

Trial Hearing
WITNESS: DRC-OTP-P-0055

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
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
7 Wednesday, 24 February 2016
8 (The hearing starts in open session at 9.03 a.m.)
9 THE COURT USHER: All rise.
10 The International Criminal Court is now in session.
11 Please be seated.
12 PRESIDING JUDGE FREMR: Good morning everybody.
13 Court officer, please call the case.
14 THE COURT OFFICER: Thank you, Mr President.
15 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
16 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
17 And for the record, we are in open session.
18 PRESIDING JUDGE FREMR: Thank you.
19 Appearances now starting with Prosecution.
20 MS SAMSON: Good morning, Mr President, your Honours. Appearing on behalf
21 of the Prosecution today are Mr Rens van der Werf, assistant trial lawyer; Mr James
22 Pace, assistant trial lawyer; Ms Marion Rabanit, associate trial lawyer; Ms Dianne
23 Luping, trial lawyer; Ms Selam Yirgou, case manager; and myself, Nicole Samson,
24 senior trial lawyer.
25 PRESIDING JUDGE FREMR: Thank you, Ms Samson.

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1 Defence, please.

2 MR BOURGON: (Interpretation) Good morning, Mr President. Good morning,
3 your Honours. Good morning to all those in the courtroom. Representing
4 Bosco Ntaganda, who is in the courtroom today, Ms Elisa Binon, intern;
5 Maître Isabelle Martineau, legal consultant temporary; and myself, Stéphane Bourgon.
6 Thank you, Mr President.

7 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

8 Now Legal Representatives of Victims, please.

9 MS PELLET: (Interpretation) Thank you, Mr President. Former child soldiers are
10 represented by Mohamed Abdou and myself, Sarah Pellet, counsel at the OPCV.

11 MR SUPRUN: Good morning, Mr President, your Honours. Victims of the attacks
12 are represented by the OPCV, Anne Grabowski, legal assistant, and myself, Dmytro
13 Suprun, counsel. Thank you.

14 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun.

15 And now duty counsel, please.

16 Mr Cikonza, I know that I can also note that you are here, but I would rather if you
17 could just put it on the record.

18 MR CIKONZA: (Interpretation) Thank you, Mr President. Good morning, your
19 Honours. Good morning to all those in the courtroom. I am Gémi Mundere
20 Cikonza from Brussels. I am the legal assistant or legal adviser to this witness.
21 Thank you, Mr President.

22 PRESIDING JUDGE FREMR: Thank you.

23 Good morning, Mr Witness. Just to assure myself --

24 WITNESS: DRC-OTP-P-0055 (On former oath)

25 (The witness speaks Swahili)

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1 THE WITNESS: (Interpretation) Good morning.

2 PRESIDING JUDGE FREMR: Are you okay today?

3 THE WITNESS: (Interpretation) Yes, I'm doing well, Mr President.

4 PRESIDING JUDGE FREMR: So we will continue with your testimony. I would
5 like first to, just my legal obligation to remind you that you are still under oath, which
6 means that you have to speak truth and nothing but the truth. And I would also add
7 that yesterday you were doing very well, you just observed our guidance, so please
8 continue in the same way today. Have you understood?

9 THE WITNESS: (No interpretation)

10 PRESIDING JUDGE FREMR: Thank you, Mr Witness.

11 So, Ms Samson, you have the floor.

12 And as I said yesterday, according to our counting you should finish in fact during
13 this day, so by the afternoon session.

14 MS SAMSON: Yes, Mr President. In reviewing the amount of material that I still
15 have to go over last night, I formed the view that it would be -- that I will make an
16 application for additional time. I've discussed it also with my friend from the
17 Defence. The reasons for that are primarily that there is still quite a bit of material to
18 review. Yesterday we did get through quite a bit, but it was a bit slow. There were
19 some interpretation issues, some repeated questions in order to ensure that the
20 witness understood. And the witness is important to the Prosecution's case and, in
21 my submission, it would be beneficial for the Chamber to hear the full extent of his
22 knowledge on the relevant matters.

23 There are several exhibits that I would like to show the witness, fewer than were on
24 the original Prosecution list, however, there are still some, including one small section
25 of a video. And I can update the Chamber further by lunchtime, but I anticipate that

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1 I will move forward with a request for up to one hour additional time with the
2 witness should the Chamber grant it.

3 PRESIDING JUDGE FREMR: Yes, in fact, I agree with your proposal. I think it
4 would be fair not to surprise you with our decision at the end of this ten-hour limit.
5 So I agree that at the end of the second session you can come with your request,
6 including also the time you would like to get extra, and we will decide before the
7 lunch-break and we will see.

8 So now please proceed.

9 MS SAMSON: Thank you, Mr President.

10 QUESTIONED BY MS SAMSON: (Continuing)

11 Q. Good morning, sir.

12 A. Good morning.

13 Q. Sir, I wanted to -- I wanted to ask you this morning a few questions in relation
14 to information you provided to us yesterday during your testimony. You indicated
15 at page 95 of the realtime transcript, lines 22 to 25, that Mr Ntaganda had more
16 experience than Mr Kisémbó. Do you know why or did you learn why Mr Kisémbó
17 was in a more senior military position to Mr Ntaganda?

18 A. Yes. According to what I was told, Kisémbó was basically Ntaganda's
19 bodyguard at the time of the creation of the UPC movement. Ntaganda chose
20 Ntaganda -- chose Kisémbó, rather, to become the commander of the army. Kisémbó
21 was a native of Bunia, while Ntaganda was not. *So it was only proper for the world
22 to see the UPC not to be under the leadership of Rwandans. That is the reason why It
23 was useful to put Kisémbó, as commander, as he was a native of Bunia.

24 I don't know if you have understood me well. What I am saying is that before that
25 he was Ntaganda's bodyguard and then was subsequently given the position of chief

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1 of general staff so that the UPC should not be perceived to be a Rwandan movement.

2 PRESIDING JUDGE FREMR: Sorry to interrupt you, Ms Samson. I guess it would
3 be better for us to move into private session, or what do you think?

4 MS SAMSON: I think that initial question is appropriate for public session. We
5 could move into private session, because I would now like to ask the witness the basis
6 of his knowledge for that answer, please.

7 (Private session at 9.12 a.m.) *(Reclassified partially in public)

8 THE COURT OFFICER: We are in private session, Mr President.

9 PRESIDING JUDGE FREMR: Thank you.

10 Ms Samson, you may proceed.

11 MS SAMSON:

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 Q. And now I would like to move to a different topic. You had referenced

25 yesterday (Redacted)

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1 And I would like to know in your knowledge (Redacted)

2 PRESIDING JUDGE FREMR: Sorry, Ms Samson.

3 Mr Bourgon.

4 MR BOURGON: Thank you, Mr President. We're going to need a reference for this,
5 because I don't really recall that he said that weapons were distributed in Aru.

6 Thank you, Mr President.

7 PRESIDING JUDGE FREMR: Ms Samson, please.

8 MS SAMSON: Certainly, Mr President. From my recollection, the witness
9 indicated that some weapons were left behind in Aru. It will take me a moment to
10 find that reference, but I do have it.

11 PRESIDING JUDGE FREMR: Yes. Please take your time.

12 MS SAMSON: Because I had specific back-and-forth questions with the witness on
13 that particular topic. Yes. So in the realtime transcript page 57, lines 4 to 5, my
14 question was: "Did any weapons get distributed in Aru, to your knowledge?"

15 Answer: "I think that some of the weapons remained in Aru."

16 PRESIDING JUDGE FREMR: Thank you, Ms Samson.

17 MS SAMSON:

18 Q. So, sir, in relation to weapons within the UPC, my question is: Do you have
19 any knowledge as to how weapons were given to brigades or battalions within the
20 UPC, generally what the procedure was, if any, for collection or receipt of weapons?

21 A. When weapons arrived, they would be distributed according to the needs of the
22 brigades or battalions. It was necessary to determine whether these weapons could
23 be distributed by a vehicle. Where it was not possible for a vehicle to reach a
24 particular location, the weapons would be taken there by plane.

25 Q. Who within the UPC decided which weapons would be distributed or how

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1 many?

2 A. The chief of general staff in charge of operations, Mr Ntaganda. In his absence,
3 Ntaganda's absence, Kisembo also had the power to issue orders for weapons to be
4 distributed.

5 Q. Do you know where weapons were stored, where UPC weapons were stored?

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 A. (Redacted). I do not know who they

19 reported to, whether it was to Lubanga, Bosco or Kisembo. I don't know. What I

20 know is that Kisembo used to visit them at Ntaganda's residence. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 THE INTERPRETER: Mr President, the interpreters didn't get the last part of the
3 witness's sentence.

4 PRESIDING JUDGE FREMR: Mr Witness, could you repeat the last part of your
5 response because it hasn't been captured by the interpreters.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE FREMR: Thank you, Mr Witness.

13 MS SAMSON:

14 Q. Do you know whether Mr Ntaganda had any role in obtaining weapons?

15 A. Please, kindly repeat your question.

16 Q. Certainly. Do you know whether Mr Ntaganda had any role in obtaining these
17 weapons from Rwanda?

18 A. Yes. When the weapons arrived, even uniforms and ammunition or rations
19 and money, Ntaganda was informed of all this, that a craft or a plane would arrive at
20 a particular time. Even President Lubanga would also be informed by telephone so
21 that vehicles could be prepared to receive the material that was coming in by air.
22 That is how it happened.

23 Q. And do you know where these weapons were -- arrived, where in Ituri?

24 A. The plane that would bring the weapons did not land in Bunia because the
25 airport there was under the control of the UPDF, the Ugandan army. At that time,

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1 the Rwandan and Ugandan armies were not on good terms, so instead they used the
2 Mongbwalu airport, as I said yesterday. But there was also an airstrip in Bule where
3 some planes landed as well as in Aru, and on one or two occasions planes landed
4 there. So these are the airports or airstrips that were being used at the time before
5 the other areas were captured. But before the other areas were taken, it was the
6 Mongbwalu airport that was mostly used.

7 Q. Were any weapons eventually brought to or stored in Bunia, to your
8 knowledge?

9 A. Yes. Yes, they were. The weapons I have just talked about, those that came to
10 Bule were taken to Bunia. Those which came through Aru were also taken to Bunia.

11 Q. And where in Bunia were the weapons kept?

12 A. At the chief of general staff's place but also at another location where there was
13 a depot; at Ntaganda's house.

14 Q. Just so I'm clear for the record, you said that there was -- that Bunias (sic) were
15 kept at the chief of general staff's place and at another location where there was a
16 depot and at Mr Ntaganda's house; is that right, three locations?

17 A. Yes, three locations in Bunia where weapons were kept, yes.

18 Q. And did you see these locations where they were kept, where the weapons were
19 kept?

20 A. Yes, I saw them.

21 Q. Can you describe how they were stored or where? Were they stored in a shed
22 or in open air?

23 A. At Kisembo's residence there was a shed where weapons were kept near his
24 residence. That is where the weapons were kept. So the largest stock of weapons
25 in Bunia was at Kisembo's residence because he used to live in a big compound.

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1 There was also another stock of weapons at Ntaganda's place, and some weapons
2 were kept in the nearby buildings and at Ntaganda's residence some weapons were
3 kept in other places. Then at Centrale there was another stock of weapons in the
4 house belonging to a private individual, some weapons were also kept there.

5 Q. When you say that at Ntaganda's residence some weapons were kept in other
6 places, what other places are you referring to?

7 A. Well, I will tell you this: At Ntaganda's residence, there were a number of
8 outbuildings, other buildings, in addition to the main building. One of the buildings
9 was used by his signora. Other outbuildings were used as places to store weapons.
10 One outbuilding was used by the bodyguards.

11 Q. (Redacted) did you ever see weapons stored underground or
12 not?

13 PRESIDING JUDGE FREMR: Mr Bourgon.

14 MR BOURGON: Leading question, Mr President. It should be rephrased. Now
15 the witness is aware of what the Prosecution is looking for, but nowhere did it say
16 that there were weapons underground. It's an answer that suggests the
17 response -- it's a question that suggests a response and that can be answered merely
18 by yes or no. Thank you, Mr President.

19 PRESIDING JUDGE FREMR: Ms Luping?

20 MS SAMSON: The answer could very well be no, your Honour.

21 PRESIDING JUDGE FREMR: Oh, I'm sorry. Ms Samson.

22 MS SAMSON: Yes. The answer could be no, your Honour. I don't know if the
23 witness is going to tell me that he is aware of this or not. I'm directing the witness to
24 what I would like him to focus on as opposed to telling him what the answer is.

25 PRESIDING JUDGE FREMR: Mr Bourgon.

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1 MR BOURGON: This is exactly the point. She's acknowledging the fact that she's
2 directing the witness to where she wants to the witness to go. The idea is the
3 witness never mentioned any underground, and now she's eliciting from the witness
4 information trying to maybe refresh his memory, I don't know, but this is the wrong
5 way to proceed with the examination-in-chief. Thank you.

6 PRESIDING JUDGE FREMR: Ms Samson, I share Mr Bourgon's view because if
7 there would be some alternatives but now you really -- you are proposing as the only
8 option he hasn't said anything at least indicating such a possibility in the past, so this
9 objection is sustained.

10 MS SAMSON: I will rephrase, your Honour.

11 Q. Sir, you've mentioned seeing weapons stored in buildings at different locations
12 in and around Bunia. Were there any other locations that you would have found
13 weapons being stored in Bunia?

14 A. I told you. I don't know whether you've understood when I was talking about
15 handaki, the word "handaki" that I used.

16 Q. I certainly don't understand that word, and I don't know if it's been interpreted.
17 Can you please explain what that means?

18 A. That's what you just said, a hole, this sort of hole, an handaki. These are holes
19 or trenches where soldiers stay to fight. We call them handaki. It can also mean a
20 place where things are stored, an underground place where things are stored in all
21 sectors that I mentioned yesterday at the front. You can't put weapons or
22 ammunitions at home because it's dangerous, so soldiers prefer to store these things
23 in these handaki, these holes. They dig a hole and they store -- so that is the word
24 that we use to designate these holes where weapons and ammunition are stored.

25 Q. Thank you. I understand better now. So when you refer to, for instance,

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1 where weapons were stored at Mr Ntaganda's home, were they stored in these holes
2 as well as buildings, or is it just holes or just buildings?

3 A. I told you that in the outbuildings there were rooms where weapons were kept.
4 Behind the house of Ntaganda there was an handaki, a hole, umbro (phon). That is
5 where the weapons were placed as well.

6 Q. Who had access to these weapons depots?

7 A. It would depend. It depended on the person who had been chosen to be in
8 charge of the storage place. The people who were allowed to go in, Ntaganda or
9 Kisembo could go in. (Redacted)

10 (Redacted)

11 Q. And I'd like to move now to a different topic. We discussed the Mongbwalu
12 operation yesterday, and you indicated what, to your knowledge, was Mr Ntaganda's
13 role at the time of the preparations for the attack. Can you please explain what you
14 know about Mr Ntaganda's role during the Mongbwalu operation or the Mongbwalu
15 attack?

16 PRESIDING JUDGE FREMR: Mr Bourgon.

17 MR BOURGON: Thank you, Mr President. I think this question was asked
18 yesterday. It was covered in detail. The witness was not present. (Redacted)
19 (Redacted) I don't think he can provide anything else as to what Mr Ntaganda's
20 role was during the Mongbwalu operation. Thank you, Mr President.

21 PRESIDING JUDGE FREMR: Ms Samson.

22 MS SAMSON: Yes, Mr President. I asked the question about Mr Ntaganda's role
23 during preparations, (Redacted) What
24 I would like to get him to tell the Chamber now is what he knew of and, if anything,
25 how he knew it was Mr Ntaganda's role during the actual operation, which I have not

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1 yet elicited from him.

2 PRESIDING JUDGE FREMR: Frankly saying, I have the impression you even tried
3 to get the decision, but okay. It's your time, so try again, but it shouldn't be taken as
4 some pressure on the witness to give some further answers. So please try again,
5 okay?

6 MS SAMSON:

7 Q. Sir, do you remember my question, or would you like me to rephrase? It was
8 what do you know of Mr Ntaganda's role during the Mongbwalu attack?

9 A. Yes, I understand your question. As it was said -- well, I think I've answered
10 that question. (Redacted)

11 (Redacted)

12 (Redacted) I've told you all of that yesterday.

13 I have nothing else to tell you.

14 Q. Sir, I'm not asking about the preparations for the attack. I'm asking what you
15 know, if anything, about what Mr Ntaganda's role was during the attack.

16 PRESIDING JUDGE FREMR: Mr Bourgon.

17 MR BOURGON: Thank you, Mr President. The witness just said that he explained
18 (Redacted) and he said I've told all of that yesterday.

19 I think the answer is clear, Mr President, that this was covered yesterday. Thank
20 you.

21 MS SAMSON: Mr President, the witness is describing the preparation phase. It
22 may be that he misunderstands, and I've tried to clarify with him that I'm not
23 speaking about the preparations but, rather, the actual attack.

24 PRESIDING JUDGE FREMR: I will take the floor now.

25 Mr Witness, now there's a little bit of a dispute about whether you simply don't know

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1 about Mr Ntaganda's involvement, if any, in the attack itself or whether you have
2 some knowledge. Do you have any knowledge -- you really in details described
3 what Mr Ntaganda did before the attack. Do you know what Mr Ntaganda did
4 during the attack? If yes, tell us.

5 THE WITNESS: (Interpretation) Well, as I said yesterday, after Kandoyi, he went
6 back and he went with other troops, with Salongo. They went along the Mabanga
7 road to meet up with the forces to whom we were going to give the weapons from
8 Kandoyi. (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 PRESIDING JUDGE FREMR: Ms Samson, please proceed.

13 MS SAMSON: Thank you, Mr President.

14 Q. Sir, yesterday you were describing for the Court (Redacted) that you had seen,
15 and you indicated that there were prisoners that you saw (Redacted) and you've
16 indicated that you saw two prisoners with weapons, and I would like to clarify. Did
17 you only see two prisoners, or did you see more than two prisoners and only two
18 with weapons?

19 PRESIDING JUDGE FREMR: Mr Bourgon.

20 MR BOURGON: Again, Mr President, this was covered yesterday. He said he saw
21 the prisoners with weapons. He even described what the weapons -- the weapons
22 that the prisoners were holding. He even said that the prisoners were showing the
23 weapons to the camera. So all of this has been covered already, Mr President.

24 PRESIDING JUDGE FREMR: Ms Samson, I don't have the part of the transcript
25 concerned before me, but I do have the impression that Mr Bourgon is right.

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1 MS SAMSON: I have the transcript reference, your Honour.

2 PRESIDING JUDGE FREMR: Please.

3 MS SAMSON: It's at page 122 in the realtime transcript, and then he -- what
4 the -- and the question was: "The individuals that you saw, the dead bodies in
5 civilian attire and the prisoners that saw in civilian attire, were they men alone, or
6 were there women amongst them?"

7 And the witness said answer: "(Redacted) the prisoners were actually two men,
8 and the dead bodies on the ground were about two or three in number."

9 And then later on he speaks about on page 122, lines 10 to 12: "Those who had a
10 spear and arrow were two in number." And so I would like to know whether when
11 he says, "Those who had a spear and arrow were two in number," whether there were
12 a larger group and two of that group had a spear and an arrow or whether there were
13 only two.

14 PRESIDING JUDGE FREMR: Okay. Mr Bourgon.

15 MR BOURGON: Thank you, Mr President. Online it says (Redacted) the
16 prisoners were actually two men. What more do we need, Mr President?

17 PRESIDING JUDGE FREMR: I sustain the objection.

18 Moreover, Ms Samson, I really don't see the relevance in Mr Witness's description of
19 what he saw. Wouldn't it be then easier to present (Redacted) and then we can -- but,
20 you know, to have as evidence what he saw? Indeed, that seems to me easier
21 than -- present (Redacted) and the problem would be avoided.

22 MS SAMSON: I wish (Redacted) your Honour.

23 PRESIDING JUDGE FREMR: I'm sorry. Anyway, the objection is sustained.

24 MS SAMSON: Thank you.

25 Q. And, sir, did you happen to note the or discuss the ethnicity of any of the

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1 prisoners or dead bodies that you saw (Redacted)

2 A. As I said yesterday, that part was inhabited by Lendu people. We did not talk
3 to determine which ethnic group or tribe they belonged to. But I know that it is an
4 area where Lendu people live as well as Bira people and Nyali. Those three tribes
5 live in that area. As for the question --

6 PRESIDING JUDGE FREMR: Mr Witness, Mr Witness, I have to interrupt you. As
7 I instruct you in the beginning, the question was whether you discussed. It's enough
8 for us you said you didn't discuss. And the further part of your response in fact is
9 your speculation, your opinion, which, you know, you are here as a witness. So as I
10 said, you should say what you have seen, what you have heard, but not what you
11 think about something. So you get the point? So sorry to interrupt you, but for us,
12 you know, it's not proper part of the testimony.

13 Ms Samson, please proceed.

14 MS SAMSON:

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 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)

24 Q. And did you ever know an individual named Kasangaki?

25 A. Yes, I know him.

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1 Q. Where was he based at this time; do you know? And what was his role?

2 A. Kasangaki, well, he was in the brigade that was moving forwards toward
3 Mongbwalu, (Redacted)

4 Q. Do you know in whose brigade he was in moving forward to Mongbwalu?

5 A. He was in Salumu's brigade.

6 (Redacted)

7 (Redacted) did you ever find out who commanded the
8 Mongbwalu operation as it was ongoing in the field?

9 A. Please repeat your question.

10 Q. Certainly. While you were in Mongbwalu or any other time where you
11 learned you said about the operations that had been conducted in Mongbwalu, did
12 you learn who was in overall command of the Mongbwalu attack?

13 A. The person who led that attack as I said was Ntaganda. The head of -- the
14 chief of staff -- correction, the deputy chief of staff responsible for operations, he was
15 the one who led that attack.

16 Q. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 What did Kazungu do to have him in particular be removed from Mongbwalu?

22 A. Yes, that's what I told you. Kazungu had been arrested and put in prison in
23 Bunia.

24 Q. What had he done?

25 A. Well, I learned that in his case he had been in opposition, he opposed. He was

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1 part of Jérôme's troops. And, you see, they shifted to the UPC, but he continued to
2 be opposed. He wanted the troops to go back to the APC. When it was recognized
3 that he was the one doing that, he was arrested.

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)

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10 Q. Yesterday, sir, in your answers to some of my questions, you referred to the fact,
11 at page 94 of the realtime transcript, that the Lendu could not return to Bunia. You
12 said at lines 4 to 5: "They were thought of as enemies. So they could not come to
13 the place where the UPC soldiers were."

14 Do you know what would happen if Lendu would come to places where UPC
15 soldiers were?

16 PRESIDING JUDGE FREMR: Ms Samson, this question is speculative. Rather ask
17 whether he is aware of such a case, but not hypothetically what would occur if.

18 MS SAMSON: Certainly, your Honour. I'll rephrase.

19 Q. Do you have any information, sir, about specific instances where Lendu
20 civilians entered into UPC territory and what happened to them if they did?

21 PRESIDING JUDGE FREMR: Mr Bourgon.

22 MR BOURGON: Thank you, Mr President. I'm sorry my computer is not following
23 and I'm not able to follow the questioning. If we can get the assistance from
24 technicians.

25 PRESIDING JUDGE FREMR: Court officer, please check it and we will see.

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1 (Pause in proceedings)

2 MR BOURGON: It appears to have returned, Mr President. The transcript
3 suddenly appeared to where we are.

4 PRESIDING JUDGE FREMR: So I guess we may continue.

5 MS SAMSON: Yes, thank you, Mr President.

6 PRESIDING JUDGE FREMR: Ms Samson, please.

7 MS SAMSON:

8 Q. Sir, I'll repeat my question. Did you have any information (Redacted)

9 (Redacted) about any specific instances where Lendu civilians entered UPC territory and, if so,
10 what happened to them when they did?

11 A. Yes. As I told you yesterday, a Lendu civilian or a Lendu soldier could not
12 easily enter a location where UPC soldiers were. There is a place known as Ndrele
13 near Kasenyi, a lake known as Semliki. There were some UPDF troops there having
14 been deployed by Ugandans. (Redacted) some
15 civilians had been killed in Ndrele close to the Ndrele military camp. Near that
16 camp there was a small food market. (Redacted)

17 (Redacted) So I asked him
18 who killed them. And he told me that they had been killed by members of Bosco's
19 escort. I asked him what the circumstances were and he told me that Bosco was
20 going through that area on his way to Kasenyi. And at Kasenyi some of his troops
21 found some women going to the market and shot them dead. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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5 (Redacted) And so Bosco went on to specify that it was Lendu
6 people. That is how I became aware that it is Lendu civilians who had been killed
7 around the UPDF military camp.

8 Q. And when Mr Ntaganda was speaking about this, did he use any particular
9 terms to describe those civilians or what happened to them, if you recall?

10 A. Please kindly repeat your question.

11 Q. Certainly. When Mr Ntaganda was describing in your discussion with him
12 what happened to these civilians, and you said it was he who advised you that they
13 were Lendu, did he use any particular terms in describing what happened to them?

14 A. He told me that the UPDF soldiers had begun to introduce or take the enemy
15 into their camps -- into their camp.

16 Q. My question is about whether he said anything to you specifically about using
17 any specific terms about what happened to --

18 PRESIDING JUDGE FREMR: Mr Bourgon.

19 MS SAMSON: Perhaps I can get the question before the objection is framed?

20 PRESIDING JUDGE FREMR: But I think the objection, I guess, targeting the
21 question, so first Mr Bourgon, please.

22 MR BOURGON: Thank you, Mr President. The question is being repeated a
23 second time, so it's not that I'm not waiting for the question. And the issue is it's a
24 leading question. She's looking at a question that did he use any terms. It would
25 be so easy to say how did he describe the people. It would be so easy to say that.

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1 No, we want to refresh. We want to take the witness and to bring him there and say
2 remember the terms, terms, statement, wake up witness. That's what we're doing,
3 Mr President. Thank you.

4 PRESIDING JUDGE FREMR: Mr Bourgon, please.

5 So, yes, I agree that, I think, the question should be rephrased because at least it's
6 unclear to the witness, you are repeating the same question, and especially the term
7 "term" is probably causing obvious problems. So probably you have something in
8 your mind but you simply have to rephrase.

9 MS SAMSON: Certainly, Mr President. I will.

10 Q. When Mr Ntaganda was describing how or what happened to these civilians,
11 what words or how did he describe what happened to them, if you can remember the
12 words he used?

13 A. I have just told you what he said. He said that the UPDF troops had begun to
14 receive or welcome enemies into their camp. Maybe he used a specific word but I do
15 not remember.

16 Q. Did you learn who had given the order to the bodyguards to kill these civilians,
17 these women?

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Then Ntaganda told me that the UPDF soldiers are beginning to take in the enemy
23 and so I did not ask him whether he was the one who had given the orders. He
24 simply told me that the UPDF soldiers had begun to take in the enemy into their
25 camp. But I know that he was aware that the civilians were killed, but not

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1 necessarily the circumstances in which they were killed.

2 Q. Do you know if Mr Ntaganda was present with his bodyguards at the time of
3 the killing of the three women? Were you told whether or not he was there?

4 A. No, I'm not in a position to know. I have just told you that he was in a convoy.
5 You see, he was in the habit of travelling in a convoy whenever he went around and
6 about. So I don't know whether it is the -- his own troops that killed the civilians or
7 not.

8 Q. Sir, I just want to be clear. Earlier in your answer at page 25, lines 23, 24, you
9 said -- well, 22 to 24 you said:

10 "So I asked him who killed them. And he told me they had been killed by members
11 of Bosco's escort. I asked him what the circumstances were and he told me that
12 Bosco was going through that area on his way to Kasenyi."

13 And I just want to clarify because what I understood through the interpretation that
14 you said right now is that you don't know whether it was his own troops that killed
15 the civilians or not. Was it Mr Bosco's bodyguards that you were told killed the
16 civilians or not?

17 A. Yes. It was his escorts who killed them -- or his bodyguards, rather, who killed
18 them.

19 Q. Sir, I'm going to move to a different topic at the moment and it has to do with
20 your testimony yesterday where you referred to intercepted communications and you
21 said (Redacted)

22 (Redacted)

23 (Redacted)

24 PRESIDING JUDGE FREMR: Mr Bourgon.

25 MR BOURGON: In all fairness to the witness, Mr President, he should be at least

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1 informed of what the area of the questioning was. Now it's very vague what the
2 topic is and he should be provided at least with what he said yesterday so that we
3 know and give him a fair opportunity to respond.

4 PRESIDING JUDGE FREMR: I don't know whether you complete your question,
5 but really to say "I would like to know more" is rather vague, so please be more
6 specific.

7 MS SAMSON: Certainly, your Honour. And in response to my friend's submission,
8 at page 110 of the realtime transcript starting at lines 24, 25 and continuing on lines 1
9 and 2 of page 111.

10 Q. You said, Mr Witness, you said that -- or, rather, my question was: "When did
11 you realise that the Lendu were listening to your communications?"

12 And you said: "I just told you. They called Papa Three and said to him that they
13 wanted to start negotiating. And the negotiations were led in Lipri, and then we
14 realised that they were intercepting our communications."

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

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18 (Redacted)
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24 (Redacted)

25 Q. And now, coming back to your answer where you said that this didn't last a

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1 long time and that after about a month or so all negotiations had taken place
2 collapsed and the conflict resurfaced again, can you describe or can you indicate
3 whether you're referring to a particular conflict or what conflict resurfaced again,
4 what attacks, if any, by either side took place after these negotiations?

5 A. The conflict that resurfaced was the conflict to open the road that went from
6 Bunia to Mongbwalu and in Lipri there was one place where troops were stationed,
7 and when the road was opened from Bunia to Mongbwalu, you see, there was a
8 problem because it was necessary to attack the troops who were located there
9 occupied by Lendu people so that that road along the various places could be
10 reopened.

11 Q. Are you able to describe that road? Which villages did the road go through
12 that needed to be opened?

13 A. Very well. I don't remember all the names. (Redacted)

14 (Redacted) Bunia you get to a
15 village of a Nyali ethnic group and that is where Kitembo was born actually. That is
16 where he was. He was visiting his parents. I've forgotten the name of that
17 particular village, but Mongbwalu you get -- you get to Banyali village, then you go to
18 Kobu. From Kobu you go to Nyangarai and then Lipri and then finally you get to
19 Bunia.

20 Q. Now, you said that the road needed to be opened. (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. And what was the predominant ethnicity in the villages along the road that you
14 wanted to open, if you know?

15 A. I told you that these -- the village I've forgotten the name were occupied by
16 Nyali people. Nyali was part of the UPC. Kobu and UPC were occupied by
17 Lendu -- Kobu and Lipri were occupied by Lendu.

18 THE INTERPRETER: Corrects the Swahili booth.

19 MS SAMSON:

20 (Redacted)

21 (Redacted)

22 A. This operation to open the road was conducted from Kobu, Lipri, Bambu.

23 (Redacted)

24 (Redacted)

25 (Redacted)

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4 (Redacted)

Now, when

5 the clashes began, since the clashes had begun, you see, they were successful and the

6 road was reopened. The road was open, our vehicles leave Mongbwalu and get to

7 Bunia and travel back in the other direction.

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)

but when, when the attack on Lipri was planned

22 and the attack on Bambu and Kobu, Ntaganda was not in Bunia. I don't know where

23 he was, whether he was somewhere else. I do remember that Ntaganda was not in

24 Bunia. Those operations were planned by Kisembo and then he took the plane and

25 he went back to Bunia. (Redacted)

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1 Q. Okay. Now, you indicated that someone was to go to Fataki. Who was
2 designated to go to Fataki (Redacted)

3 A. It was Bosco who went to Fataki.
4 (Redacted)

5 (Redacted)

6 A. No, no. The only thing that I know, the only thing that was said -- that he said,
7 he asked Kisembo not to take the road because he said that if he took the road, the
8 Lendus would know that troops were moving. If they knew that the chief of staff
9 was in Mongbwalu, they would get ready, they would prepare because they would
10 know something was up. So he took the plane to get to Mongbwalu. After that, the
11 other bodyguards went *when the road had been open.

12 Q. And to be clear for our transcript, you said "He took the plane." Who are you
13 referring to?

14 A. Zulu Mike, Kisembo, the chief of staff.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. And to your knowledge, why was Mr Lubanga informed of what was needed
21 for the troops? Was he supposed to do anything about that?

22 A. Yes. He was supposed to be aware of everything because he was the one who
23 dealt with ministers, civilians and other executives. He was the one who would ask
24 ministers to speak to the local population to find some money to buy rations and fuel.
25 So we had to go through Lubanga to get the message to the ministers so that the

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1 ministers would inform the population so that *the population would give fuel and
2 food.

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) Do you know what Mr Ntaganda was going to do in Fataki?

17 A. Ntaganda went to visit the troops in Fataki. He didn't go there to organise
18 them for the attack. Fataki is a road that's very far away from the Kobu Mongbwalu
19 road. He just went to visit the troops, not to prepare them for anything; not to
20 prepare them to lead the attack.

21 Q. Do you recall how long Mr Ntaganda was in Fataki?

22 A. Not a long time. *I remember that at that time after those attacks there was
23 another attack during which the Lendus attacked our positions at Komanda. At that
24 point, Ntaganda was already back. They attacked us at Mandro, and Mr Ntaganda
25 was already back, so it wasn't a long time.

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5 A. Salongo was with Tchaligonza in the attack on --

6 THE INTERPRETER: Inaudible.

7 MS SAMSON:

8 Q. The interpreters didn't catch the part of your last answer. So you said Salongo
9 was with Tchaligonza on the attack where?

10 A. The attack on Lipri.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted) Lipri was attacked two days after the departure of Kisembo because during

18 the night (Redacted) that there was a battalion commander who was in Lipri, and that

19 night he moved forward to attack. And then after that, they fell into a trap; that is to

20 say, they were ambushed by the Lendu. They withdrew, and I was told that the

21 commander died during that attack.

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Q. Thank you.

23 MS SAMSON: I'll have further questions about this topic after the break, your

24 Honour.

25 PRESIDING JUDGE FREMR: Mr Bourgon.

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1 MR BOURGON: Thank you, Mr President. I need to report again problems with
2 my computer. All markings that I've done since the beginning are gone now. Can
3 we please have a technician or something because this very difficult to work in these
4 conditions, Mr President. Thank you.

5 PRESIDING JUDGE FREMR: Point taken. Now we have 30 minutes, so please,
6 court officers, focus on this issue because it's really unacceptable to keep Mr Bourgon
7 in such troubles.

8 So now we break and we will reconvene half past 11.

9 THE COURT USHER: All rise.

10 (Recess taken at 11.01 a.m.)

11 (Upon resuming in open session at 11.34 a.m.)

12 THE COURT USHER: All rise.

13 Please be seated.

14 PRESIDING JUDGE FREMR: Yes, we are still in open session. Before I guess we
15 will move again to private, but just one question for Mr Bourgon.

16 Mr Bourgon, is your computer now okay?

17 MR BOURGON: I believe so, Mr President. And I really hope so. Thank you.

18 PRESIDING JUDGE FREMR: So do we.

19 So let's move into -- also you can confirm into private?

20 MS SAMSON: Yes. Thank you very much, your Honour.

21 PRESIDING JUDGE FREMR: Because we will have to continue in the same mode as
22 we did before the break, so let's move into private session.

23 (Private session at 11.35 a.m.) *(Reclassified partially in public)

24 THE COURT OFFICER: We're in private session, Mr President.

25 PRESIDING JUDGE FREMR: And, Ms Samson, please proceed.

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1 MS SAMSON: Thank you.

2 Q. Sir, before the break we were discussing the --

3 PRESIDING JUDGE FREMR: Sorry, sorry, Ms Samson. My fault. I have to also
4 render decision, oral decision.

5 And we can remain in the private session because it requires the character of this
6 decision.

7 It's an oral ruling on the Defence request relating to the witness preparation session
8 with Witness P-55.

9 Yesterday morning the Defence made a request for first qualification from the
10 Prosecution regarding the conduct of the (Redacted) witness preparation session with
11 Witness P-55; and second, access to the audiovisual recording of the preparation
12 session.

13 The Chamber heard oral submissions on this matter and, having requested further
14 clarification from the Prosecution, received further submission by way of email
15 yesterday from the Prosecution to which the Defence responded this morning and to
16 which the Prosecution replied at 8.37 today.

17 The Chamber has reviewed the preparation note and considers that it, combined with
18 the Prosecution's further explanation, both orally and by way of email, provide
19 sufficient clarity, including as to the documents presented and the questions, if any,
20 asked in relation to such documents.

21 Regarding the request for access to the video recording of the preparation session, the
22 Chamber considers that access to recordings of preparation sessions is appropriate
23 only where there is some indication of impropriety in the conduct of the session or
24 other material reasons warranting such access.

25 The video recordings are not to be revealed simply to verify the content of the

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1 preparation note. The Chamber does not see any basis for ordering the provision of
2 recording on this occasion.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Further, the Defence submission that it is, quote, "puzzling," unquote, that no

14 questions were asked in relation to certain documents appears entirely speculative

15 and unsubstantiated.

16 The Chamber does, however, note that certain of the submissions touch on the

17 appropriate scope of paragraph 24 of the witness preparation protocol. The

18 Chamber will separately invite submissions on this issue in due course.

19 That concludes the Chamber's ruling.

20 And one additional comment, not only this procedural issue, but we're intending to

21 ask parties on maybe further submissions concerning the other procedural issues that

22 remain a bit doubtful or are in dispute between the parties. But you will be

23 provided with the Chamber's idea in due course.

24 Now, Ms Samson, please proceed.

25 MS SAMSON: Thank you.

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12 (Redacted)

13 (Redacted)

14 A. Are you referring to the attack on Kobu and Mongbwalu or Lipri, or are you
15 talking about a different attack?

16 Q. At this point I'm talking about the operation to open the road, which you said
17 involved the villages of Lipri, Bambu, Kobu and other villages. What you indicated
18 before the break is that Mr Kisémbó left the next day while the preparations for the
19 attack were still under way. (Redacted)

20 (Redacted)

21 A. This is what I said: After Kisémbó left for Mongbwalu, that very night there
22 was an attack on Lipri. I would say that there were preparations before, and that is
23 why it is on that day that Commander Karika (phon) was already killed. I have
24 already explained to you how I learned about his death (Redacted)

25 (Redacted)

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9 Q. Do you know whether Mr Ntaganda had any command function over the
10 Lipri-Bambu-Kobu operation?

11 A. Yes. He was the operations commander during all those battles.

12 Q. And what was he doing that leads you to conclude that he was the operations
13 commander during those battles?

14 A. There was no operation that could be planned without Ntaganda. And even
15 when Kisembo planned an operation, Ntaganda had to be aware. And I'm talking of
16 major operations such as Kobu, Lipri and Bambu. Wherever he was positioned,
17 Ntaganda had to have information through Motorola or Manpack. In Fataki, he had
18 a Manpack. He had a communication equipment, and he was able to follow
19 operations on a regular basis.

20 Q. And my question is more than just whether Mr Ntaganda was aware of the
21 operations, but what is it that makes you conclude that he was commanding the
22 operations?

23 A. I really do not know how to explain this to you. (Redacted)

24 (Redacted) During the battle of Kobu, I would say that

25 Lipri and Bambu were taken on the same day. Lipri was occupied in one hour. But

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1 I would say that the battle that took a long time was the Kobu battle. Most of the
2 time Ntaganda was following developments through Manpack, and he was in
3 communication with the people who were in Kobu and in Mongbwalu.

4 Q. And did you ever hear him transmit commands or instructions to the troops
5 during this operation?

6 A. I cannot tell you what type of orders he gave (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. Now, did you ever learn what happened to the civilian populations around
10 Lipri and Bambu, starting with those villages, at the time of these attacks?

11 A. Yes, I heard about it, about the civilian population of Kobu.

12 Q. Tell me what you heard about the civilian population of Kobu.

13 A. During the Kobu battle --

14 PRESIDING JUDGE FREMR: Please hold on, Mr Witness.

15 Mr Bourgon.

16 MR BOURGON: Thank you, Mr President. The question that was put to the
17 witness had to do with around Lipri and Bambu. And then the witness answered,
18 well, the civilian population in Kobu. I'm not sure if he misunderstood the question
19 or if I misunderstood the question. Can we clarify, Mr President, please?

20 PRESIDING JUDGE FREMR: Ms Samson, please clarify this point.

21 MS SAMSON: Yes.

22 Q. Did you understand the question posed by counsel for the Defence or would
23 you like me to rephrase it, sir?

24 A. Yes, I understood. You asked me a question on the Bambu and Kobu
25 operations, whether I was aware of the grievances of the civilian population. Is that

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1 what you asked me?

2 Q. Yes, I did. My question was Lipri or Bambu, it could equally extend to
3 Kobu - as I understand it's part of the same operation - but what did you hear, if
4 anything, about what happened to civilians in Lipri, Bambu, Kobu when the attack
5 took place?

6 A. (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. Did you learn whether or not the local populations in Lipri and Bambu stayed
10 in their villages at the time of the attack?

11 A. No, no. They fled.

12 PRESIDING JUDGE FREMR: Mr Bourgon.

13 MR BOURGON: Mr President, it's a straightforward leading question. Can my
14 colleague simply ask open-ended questions so we get the testimony from the witness
15 and not from the Prosecution, please? Thank you.

16 MS SAMSON: I don't --

17 PRESIDING JUDGE FREMR: Ms Samson.

18 MS SAMSON: Yes, certainly. I don't see the leading nature. I would like to know
19 whether he learned or not if the local population stayed in their villages.

20 Mr Bourgon was clearly interested in what happened to the civilian population in
21 Lipri and Bambu, so I'm proceeding to ask those questions.

22 PRESIDING JUDGE FREMR: Mr Bourgon?

23 MR BOURGON: Mr President, the question is quite clear. I'm not going to ask the
24 witness to exit the courtroom. The question is do you know, yes or no, did they stay
25 there? It's straightforward leading. The witness had just answered: I received

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1 (Redacted)

2 The question should be: (Redacted) What did you hear? What did you see?

3 What did you do? Not do you know, yes or no, whether they are still there after the
4 attack?

5 This is straightforward leading questions. We are putting words in the mouth of the
6 witness. This has to stop, Mr President. Thank you.

7 PRESIDING JUDGE FREMR: Mr Bourgon, I don't agree with you in this case. As I
8 said before, there is some context before, in the previous part of the testimony, then
9 this kind of question could be put. It's not something absolutely new now proposed
10 to the witness. He mentioned something in these terms in the past.

11 So you may proceed. Objection is overruled.

12 MS SAMSON: Thank you.

13 Q. Sir, you indicated that the population in Lipri had fled and Bambu had fled at
14 the time of the attack. Do you have any information about what may have
15 happened to homes or property in Lipri and Bambu at the time of the attack?

16 A. As I've been explaining to you ever since yesterday, there was a conflict
17 between the Lendu and the Hema, during which massacres were perpetrated. In
18 Lipri there were combatants who took part in these clashes. They were civilians.
19 Often everywhere they were fighting they would go into the houses and loot and then
20 burn the houses down. In (Redacted) they burnt down houses. They took the
21 roofs off the houses. Each time a particular place was attacked, they would go into
22 the houses and loot goods and some houses were, indeed, burnt to the ground.

23 Q. And when you say "they took the roofs off the houses" or "They would go into
24 the houses and loot goods" who is "they" who is doing this?

25 A. I just told you that there were civilian combatants who were taking part in the

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1 fighting. When a locality was taken, these combatants would destroy the houses.

2 Some houses were set on fire. In some cases, they took the sheet metal roofs off the
3 houses.

4 Q. And were these -- these were civilians of what ethnicity?

5 A. They were Hema, Gegere people.

6 Q. And the civilian -- these Hema Gegere civilian combatants, do you know
7 whether they received any instructions from anyone to do these things?

8 A. Well, that was the situation (Redacted) The Gegere had been
9 mobilised to go and loot or to burn down houses, and that was so the Lendu would
10 not be able to find any shelter when a second attack occurred.

11 Q. Do you have information, knowledge as to how these Hema civilian combatants
12 were mobilised? Did you ever witness any of this yourself?

13 A. I just told you that it was a situation that was prevailing (Redacted)

14 (Redacted) * These UPC executives or leaders were ensuring mobilisation.

15 They received military training, and -- just like the training that was given to recruits.

16 But after the end of the training, they did not take part in the fighting. Rather, they
17 would mobilise people. They were leaders who were in charge of mobilisation.

18 More specifically, the ministers who would recruit these leaders, ensure their training,
19 and then deploy them to go out and mobilise the civilian population, encouraging
20 them to provide their support to the movement. It was Lubanga and Ntaganda who
21 were mobilising them.

22 Q. And did you yourself ever see these Hema civilian supporters during attacks,
23 these Hema -- sorry, civilian combatants during attacks?

24 A. Yes, I saw them once.

25 Your Honour, I have a request. Now, about this question, I would like to tell you

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1 that some things are coming back to mind. I've forgotten other things. But
2 generally, gradually, as these things come back to my mind, would it be all right for
3 me to provide them to you?

4 PRESIDING JUDGE FREMR: Yes, for sure.

5 THE WITNESS: Okay.

6 PRESIDING JUDGE FREMR: It depends whether Ms Samson -- sorry. Yes, but on
7 the condition that Ms Samson and the Chamber will find those additional memories
8 relevant.

9 MS SAMSON:

10 Q. So, sir, you were just indicating that you did see these Hema civilian supporters
11 during attacks once. Can you explain to the Chamber what you saw, where you
12 were, please.

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 (Redacted)

9 (Redacted)

10 A. (Redacted) Kobu had to do with civilians who had been killed in
11 Kobu. I learned that about the killings perpetrated by civilians in Kobu. I learned
12 that information from (Redacted) When they got to
13 Kobu, there were some very intense clashes. They encircled the Lendus and asked
14 them to surrender and set down their weapons. There were both soldiers and
15 civilians. The Lendu agreed to negotiate.
16 I learned that there was a young man called "the Rwandan," but actually he was a
17 Hema south person. I don't know why his nickname was the Rwandan. He was
18 wearing, well, a suit. And apparently a minister was supposed to meet with the
19 Lendu, but behind him there were soldiers who were hidden, hiding in a bush. And
20 so they had them sit down at one particular place saying that they would talk to one
21 of the ministers, but they were killed. They were shot. So that is what happened.
22 That is how I learned about the incident in Kobu.

23 Q. And I'll just note one transcription discrepancy that I think is important between
24 the French and the English. The French states that the killings were perpetrated
25 against the civilians in Kobu at page 59, lines 26, 27; whereas, in the English it's

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1 perpetrated by the civilians.

2 So if that could be corrected when the edited version is completed.

3 PRESIDING JUDGE FREMR: All right.

4 MS SAMSON:

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 Q. And in your answer in the English transcript, you said that, "When they got to

24 Kobu, there were some very intense clashes. They encircled the Lendus and asked

25 them to surrender and set down their weapons."

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1 Can you clarify for our transcript who you mean when you say "they"?

2 A. The Lendu.

3 Q. When -- I just want to clarify that answer because I think I wasn't very clear.

4 When you said in your last answer that "They encircled the Lendu," who encircled the
5 Lendu and asked them to surrender and set down their weapons?

6 A. UPC soldiers led by Salumu, Salumu's brigade, who had attacked Mongbwalu.

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)

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1 (Redacted)

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10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 Q. Did you ever get any information as to who planned the attack on these
21 civilians within the UPC?

22 PRESIDING JUDGE FREMR: Mr Bourgon.

23 MR BOURGON: This was asked and answered on many occasions already, at the
24 beginning, in terms of the operations on Kobu, Bambu, Lipri. We're returning now
25 on the same topic, Mr President. Thank you.

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1 MS SAMSON: Perhaps Mr --

2 PRESIDING JUDGE FREMR: Ms Samson.

3 MS SAMSON: -- Bourgon could provide a reference where I've asked him who
4 planned the killings of the civilians in Kobu. If he could provide that please.

5 MR BOURGON: Mr President, the operations in Kobu, Bambu and Lipri were
6 addressed at length already, whether the operation was targeted. And who it was
7 targeted against is not the issue. The issue is this is examination-in-chief that is
8 conducted with leading after leading after leading after leading questions. This has
9 got to stop, Mr President. Thank you.

10 MS SAMSON: I understand from my friend's answer that he cannot provide a
11 reference to where I already asked the question as to who specifically planned the
12 attack against the civilians in Kobu. And my question was not leading. It was who
13 attacked, who planned, if he knows.

14 PRESIDING JUDGE FREMR: I don't need any further submissions. Really, this
15 question is more specific than the original one, so objection is overruled.
16 Please proceed.

17 MS SAMSON:

18 Q. Sir, do you know who planned the attack on the civilians in Kobu?

19 A. It was Commander Salumu.

20 Q. Do you know whether Mr Salumu was acting on orders received by anybody
21 else above him?

22 A. No, I do not know.

23 Q. Did you ever discuss the killing of the civilians?

24 PRESIDING JUDGE FREMR: Mr Bourgon.

25 MR BOURGON: Mr President, I refer to the transcript on page 59, where the issue

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1 that was being discussed is (Redacted) or that he learned about.

2 Then the witness went on to say that "I learned ... about the killings perpetrated by
3 civilians", or against civilians, "in Kobu. "I learned that information from (Redacted)
4 (Redacted)

5 And then he describes what happened in some kind of an incident or a clash that
6 happened.

7 At no point in time was there any reference to an attack planned on civilians.

8 Then the Chamber allows the Prosecution to ask a question as to who planned an
9 attack on civilians when this was never mentioned before.

10 Mr President, I renew my objection that the witness must be -- not be led this way.

11 Examination-in-chief is who, what, when, where, and not to put words in the mouth
12 of the witness all the time. Thank you, Mr President.

13 PRESIDING JUDGE FREMR: Overruled.

14 Ms Samson, please proceed.

15 MS SAMSON: Thank you, Mr President.

16 Q. (Redacted)

17 (Redacted)

18 PRESIDING JUDGE FREMR: Mr Bourgon, if you are ready to repeat yourself that is
19 really not necessary.

20 MR BOURGON: Well, Mr President, I have to say this is a leading question and I
21 have to say why it's a leading question and I need to put it on the record.

22 PRESIDING JUDGE FREMR: Okay. Go ahead.

23 MR BOURGON: And it's a leading question because it calls for an answer yes or no,
24 and it suggests the answer, and it puts the name of a person in the mouth of the
25 witness.

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1 That's not the way this should be done. Who did you -- who did you discuss this
2 with? Did you discuss this with anyone? Not did you discuss this with the
3 Presiding Judge of the Chamber. That's not the issue, Mr President. The issue is
4 who did you discuss it with? That's the question. Not did you discuss it -- this
5 with me or with anybody else.

6 Thank you, Mr President.

7 PRESIDING JUDGE FREMR: Ms Samson, do you want to comment on this?

8 MS SAMSON: Well, only -- not particularly. I disagree that it's leading. I think
9 that there are questions that are appropriate in examination-in-chief that go beyond
10 who, what, when, where and why. Otherwise you could have narratives that last an
11 eternity. And so asking a focused question which may be yes, may be no is not
12 leading.

13 PRESIDING JUDGE FREMR: Yes. And moreover, Mr Bourgon, if we have some
14 knowledge about some incident, it is probably irrelevant for us to ask whether
15 Mr Ntaganda, who is accused in these proceedings, has something to do with that.
16 So objection overruled. You may proceed.

17 MS SAMSON:

18 Q. (Redacted)

19 (Redacted)

20 A. (Redacted)

21 (Redacted)

22 (Redacted)

23 Q. (Redacted)

24 (Redacted)

25 MR BOURGON: Speculation and opinion, Mr President.

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- 1 PRESIDING JUDGE FREMR: Yes. Objection -- objection sustained.
- 2 MS SAMSON:
- 3 Q. (Redacted)
- 4 (Redacted)
- 5 PRESIDING JUDGE FREMR: Mr Bourgon.
- 6 MR BOURGON: This was asked and answered, Mr President.
- 7 PRESIDING JUDGE FREMR: I think it's normal to rephrase a question which has
- 8 been wrong, so no problem. Please, go ahead.
- 9 MS SAMSON:
- 10 Q. Sir, do you want me to repeat the question, or did you -- do you remember it?
- 11 PRESIDING JUDGE FREMR: (Redacted)
- 12 (Redacted)
- 13 THE WITNESS: (Interpretation) (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 MS SAMSON:
- 23 Q. (Redacted) Were you aware
- 24 whether Mr Salumu was ever disciplined for the killing of civilians in Kobu?
- 25 A. No.

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1 Q. To clarify your last answer, do you mean you were not aware if he was
2 disciplined or he was not disciplined?

3 A. I am not saying that I was not aware. He was not disciplined. He was not
4 punished.

5 Q. Other than this particular murder of civilians in Kobu, do you know the
6 ethnicity of the civilians who were killed in Kobu? Were you ever told that?

7 A. They were Lendu.

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 Q. Earlier today you referred to the killing of three women in a market in Ndrele,
25 and you had received information that those women were killed by Mr Ntaganda's

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1 bodyguards. Are you aware or do you know if those bodyguards were ever
2 disciplined or punished for the killing of those women?

3 PRESIDING JUDGE FREMR: Mr Bourgon?

4 MR BOURGON: Mr President, this would be pure speculation on the witness. He
5 never mentioned who these escorts were. He doesn't know the name, he doesn't
6 know the information, and it would be pure speculation for him to know whether
7 people who were punished when he doesn't know who they are. Thank you.

8 PRESIDING JUDGE FREMR: He said -- he specified himself that it was bodyguards,
9 so I think I find this question legitimate. Objection overruled.

10 MS SAMSON:

11 Q. My question, sir, was are you aware or do you know if Mr Ntaganda's
12 bodyguards were ever punished for purportedly killing women near a market in
13 Ndrele?

14 A. To begin with, I do not know which particular person or bodyguard killed those
15 people. What I said is that it was (Redacted) that it was
16 Ntaganda's bodyguards who killed civilians in the Ndrele market. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted) there was no

22 punishment. (Redacted)

23 (Redacted)

24 Q. Do you recall the approximate date, year, month in which the operation to open
25 the road in Lipri, Bambu and Kobu took place?

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1 A. Yesterday I told you that when it comes to months and dates, I really don't
2 remember. With regard to the year, I believe it was towards the end of 2002 or in
3 early 2003.

4 Q. You had also referred to an attack by the UPC on the UPDF. Where did that
5 attack take place?

6 A. In Bunia.

7 Q. And was the attack on the UPDF before or after the Kobu -- Lipri-Bambu-Kobu
8 operation to open the road?

9 PRESIDING JUDGE FREMR: Mr Bourgon.

10 MR BOURGON: I don't think there was a question of an attack on the UPDF.

11 PRESIDING JUDGE FREMR: Ms Samson.

12 MS SAMSON: Hard to imagine this is an issue of contention, but -- it's possibly also
13 an agreed fact. However, I can rephrase.

14 Q. Sir, this attack, this attack in Bunia between the UPC and the UPDF that you
15 were describing, did it take place before or after the operation in Lipri, Kobu and
16 Bambu to open the road?

17 A. Yes, the fighting between the UPC and the UPDF took place after the Lipri and
18 Bambu operations. So after that the fighting between the UPC and the UPDF took
19 place.

20 Q. Do you know if it was a long time after or a short time after?

21 A. It was not very long afterwards. I would say one month or one and a half
22 months. This was when the UPDF and the UPC soldiers started fighting each other.
23 I remember that it took time, but not very long, and this is because the road was
24 already open and I remember that at that time the vehicles were travelling on that
25 road from Bunia to Mongbwalu. People no longer used planes. And the

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1 businessmen had started going about their business again. So it didn't take very
2 long.

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)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. And, sir, can you please indicate what the name of the movement was again?

7 It seems to be captured differently in the English and French transcripts. What was
8 the name of the movement, Jérôme's movement?

9 A. FAPC.

10 PRESIDING JUDGE FREMR: Ms Samson, I have to interrupt you because I would
11 like to utilise remaining five minutes for listening to your request on the rest of this
12 testimony. And I would like to do it in the absence of the witness. So, court officer,
13 please now escort Mr Witness out of the courtroom.

14 (Trial Chamber confers)

15 PRESIDING JUDGE FREMR: Sorry, sorry. My fault. Let's continue. I forgot
16 that we are sitting until half past 1. Sorry.

17 MS SAMSON: That's okay. Thank you.

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 A. (Redacted)

5 (Redacted) Then he left with Kisémbó, they went to Mandro in
6 the Gegere region. He said that Kisémbó told him that if they went *to the Gegere,
7 they would give him young people to form another movement in Mandro. And they
8 were to pass through Songolo because there was Mbusa Nyamwisi's faction on the
9 other road. So it was in Mandro that they started training young people and set up
10 the UPC movement.

11 Q. And there is a discrepancy I think between the two transcripts, but in the French
12 transcript, sir, can you confirm if this is correct. You said that they went to Mandro
13 in the (Redacted) region. Actually, it's captured. It's correct.

14 And, sir, (Redacted) in the UPC, who was in charge of recruitment?

15 A. Based on what Ntaganda told me, they had trained leaders and asked them to
16 identify young people to join the army. So people were supposed to go and mobilise
17 people to be trained and to become members or soldiers of the UPC.

18 Q. And you said that they had trained leaders. Who was training the leaders to
19 identify young people?

20 A. It was Ntaganda who trained them, he and Kisémbó.

21 Q. Do you know who these leaders were?

22 A. I know there were many of them. Their leader was a woman, a woman,
23 Sangote was her name, a woman by the name of Sangote.

24 Q. And do you know the name of any other of the leaders who were involved in
25 mobilising people to be trained?

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1 A. I knew Sangote, their leader, but I no longer remember the name of the others.
2 There was one person called Lidipa (phon). Yes, the other names don't come to
3 mind.

4 Q. Do you know who within the UPC was responsible for training?

5 A. (Redacted)

6 (Redacted) there was a gentleman who came from Rwanda.

7 He was the one who gave the training to the soldiers. And that was not far from the
8 Bunia airport. His name was Zimulinda.

9 Q. Sir, are you able to spell mister -- the name that you just mentioned?

10 A. Z-I-M-U-R-I-D-A.

11 Q. How many training centres or camps did the UPC have?

12 A. Well, I knew of the training centre in Bunia -- Rwampara not far from the Bunia
13 airport. (Redacted) I do know that each sector and each
14 brigade had organised training so as to train the young people.

15 In Fataki, there was another training camp. Everywhere there was a sector, there
16 was a training camp.

17 Q. Do you know whether there were training camps of the UPC also in Mahagi
18 and Aru?

19 A. Where the soldiers went?

20 Q. Yes, or where recruits went to be trained. Did you hear whether such training
21 camps existed in those areas?

22 PRESIDING JUDGE FREMR: Mr Bourgon.

23 MR BOURGON: Again --

24 PRESIDING JUDGE FREMR: Mr Witness, please hold on for a moment.

25 MR BOURGON: Again, Mr President, it's a leading question. He said there were.

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1 He did provide an answer. Everywhere there was a sector, there was a training
2 camp.

3 Next question: Do you know if there a training camp in Mahagi? We told you last
4 week.

5 Do you know if there's one in Aru? There's one in your statement. Please tell us,
6 Mr Witness.

7 Thank you, Mr President.

8 PRESIDING JUDGE FREMR: Ms Samson.

9 MS SAMSON: Your Honour, I would just like to know whether or not this witness
10 has information about training camps in specific areas. He has said generally that
11 they exist in all sectors and brigades, and I would like to know what his knowledge is
12 about a particular sector or area, which is Aru and Mahagi.

13 PRESIDING JUDGE FREMR: All right. Objection is overruled.

14 MS SAMSON:

15 Q. Sir, are you aware or do you know whether there were UPC training camps
16 where recruits would be sent in Aru and Mahagi?

17 A. Yes. I told you that there was a training camp in Fataki, one in Aru and in
18 Mahagi. But also, everywhere where there were brigades, soldiers were trained.

19 Q. In terms of recruitment, do you know if recruitment happened in one place or in
20 different places in Ituri? What is your knowledge about where recruitment took
21 place for the UPC?

22 A. Everywhere. Various places. The leaders would go about visiting all places
23 in order to find young people and convince them to join. I'm talking to you about
24 the leaders from Bunia, not those from Aru. Aru is very far away from Bunia.
25 Mahagi is far from Bunia.

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1 Now, if I were to mention Centrale, Fataki, Mudzipela, Sota, those are the various
2 places that we are talking about here.

3 Q. And when you speak about the leaders who had been trained and they go about
4 trying to convince young people to join the UPC military, did you ever get to know of
5 instances where recruits were brought to training camps involuntarily?

6 A. To my knowledge, some people came voluntarily, and others were recruited
7 forcibly.

8 Q. What do you know about the others who were recruited forcibly, about how
9 they were recruited or by whom and in what circumstances?

10 A. Well, let me tell you this: (Redacted)

11 (Redacted) I did hear
12 that some recruits were forcibly enrolled at a place called Mudzipela. There is a
13 residence there with priests. (Redacted)

14 (Redacted)

15 (Redacted) I think that's it.

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) During our discussion an incident occurred in Bogoro. Some
2 Lendus attacked Bogoro, and they killed -- they killed some civilians in Bogoro.
3 And I heard during the course of this conversation the chief of staff say that these
4 people did not want to provide people for the army. And it was said, "Well, listen.
5 They will see. We'll do what we did in Fataki."

6 (Redacted)

7 (Redacted) They attacked very early in the
8 morning, taking people by surprise. They took control of houses, and they took
9 young people and young women, abducted them, and then they took them to training
10 camps. So they were forcibly enrolled or forcibly -- they were taken by force.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Q. And during this discussion, did they tell you about any other places where this
20 same thing took place, these early morning abductions as in Fataki? Did you hear
21 about that happening elsewhere?

22 A. No, no. It was a discussion. We were talking amongst ourselves. It was
23 something that just sort of emerged out of the conversation. It wasn't a topic for our
24 conversation.

25 They told me that if people didn't want to give a child and have that child go for

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1 training, they would take the children by force. Some *families didn't want to provide
2 a child or children, so they would give money instead so that their children would be
3 spared.

4 Q. (Redacted) were you ever told that there was a
5 lower age limit to joining the UPC, that the UPC didn't take children of a certain age?
6 Was there ever an age limit given to you?

7 A. No. I was never told that.

8 Q. Do you know the age range of the recruits who were in the UPC in training
9 camps?

10 A. I was not in a position to know that because I had never asked anyone at all. I
11 really -- I had never been asked the question.

12 THE INTERPRETER: Correction. I never asked the recruits.

13 MS SAMSON:

14 Q. And you referred to children who were taken during these abductions, for
15 instance, in Fataki. Were there any terms used in the UPC to designate a child who
16 was in the UPC ranks?

17 A. Yes, there were. They were called "kadogo."

18 Q. And what language is that in, please?

19 A. It is a military term. I think it comes from Swahili.

20 Q. And what does it mean exactly?

21 A. Kadogo means a soldier under 18 years of age; in other words, someone who is
22 not yet an adult. That is what was meant by kadogo.

23 Q. Did you see kadogo in the UPC?

24 A. Yes, there were some.

25 (Redacted)

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1 Q. And when Mr Ntaganda spoke to the recruits, how were they formed? Where
2 were they in relation to him?

3 A. He was in front of the recruits. The recruits had been gathered together.
4 They were all lined up, and he was in front of them.

5 Q. And were there any kadogo amongst these recruits or were they all adult?

6 A. I saw some kadogo amongst those recruits, but I never talked to any of those
7 kadogo, so I never asked them about their age. But, but just by looking at them you
8 could see that they were kadogo.

9 Q. And what was it about them, by looking at them that made you conclude they
10 were kadogo?

11 A. Well, if you look at someone, you can tell whether that person is a child or not,
12 and that is why you would designate a person as a kadogo. It would depend on the
13 size. But you can distinguish between someone who is a small adult and someone
14 who is still a child.

15 MS SAMSON: Your Honour, with your permission, I have one further question, if
16 there is --

17 Q. (Redacted) how young was the youngest of the
18 kadogo that you saw in the UPC?

19 A. A kadogo that I saw came from the Sota training camp. I saw him and he
20 would have been 12. I remember his mother told me that he was 12 or 13.

21 Q. Thank you.

22 MS SAMSON: Thank you, Mr President.

23 PRESIDING JUDGE FREMR: Thank you, Mr Witness. So we'll really break now.

24 Now I am right.

25 So please, court officer, escort Mr Witness out of the courtroom.

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1 And we will continue at 3 o'clock, Mr Witness. So take some rest and that will be the
2 last session of the day.

3 (The witness stands down)

4 PRESIDING JUDGE FREMR: So now as regards timing, I was provided with
5 information that Prosecution used so far 8 hours 11 minutes, which would mean that
6 taking into regard our limit we had set up, you still have at your disposal 1 hour and
7 50 minutes. So do you want to make an update on that, Ms Samson?

8 MS SAMSON: Yes, Mr President. I have progressed more rapidly today than
9 yesterday, and according to my estimate, I would still need just over two hours,
10 assuming all goes well. So I would be at least 11 minutes over. I may not require
11 the full hour. It may be less than that, but just so that I feel comfortable that I can
12 finalise the examination of this witness, having dealt with all important areas, I do
13 maintain the request to have some extra time with him. I don't think it will be a full
14 hour. I think it will be much less than that based on my estimates, but to be certain, I
15 ask the Chamber for that much extra time and hopefully it will actually be less.

16 PRESIDING JUDGE FREMR: So could you be more specific. You ask for one hour
17 or --

18 MS SAMSON: I did ask for one hour this morning. I think it's going to be
19 significantly less than that. I'll take a better look over the lunch break. But I am
20 maintaining the request for the one hour just in case.

21 PRESIDING JUDGE FREMR: Point taken.

22 Mr Bourgon, any position of the Defence to that.

23 MR BOURGON: Yes, indeed, Mr President. I note that I don't see any specific
24 justification, other than I have more to do, and that no concrete reasons have been put
25 forward.

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1 That being said, Mr President, we do not oppose this request for time. I will myself
2 be making a request for additional time, and the main reason for this is that a lot of
3 this testimony is hearsay, and hearsay takes much more time to cross-examine.

4 Thank you, Mr President.

5 PRESIDING JUDGE FREMR: To be fair, maybe we -- because we were thinking
6 about it, but maybe we would also like to hear some specific justification for such a
7 request, Ms Samson.

8 MS SAMSON: Certainly, your Honour. This morning I had indicated that the
9 progress yesterday in particular was much slower because there appeared to be more
10 issues in relation to the interpretation and the witness asking frequently for me to
11 repeat my questions or for clarifications that I had to make in relation to errors in the
12 transcript.

13 Also, there is just a significant amount of material to cover. (Redacted)

14 (Redacted)

15 (Redacted)

16 And as I say, I think I will be quite limited in the extra time I need, but I have asked
17 for the extra hour to allow me to do so and show him several exhibits that I would
18 like to show, four documents at the moment, possibly five, and one short video of
19 approximately 6 minutes. But to be sure that I can get through it all without rushing,
20 I do request the extra hour.

21 PRESIDING JUDGE FREMR: Thank you. Give us a minute. Even we had some
22 preliminary discussion with my colleagues, but I would like to conclude this and to
23 make an oral ruling on this.

24 (Trial Chamber confers)

25 PRESIDING JUDGE FREMR: So after silent deliberation, our ruling is that we are

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1 granting Prosecution one hour on the top of the previously allotted 10 hours for
2 examination-in-chief, but we strongly believe that you will take only part of this extra
3 time.

4 And very briefly, on our reasoning, because it's a bit, I think it would be the first time
5 or maybe possibly we have already granted some shorter time to Ms Luping, (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 But still in the interests of justice and our role to find truth, we are granting this
14 request. I also have to emphasise that we also at the same time guarantee the
15 Defence the same time you will take.

16 So that's all for this moment and we are going to continue at 3 o'clock.

17 THE COURT USHER: All rise.

18 (Recess taken at 1.32 p.m.)

19 (Upon resuming in open session at 3.04 p.m.)

20 THE COURT USHER: All rise.

21 Please be seated.

22 PRESIDING JUDGE FREMR: Good afternoon, everybody. We will continue with the
23 testimony. We are in open session, but I guess that because of the character of the
24 testimony and the fact that the witness is a protected witness, we will have to move into
25 private.

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1 Am I right, Ms Samson?

2 MS SAMSON: Yes, please, your Honour.

3 PRESIDING JUDGE FREMR: Let's move into private session and then, Mr Bourgon,
4 you will have the floor.

5 MR BOURGON: I would like, if possible to --

6 PRESIDING JUDGE FREMR: In open?

7 MR BOURGON: Yes, Mr President.

8 PRESIDING JUDGE FREMR: Okay. So sorry, we will still hold on and don't move
9 into open and Mr Bourgon has the floor.

10 MR BOURGON: Thank you, Mr President. I just want to note for the record that
11 significant portions of what we've heard so far from the witness could have been heard
12 in public session. It is our respectful submission, Mr President, that we are being overly
13 careful. There is a lot of evidence coming out about the witness talking about meetings
14 he's had and which would not identify him at least from a general point of view. There
15 is the risk of him being identified is minimal. And now we are proceeding completely
16 as if it was closed session and we feel that this is not appropriate, Mr President. Thank
17 you.

18 PRESIDING JUDGE FREMR: But, Mr Bourgon, you know that we generally also prefer
19 to remain in open session, but in concerns of some protected witnesses there is a reason
20 that their specific position and their specific relationship with the accused could reveal
21 their identity, we then have to be careful. And in our view it's just this case. But we
22 can start even tomorrow with you, maybe you will show us how to put questions that
23 will not reveal identity of the witness.

24 Ms Samson, please, now we have to move into private session.

25 (Private Session at 3.07 p.m.) *(Reclassified partially in public)

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1 THE COURT OFFICER: We're in private session, Mr President.

2 PRESIDING JUDGE FREMR: Mr Bourgon, anything else?

3 MR BOURGON: Yes, Mr President. We haven't begun the session and again the
4 computer is not working. Throughout the session I'm trying to minimise the number of
5 times I get up, but we haven't begun and it's already frozen.

6 PRESIDING JUDGE FREMR: You have bad luck really. So sorry, we can't continue
7 without assisting Mr Bourgon because the main Defence counsel and main Defence
8 counsel without transcript I think is not a chance to continue.

9 MR BOURGON: Mr President, I suggest we will just move in the second row to try and
10 make things work.

11 PRESIDING JUDGE FREMR: Mr Bourgon, we appreciate your flexibility. But anyway,
12 even for the record, I would like the technicians would really verify what's the problem
13 and try to find the source of those problems because it's not the first time and really it
14 complicates work for all of us.

15 Mr Bourgon, let us know when you are ready. Take your time.

16 MR BOURGON: It appears to be working, Mr President. Thank you.

17 PRESIDING JUDGE FREMR: I wish you good luck.

18 Ms Samson, you have the floor.

19 MS SAMSON: Thank you, Mr President.

20 Q. Sir, before the break we had been discussing recruitment and training in the UPC.

21 (Redacted) training

22 camp and amongst the recruits that you saw then, were there -- what was the gender of
23 the recruits?

24 A. It was a mixed group. There were men and women, boys and girls.

25 Q. And are you aware of any differences in the ways in which boys and girls were

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1 recruited into the UPC, if there were any?

2 A. In the army everyone receives the same *training. The girls had to do everything
3 that the boys were required to do.

4 Q. And I'll get into some of the issues related to training or deployment, but at the
5 moment of recruitment were girls and boys recruited in the same ways in the UPC?

6 A. I have just told you how they recruited young people. They used the leaders for
7 recruitment and they were recruited in the same manner.

8 Q. Are you aware whether there was any process of registration of recruits within the
9 UPC?

10 A. Can you kindly repeat your question, please?

11 Q. Certainly. Was there registration? Were recruits in the UPC ever registered in
12 some way, in your knowledge -- to your knowledge?

13 A. Yes. In the training centre, there was a register in which the names of the recruits
14 arriving were entered.

15 Q. Do you know whether the ages or dates of birth of the recruits were entered?

16 A. What I know is that their names were registered, but I do not know whether their
17 dates of birth were included.

18 Q. Who was able to consult the registers of recruits?

19 A. Any of the authorities from the president, the chief of staff, the deputy chiefs of
20 staff, (Redacted)

21 (Redacted)

22 (Redacted) are
23 you in a position to tell the Chamber whether or not you saw any kadogo around the age
24 of the child from the Sota training camp; that is, around 12 or in that age range?

25 A. I am not in a position to tell you their ages. I didn't know whether they were 12

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1 years old or not. All I know is that there were child soldiers there, kadogos.

2 Q. Do you have any knowledge as to how frequently Mr Ntaganda visited the UPC
3 training camps?

4 A. That was part of his duties. (Redacted)

5 (Redacted) I cannot say precisely where he went each time,
6 but I know that he went frequently.

7 Q. Now, earlier you indicated that, you said, and I quote, "In the army everyone
8 receives the same treatment. The girls had to do everything that the boys were required
9 to do."

10 Were you able to observe or get to know what training the recruits underwent?

11 A. Are you referring to types of training? I really do not know what I can tell you,
12 but I know that the recruits received the same training. I really do not know what type
13 of answer you want me to give you in relation to that.

14 Q. What type of training do you know the recruits received in the UPC? What did
15 they learn how to do, if you know? What were they taught?

16 A. The first thing was that they taught them to be physically fit. They taught them
17 weapons handling, assemble and disassemble rifles. That was important.

18 Q. What type of training would they get to become physically fit? Can you elaborate,
19 please?

20 A. The physical fitness training involved physical training exercises such as crawling
21 on their bellies. They were also taught to run.

22 Q. Who was training the recruits within the UPC movement?

23 A. (Redacted)

24 (Redacted)

25 (Redacted)

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1 Q. (Redacted)

2 (Redacted)

3 (Redacted)

4 A. No. At that time to the best of my recollection, he was the main person
5 responsible.

6 Q. How long did training for the recruits last?

7 A. That would have depended on the needs of the soldiers. It could take two months.
8 Some of them took two weeks. (Redacted) the training lasted from three weeks
9 to one month, because we had many recruits in our group, some would spend two
10 weeks in training, and then there would be a graduation ceremony and then these
11 people would be sent to the front.

12 Q. What, if any --

13 PRESIDING JUDGE FREMR: Sorry, Ms Samson. Mr Bourgon is on his feet.

14 Mr Bourgon?

15 MR BOURGON: I apologise, Mr President. It's still frozen.

16 (Pause in proceedings)

17 PRESIDING JUDGE FREMR: So I was told the ICC technician was on his way. At the
18 moment, Mr Bourgon, are you able to proceed or not? Mr Bourgon, can you hear me?
19 Are you able to proceed at the moment or not?

20 MR BOURGON: No, Mr President. I'm trying to --

21 PRESIDING JUDGE FREMR: Okay. So --

22 MR BOURGON: I'm trying to log in on a different computer from a different name and
23 so now it's still frozen.

24 PRESIDING JUDGE FREMR: Just for your information, we agreed that maybe it would
25 be better just to avoid any further problems of this kind that the technician will come

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1 and will sit by you. And please do everything as you used to do, and maybe he will just
2 find the source of problems, because I remember that in the old premises you had no
3 problems with the computer and now the new premises, it's a pity, but --

4 MR BOURGON: It seems to be working now, Mr President.

5 PRESIDING JUDGE FREMR: Okay. Then let's continue.

6 Ms Samson, please proceed.

7 MS SAMSON:

8 Q. Sir, what do you know as to whether or not the recruits were taught about
9 discipline?

10 A. Yes. What I can tell you by way of answer is that at the training centre, they were
11 taught to respect military discipline.

12 Q. Do you know of any examples of what you've seen when the recruits did not
13 respect discipline?

14 A. No. I did not witness any such case.

15 Q. Are you aware of any types of punishments that were ever meted out to recruits or
16 soldiers for lack of discipline?

17 A. Are you talking about the recruits, or already trained soldiers?

18 Q. Either.

19 A. I never was witness of any -- or to any acts of lack of discipline on the part of
20 recruits -- of the recruits, but maybe there were some instructors who punished some
21 recruits, but I never witnessed any such thing.

22 However, when it comes to the soldiers proper, I did learn that there were some soldiers
23 who misbehaved and were punished.

24 Q. And in relation to recruits - I'll stick with recruits for the moment - at the end of
25 their training -- what marked the end of their training? How was that marked?

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1 A. *It was up to the instructor to decide **when** a handling of weapons should take
2 place. He had to make sure that the recruits knew how to assemble and dismantle a
3 weapon, that they knew how to handle it. And when the instructor was of the view
4 that everything had been done, then such a graduation would be organised.

5 Q. And who would officiate over these graduation ceremonies?

6 A. Sometimes it was done by Kisémbu, and other times by Ntaganda. Those are the
7 two officials who would share the graduation ceremony after the training of recruits.

8 Q. And what happened during the graduation ceremonies?

9 A. Well, it wasn't really a ceremony or a reception, as such. They simply
10 demonstrated their ability to hit various targets when they fired, and after the shooting
11 tests they would be given uniforms and weapons.

12 Q. When you visited some of these training camps --

13 PRESIDING JUDGE FREMR: Mr Bourgon.

14 MR BOURGON: Thank you, Mr President. I would like to object to the series of
15 questions on the basis of simply lack of probative value.

16 The witness has not been even asked whether he attended a graduation ceremony.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted) My colleague has requested more time for examination-in-chief and we are
23 wasting it on information that even if he does provide some answers it lacks probative
24 value.

25 Thank you, Mr President.

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1 PRESIDING JUDGE FREMR: Ms Samson.

2 MS SAMSON: Your Honour, the witness has visited training camps. (Redacted)

3 (Redacted).

4 The potential corroborating effect of his evidence in relation to what he knows about

5 UPC recruitment and training and deployment will be of assistance, in particular in

6 relation to future witnesses we intend to call, whom the Defence is aware of, who will

7 detail experiences at such camps. So the probative value, in my submission, is high, the

8 information is relevant (Redacted).

9 PRESIDING JUDGE FREMR: The objection is partially overruled. But, please,

10 because the probative value, in my view, is depending on the source of this information,

11 so please verify whether Mr Witness was present to this ceremony or how he got

12 knowledge of those facts.

13 MS SAMSON: Yes, I will, your Honour.

14 Q. Sir, you've been describing what takes place during grading ceremonies in the UPC.

15 How do you know this?

16 A. (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted).

22 The ceremony involved providing weapons to them and boots as well as military

23 uniforms.

24 (Redacted)

25 (Redacted)

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1 (Redacted)

2 (Redacted).

3 Q. And at (Redacted) or

4 elsewhere, how were the recruits (Redacted) dressed prior to their graduation
5 ceremony?

6 A. They wore civilian attire.

7 Q. And again, prior to the graduation ceremonies in the training camps (Redacted)
8 (Redacted) did the recruits have their own weapons?

9 A. No. They did not have any weapons. They simply had pieces of wood, rather
10 long pieces of wood which they used in place of rifles. In any event, real guns were
11 used to train them on aiming, firing and weapons handling. But for purposes of
12 training, they used pieces of stick.

13 Q. Following the graduation ceremonies in the UPC, what did the recruits do next?
14 Where did they go?

15 A. After the training and upon receiving weapons, they would be deployed to the
16 battlefield.

17 Q. Who was responsible for determining where the recruits would be deployed?

18 A. It was the chief of staff in charge of operations, namely Ntaganda.

19 Q. Were the recruits who graduated from training deployed in any other ways, other
20 than in the battlefield, in your -- to your knowledge and experience?

21 A. It depended on how the chief of staff in charge of operations organised the
22 deployment. Some were deployed to the areas where there was no fighting. He is the
23 one who knew the strength of the brigade and the battalions and he, therefore, was in a
24 position to deploy them to brigades or battalions that needed extra men.

25 Q. Now, you referred earlier to Mr Ntaganda's escorts. Are you aware whether

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1 escorts within the UPC received any special training?

2 A. Yes. Some received training for officers. Some of Ntaganda's guards received
3 the training set aside for officers.

4 Q. What was the gender of Mr Ntaganda's escorts?

5 A. It was both.

6 Q. Did any other UPC officials or commanders have escorts?

7 A. Each UPC commander had escorts.

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. In relation to Mr Ntaganda's escort, how many escorts did he have? It can be an
14 approximate number.

15 A. He had many, many escorts, a large number of them, maybe two companies.

16 Some of the escorts were based at his residence while others were at a military camp.

17 He had several, many escorts.

18 PRESIDING JUDGE FREMR: But, Mr Witness, could you just provide us at least with
19 some approximate number because "large" it could mean 15, it could mean 50, it could
20 mean 100. So at least, we are not insisting on exact number, but at least approximate
21 number.

22 THE WITNESS: (Interpretation) All right. I gave you an approximation when I said
23 that it was about two companies. That is between 60 and 80. So there were many of
24 them.

25 PRESIDING JUDGE FREMR: Thank you.

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1 THE WITNESS: (Interpretation) Between 60 and 80.

2 MS SAMSON:

3 Q. And what do you know of the age range of Mr Ntaganda's escorts?

4 A. As I told you before, I have never put that question to any soldier to ask how old
5 they were, but I know that among his escorts, there were some kadogo.

6 Q. And I'm going to press you a bit more because it's important for the Chamber to
7 understand, based on what you saw and what you know, how old was the younger of
8 Mr Ntaganda's kadogos?

9 A. I can provide you with an approximation. There were many of them, not just one
10 or two kadogos. There were a dozen or so, dozens of them. Some may have been 14
11 or 15 years old.

12 Q. And do you recall the names of any of Mr Ntaganda's female escorts?

13 A. Yes. (Redacted)

14 Q. And where did the others live, do you know?

15 A. Ntaganda's escorts lived in different locations. Some of them were at a military
16 camp that was not far from his residence while others were at his residence with him.

17 Q. And did you know the names of any of those who were not far from his residence,
18 any of the girls, as opposed to those who lived at his residence?

19 A. No. I do not -- I do not remember their names. (Redacted)

20 (Redacted)

21 (Redacted)

22 As for the other escorts, I am not able to recall their names. However, some escorts of
23 other commanders I am able to remember their names, especially those that were more
24 senior or higher ranking.

25 Q. Did Mr Kisembo have escorts as well?

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1 A. Yes, he had escorts, many, just like Ntaganda.

2 Q. Did Mr Lubanga also have escorts?

3 A. Yes, many, even more than the others.

4 Q. And as with my earlier question, for Mr Lubanga and Mr Kisémbó's escorts, what
5 was the age range of those escorts to your knowledge, to the best of your knowledge?

6 A. The same answer as previously. It was the same thing, they all had escorts,
7 including some kadogos. Now, as for their ages, I can only give you the same kind of
8 approximation I provided earlier.

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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22 (Redacted)

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25 (Redacted)

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1 PRESIDING JUDGE FREMR: Ms Samson, sorry, I would like to put one follow-up
2 question.

3 Mr Witness, what were the daily duties of those escorts?

4 THE WITNESS: (Interpretation) The main task of the escorts was to ensure the
5 security of their commander. They could be on guard duty night and day in the
6 residence of their commanders, and they could also accompany them on their trips either
7 within Bunia town or outside of Bunia town.

8 PRESIDING JUDGE FREMR: Thank you.

9 MS SAMSON:

10 Q. How were the escorts dressed?

11 A. They were wearing military uniform.

12 Q. And as part of their duties, were they required to be armed or not?

13 A. It is necessary. You cannot keep someone without weapons. All of them were
14 armed.

15 Q. Did the female escorts have any different duties to the male escorts, or were they
16 the same?

17 A. All I know is that they did the same job. They were all soldiers. Everything
18 depended on the tasks assigned to them by their commanders, but all of them performed
19 the same duties.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

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25 Q. In relation to the duties of escorts, did they have any duties in relation to domestic

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1 tasks or cooking or any such activities for commanders?

2 A. Those who were in the sectors, they worked like the other soldiers. They would
3 pitch tents and other things. But in Bunia, for example, Lubanga had a house for his
4 escorts and also Kisembo. Lubanga had many escorts. They had thatched roofed huts
5 where they spent the nights, but Ntaganda's escorts had a large building. It was in a
6 military camp and there were no thatch roofed huts there. But in the sectors, they built
7 huts.

8 Q. But in relation to my question were the -- were any escorts, in your knowledge,
9 involved in domestic tasks or cooking? Would that be part of an escort's role or not?

10 A. Yes. This was also the work of the escorts. For example, those who were at the
11 front, it was the escorts who cooked the food, the PMFs.

12 Q. (Redacted)

13 (Redacted) Who undertook reconnaissance missions within the UPC?

14 Was it only adults or also kadogo?

15 THE INTERPRETER: Mr President, from the Swahili booth: If the witness can kindly
16 repeat his answer because the microphone was cut off.

17 MS SAMSON:

18 Q. I'm sorry to interrupt you, but the microphone within the interpretation booth was
19 off. Would you mind repeating your answer from the start?

20 A. I was saying that it depended on the organisation of the reconnaissance missions.
21 Sometimes even civilians were used, those who were present there. Sometimes
22 kadogos were assigned to those missions. People who might not be identified as
23 soldiers, but if they thought that the persons could be identified, others would be used,
24 including civilians.

25 Q. And where kadogo were assigned to these missions, do you know what they had

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1 to do, how they had to dress, what they had to do?

2 A. If he is sent on a reconnaissance mission, he would be given a briefing to enable
3 him know what he has to do. So prior to assigning him, he would be told what to do.
4 So everything depended on the type of reconnaissance mission involved.

5 Q. Do you know if the girl soldiers, the PMFs, were sent on the reconnaissance
6 missions in the same way as the boys, same types of missions?

7 A. I did not personally observe that, but what I can tell you is that all soldiers
8 performed the same duties, so I believe that they also could have been assigned. There
9 was no difference between the various soldiers. All of them did the same activities.

10 Q. And I'd like to focus now on the girls within escorts of commanders and UPC
11 officials. What, if anything, did you get to know about the way those -- ways in which
12 those girls were treated by the commanders?

13 PRESIDING JUDGE FREMR: Mr Bourgon?

14 MR BOURGON: Thank you, Mr President. I think this line of questioning has been
15 undertaken before. I think the witness has said on many occasions that they had the
16 same training, that they had the same weapons, that they had the same tasks, that they
17 were dressed the same way. Mr President, I think we can move on. This is not getting
18 us anywhere. Thank you.

19 PRESIDING JUDGE FREMR: Ms Samson, now I have to agree that this really very,
20 very general question. I guess that you are probably interested in a special aspect of the
21 relationship between, so feel free to go this way.

22 MS SAMSON: Thank you, your Honour. I will rephrase and direct the question
23 better.

24 Q. Sir, were you ever made aware, (Redacted) of any
25 instances of sexual violence by soldiers or commanders in the UPC against other soldiers,

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1 girl soldiers?

2 PRESIDING JUDGE: Mr Bourgon?

3 MR BOURGON: This is a straightforward leading question Mr President. Is there any
4 sexual violence between soldiers of the UPC against other soldiers? It's a yes, or it's a
5 no. It's very straightforward. It suggests that there might have been sexual violence
6 between soldiers of the UPC. The witness of course is hearing and he can curtail his
7 answer to what I have just said in my objection, but for the record, Mr President, I think
8 this question should not be allowed.

9 PRESIDING JUDGE FREMR: Mr Bourgon, if you want to make inquiry on this -- in this
10 area, how would you proceed without -- because, in fact, it was even my -- not order but
11 my guidance to Ms Samson because she obviously targeted this issue. She started in a
12 very general way. You were not satisfied. Now she was more specific. You're also
13 not satisfied. So I think she is fully allowed to make inquiry on this aspect, which is
14 part of the charges. So in your view how she should do it?

15 MR BOURGON: If I may respond, Mr President, it all depends what the Trial Chamber
16 is interested in. If the Trial Chamber is interested in the testimony of the witness rather
17 than that of the Prosecution, she can simply say: How were the relationship
18 between -- describe the relationship between the officers and the soldiers. Describe the
19 relationship between the escorts. Explain, say something, but not I'll bring you there
20 and then I ask you a yes or a no. This is what leading is all about. This way we're not
21 getting the testimony from the witness, we are getting the testimony from the
22 Prosecution.

23 Mr President, who, what, where, when, explain, describe. It's very easy questions to
24 put. Thank you, Mr President.

25 PRESIDING JUDGE FREMR: Because my understanding of a leading question is

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1 obviously different from yours, I will consult my colleagues not to be too authoritative.

2 (Trial Chamber confers)

3 PRESIDING JUDGE FREMR: So I think we could just agree on some slight compromise.

4 Maybe please start with the sexual relationships, if any, in a general way, but then you
5 can move if there was something wrong on this or not.

6 MS SAMSON: Certainly, Mr President.

7 Q. Mr Witness, did you ever become aware of any -- or what do you know of any of
8 the sexual relationships between commanders or other soldiers and escorts, if you
9 became aware of any such instances?

10 PRESIDING JUDGE FREMR: Mr Bourgon.

11 MR BOURGON: Mr President, I don't know what this question means. It's -- in all
12 fairness to the witness, is she asking to know if soldiers had sex together? I mean, this
13 question is completely vague and general and is only there to lead the witness to answer
14 and to lead the question to something he has that she's looking for, but I don't know
15 what it is. Thank you.

16 PRESIDING JUDGE FREMR: Mr Bourgon, probably I will not surprise you because, in
17 fact, this question was invented by me, so the objection is overruled.

18 MS SAMSON:

19 Q. Sir, would you like me to repeat my question, or did you understand it?

20 A. I understand. You would want to know whether I heard (Redacted) cases
21 of rapes on the part of soldiers raping members of the population or PMFs who had
22 sexual relations with other soldiers. Is that what you are asking?

23 Q. At this point I'm asking about the nature of the sexual relationships, if any, that
24 you became aware of between commanders and escorts, female escorts.

25 PRESIDING JUDGE FREMR: Mr Bourgon, anything new?

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1 MR BOURGON: Well, my friend is suggesting that commanders had sexual
2 relationships with escorts. Where did the witness ever say that? This is a
3 straightforward suggestion.

4 PRESIDING JUDGE FREMR: Mr Bourgon, really my patience is really limited. You
5 very well know that this is part of the charges and you are still trying to prohibit
6 Ms Samson to make any inquiry at this area. So please stop this effort because it's
7 really -- I don't find it proper.

8 Ms Samson.

9 MS SAMSON:

10 Q. Did you understand my question, sir, or would you like me to repeat it?

11 A. Kindly repeat your question, please.

12 Q. Certainly, yes. Did you become aware or not of any sexual relationships between
13 commanders and female escorts in the UPC?

14 A. I didn't hear of cases of commanders with sexual relations with the PMFs, but
15 when it comes to rapes, (Redacted)

16 (Redacted) I was told that there were soldiers who had been jailed
17 because they had carried out rapes.

18 Q. Now, in relation to the rapes that you're describing now, what were you told about
19 those rapes? Who were the soldiers raping in that instance you're describing now?

20 A. Kindly repeat, please.

21 Q. Yes. Certainly. You were told, as I understand it, that soldiers were jailed
22 because they'd carried out rapes. Against whom -- who were the soldiers raping, the
23 ones that you're describing now?

24 A. Let me track back a little bit relating to the question you asked me about the PMFs.

25 I would like to ask the Presiding Judge whether I can answer. I'm tracking back

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1 because a question was put to me. I don't know whether I can answer that question
2 now with your leave, your Honour.

3 PRESIDING JUDGE FREMR: And why not?

4 THE WITNESS: (Interpretation) Thank you, Mr President. In answer to the question
5 that you put to me before, that is whether commanders raped members of their escorts,
6 yes, I heard of one case involving a commander called John. He raped a member of his
7 escort; and after that, he sent a kadogo, another member of the escort, to kill that woman.
8 And after he had killed that woman, John also killed that kadogo. I heard about that
9 particular case.

10 Q. Did -- was John, the commander, ever disciplined for having raped the escort, to
11 your knowledge?

12 A. Yes. He was arrested.

13 Q. And in your time in the UPC, did you ever hear of cases of pregnancies amongst
14 escorts, female escorts?

15 A. Yes. There were some pregnancies. In fact, there were some PMFs who had
16 children, who had delivered these children when they were in those camps.

17 Q. And once the PMFs had their children, did they remain PMFs, or did they leave the
18 UPC, do you know?

19 A. Yes. That is what I told you, namely that there were some PMF who actually had
20 children in the camps, who delivered children in the camps. There were also
21 commanders who had PMFs and once they had had their babies, the commanders would
22 consider those babies to be their children. So this is a situation which came up in
23 several camps where PMFs had children.

24 Q. Now, sir, I would like to move to a different issue at the moment, and for that I
25 would like to show you -- well, actually, before I show you, I'm going to ask you one

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1 other thing, one other question.

2 (Redacted) did you ever hear of a -- of any efforts within the UPC to
3 demobilise kadogo?

4 A. Are you talking about the UPC?

5 Q. Yes.

6 A. No. There was no demobilisation of the kadogos within the UPC.

7 Q. And from that, sir, is it right that -- did you -- I'll ask it this way: Did you ever see
8 any instructions or orders in relation to demobilisation at any time in the UPC?

9 A. No.

10 (Redacted)

11 (Redacted)

12 A. I have already answered that question. I never heard mention of it. In the UPC,
13 no, I never heard any such thing.

14 Q. And I have one follow-up question: A moment ago you indicated or stated that
15 the -- when PMFs had babies, their commanders would consider the babies to be their
16 children. Do you know why that was the case?

17 A. I told you that it was not only in one or two camps that this happened. To all the
18 camps I went I saw PMFs with children. Those PMFs were with -- that those PMFs had
19 been impregnated by other troops. However, (Redacted)

20 (Redacted) these were consensual
21 relationships.

22 *But there were PMF giving birth in the military camps.

23 Q. And were some of these consensual relationships with PMFs between PMFs and
24 commanders?

25 A. (Redacted)

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1 When I went through a number of camps I will see PMFs with children, and they
2 continued to live in those camps. And we were told that those PMFs had their
3 husbands. So if there had been a case of rape, probably some of sanctions would have
4 followed.

5 The PMFs whom I found in the camps to have children were living with their husbands,
6 who were soldiers, and they used to live together.

7 One case I was aware of is that of one PMF who was raped by John.

8 Q. And in the case of the PMF who was raped by John, (Redacted)

9 (Redacted)

10 A. What I've said is that John was afraid. He became frightened and he felt that the
11 PMF was going to accuse him. He used to live around the Centrale area. So John,
12 having been frightened, asked a PMF -- or, rather, a kadogo to shoot that PMF. And
13 then later on John, himself, shot the kadogo so that this case may disappear. But
14 subsequently we found out and John was arrested accordingly.

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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7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. Now, sir, I'm going to show you a document. It's a photograph.

11 I'll first indicate to the Court which document it is, which is DRC-OTP-0185-0810. It is
12 number 15 on the Prosecution's list of documents it may use.

13 PRESIDING JUDGE FREMR: Mr Bourgon, any objection? If any please consider
14 whether such objection could be made in the presence of the witness.

15 MR BOURGON: Mr President, according to my information it's not one of the exhibits
16 that we objected to, so I think it's okay to use it.

17 PRESIDING JUDGE FREMR: Okay. So then you may proceed Ms Samson.

18 MS SAMSON: Thank you, your Honour. And the ERN of the document is
19 DRC-OTP-0185-0810.

20 Q. Can you see the photograph, sir?

21 A. Yes, I can see it.

22 Q. Do you recognize the people in this photograph?

23 A. Yes.

24 Q. Who are they?

25 A. The person to my left is Ntaganda, and the person to my right is Salongo.

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- 1 Q. Can you tell where this photograph was taken?
- 2 A. This is in Bunia.
- 3 Q. Do you recognize the building in the background?
- 4 A. Yes. I know it.
- 5 Q. Which building is that?
- 6 A. It is a bar and a hotel with a number of rooms. So it's a bar and a hotel. But I
- 7 forget the name of the place. Oh, I think it is called Mandarin.
- 8 Q. And if you look at Mr Ntaganda on the left, whom you've identified on the left, can
- 9 you see what he has in his right hand?
- 10 A. It's the Thuraya.
- 11 Q. And what does he have in his left hand?
- 12 A. It's a walkie-talkie.
- 13 Q. And in Salongo's hand, his right hand, what is that?
- 14 A. That is also a communications device.
- 15 Q. Does Salongo have anything in his left hand?
- 16 A. No, no. Oh, yes, yes. He also has something in his left hand.
- 17 Q. Do you know what that is?
- 18 A. I just told you that it's also a Thuraya.
- 19 Q. And the name of the communication device in his right hand, what is it, please?
- 20 A. Motorola.
- 21 Q. Do you recognize the uniforms that they're wearing?
- 22 A. Yes. Yes, I do. Yes.
- 23 Q. And do you know which group used these uniforms?
- 24 A. Please, could you repeat your question?
- 25 Q. Certainly. Were these uniforms used in the UPC group or in a different armed

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1 group?

2 A. It was the military uniform of the UPC.

3 Q. Sir, I would now like to show you a different photograph. It's number one on the
4 Prosecution's list of documents. The (Redacted)

5 PRESIDING JUDGE FREMR: Mr Bourgon, the Defence position?

6 MR BOURGON: Mr President, yes, we do have an objection, but it's limited in scope.

7 I'd just like to establish a foundation before we can move to this picture.

8 PRESIDING JUDGE FREMR: Yes, objection sustained. You should, I think, lay some
9 foundation before we can decide whether to use or not because at the moment we don't
10 have what is this picture about.

11 MS SAMSON: Well, Mr President, first I simply want the witness to identify
12 individuals in the photograph, not the event of the photograph, just individuals in the
13 photograph, which typically does not require foundation.

14 PRESIDING JUDGE FREMR: And those individuals, has he mentioned them during
15 his testimony today?

16 MS SAMSON: Yes, your Honour.

17 PRESIDING JUDGE FREMR: Then Mr Bourgon is it enough for you, or do you still
18 insist on --

19 MR BOURGON: Let's proceed, Mr President.

20 PRESIDING JUDGE FREMR: Very well. So you may proceed.

21 MS SAMSON: Thank you. (Redacted)

22 Q. Sir, can you see that photograph?

23 A. Yes. However, it's not easy to identify all the people in the photograph except
24 those who are in the front.

25 Q. Yes. We can limit the identification to those individuals whom you recognize.

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- 1 Please let us know who you recognize in this photograph.
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4 MS SAMSON: Mr President, I would like to admit the two photographs into evidence,
5 please.

6 PRESIDING JUDGE FREMR: Mr Bourgon, any objection?

7 MR BOURGON: No objection, Mr President.

8 PRESIDING JUDGE FREMR: In such a case, both photographs are admitted into
9 evidence as Prosecution exhibits.

10 Ms Samson, you may proceed.

11 MS SAMSON: Thank you, Mr President. I would like to move to a new topic now
12 which will take me more than the three minutes remaining, so I will end for the day with
13 the Chamber's leave and, perhaps at some convenient moment, if I could know how
14 much time I have left, please.

15 PRESIDING JUDGE FREMR: All right. So I am waiting for information on time from
16 court officers.

17 So Ms Samson, according my information and in accordance with our recent decision,
18 you still have at your disposal 1 hour and 10 minutes. So if you want just to wrap up in
19 few minutes you still have -- have a chance. It's up to you whether you just finish this
20 topic or don't want to open some big new topic.

21 MS SAMSON: Unfortunately I'll be moving into something completely new so, with
22 your leave --

23 PRESIDING JUDGE FREMR: Okay. Then it will be better to continue tomorrow.

24 So Mr Witness, thank you very much. We have a break now. We will continue
25 tomorrow 9 o'clock, so please take some rest. And I also, it's my duty, legal duty, to

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1 remind you that in the meantime you must not discuss the content of your testimony
2 with anybody else. Have you understood? So now, please, escort --

3 THE WITNESS: (Interpretation) Yes, I have, Mr President.

4 PRESIDING JUDGE FREMR: -- Mr Witness out of the courtroom and then we will
5 move for a short moment into open session just to inform public about our tomorrow
6 schedule.

7 (The witness stands down)

8 PRESIDING JUDGE FREMR: You might know we plan to sit in the same hours like
9 today, but we have been informed that one of the Kinyarwanda interpreters is sick
10 which means that the two remaining are extremely overburdened, so in order to find
11 some compromise between --

12 Yeah, we are. Thank you for this correction. I would like to move into open session
13 just to give a message to the public about our plan for tomorrow.

14 (Open session at 5.01 p.m.)

15 THE COURT OFFICER: We're in open session, Mr President.

16 PRESIDING JUDGE FREMR: Thank you.

17 So as I said moment before we feel that because of this absence of one of the interpreters,
18 they should be really overburdened to sit again in the same extended hours like today,
19 so we slightly, slightly change our schedule, which will mean that we will just lose 30
20 minutes, but we will at least provide the interpreters with one more break.

21 So our sitting schedule for tomorrow will be: We will commence at 9. First session
22 from 9 to 10.30, second session 11 till 12.30, third session from 2 to 3.30 p.m. and the last
23 session from 4 to 5 o'clock p.m.

24 So unless there are no further requests for -- oh, Mr Bourgon, please.

25 MR BOURGON: Thank you, Mr President. I'd like to refer to the comment made by

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1 yourself at page 110, and that was at lines 12 -- at lines 16 to 20. Mr President, you
2 suggested that I'm trying to prohibit my colleague to make an inquiry into certain areas.
3 I respectfully submit -- I respectfully submit, Mr President, that this is not the case. I
4 am not trying to prohibit my colleague from making any inquiry into any aspects of this
5 case. My interest, Mr President, is that the questions be put in the proper way so that
6 we get the testimony from the witness and not leading the witness into remembering
7 what he may have prepared for the Prosecution.

8 Mr President, this is a completely different matter. I apologize if this is the impression
9 that it gives, but this is certainly not my intention to prohibit any lines of questioning.
10 But there are ways to put questions in examination-in-chief and there are ways to put
11 questions in cross-examination, and that is what my interest is all about, Mr President.
12 So I apologize if I gave the wrong impression. Thank you.

13 PRESIDING JUDGE FREMR: Apology accepted. And, Mr Bourgon, just one comment
14 from my part. It's really -- it seems for the first look that to make a definition of leading
15 question is easy. It's not so easy. And in my view sometimes it really depends on
16 details, on the context of the previous way of questioning. And as I said, this Chamber
17 is intending to -- at least to propose some disputable issues that in the light of the three
18 blocks we commonly came through are still appearing and we will try to avoid those
19 disputable issues for the future.

20 But, as I said, we will inform you after the end of this block, we will come with some
21 disputable issues. You also will be asked to bring your own view what could we
22 improve because we would like to minimize sources of objections. This is obviously
23 one of them. Maybe the different interpretation what really leading question mean.
24 And hopefully for the fourth block we will spare some time by awaiting those disputable
25 issues.

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1 What is for this time and we now break and we will reconvene tomorrow 9 o'clock.

2 THE COURT USHER: All rise.

3 (The hearing ends in open session at 5.05 p.m.)

4 RECLASSIFICATION REPORT

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

6 reclassified and redacted version of this transcript is filed in the case.