular witness in

22 terms of trying to seek very short focussed responses. With your leave and

23 indulgence, I would ask for a further 15 minutes. That would enable me to cover

24 some important topics relating to documents, documentary evidence, that are pretty

25 critical for the assessment of another related witness, your Honours.

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1 PRESIDING JUDGE FREMR: [16:35:21] Yes, you are reading my thoughts. It was
2 just my idea to give you additional 15 minutes but not one minute more. Even if you
3 would face the same problem, try to, I don't know, even to simplify further questions
4 or try to be brave enough to cut Mr Witness. But I have to agree that some problems
5 was not caused by you, so that is why the Chamber is granting you additional
6 15 minutes for tomorrow.

7 And we will now break and start tomorrow with another regular timing at 9.30 with
8 our classical schedule.

9 THE COURT OFFICER: [16:36:04] All rise.

10 (The hearing ends in open session at 4.36 p.m.)

11 RECLASSIFICATION REPORT

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