

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 Thursday, 12 November 2015
8 (The hearing starts in open session at 9.34 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: The Court is sitting in the situation of the Democratic
15 Republic of Congo in the case of The Prosecutor versus Bosco Ntaganda.
16 PRESIDING JUDGE FREMR: Thank you.
17 Now appearances starting with Prosecution.
18 MS SAMSON: Good morning, Mr President and your Honours. The Prosecution
19 today is represented by Ms Kristy Sim and Mr James Pace, both assistant trial lawyers;
20 Ms Claudine Umurungi, legal assistant; Ms Selam Yirgou, case manager; and myself
21 Nicole Samson, senior trial lawyer.
22 PRESIDING JUDGE FREMR: Thank you very much, Ms Samson.
23 Defence please.
24 MR BOURGON: (Interpretation) Good morning, your Honour. Good morning,
25 your Honours, and to all people present in the courtroom. Representing

1 Bosco Ntaganda, who is present in an adjacent room this morning, accompanied by
2 my colleague Counsel Martineau, we have Madam Rochel, William St-Michel and
3 myself Stéphane Bourgon. Thank you, your Honour.

4 PRESIDING JUDGE FREMR: Thank you very much, Mr Bourgon.

5 Now Legal Representatives of Victims, please.

6 MS PELLET: (Interpretation) Thank you very much, your Honour. Former child
7 soldiers are represented by myself, Sarah Pellet, counsel in the OPCV.

8 MR SUPRUN: (Interpretation) Good morning, your Honour. Good morning,
9 your Honours. The victims of the attacks are represented by myself, Dmytro Suprun,
10 counsel of the OPCV.

11 PRESIDING JUDGE FREMR: Thank you very much, Ms Pellet. Thank you very
12 much, Mr Suprun.

13 Ms Witness, I welcome you again. Are you feeling well today?

14 WITNESS: DRC-OTP-P-0010 (On former oath)

15 (The witness speaks Swahili)

16 THE WITNESS: (Interpretation) Yes.

17 PRESIDING JUDGE FREMR: Very well. Is my mic -- very well. The light is -- test,
18 test, test.

19 THE INTERPRETER: We can hear you in the interpreter's booth, your Honour.

20 PRESIDING JUDGE FREMR: I will try -- now it's fine.

21 So, Ms Witness, it's my duty to remind you that you are still under oath, which means
22 that like yesterday you have to speak the truth and nothing but the truth. Do you
23 understand?

24 THE WITNESS: (Interpretation) I do.

25 PRESIDING JUDGE FREMR: Very well.

1 And I would like to remind you that you should follow my guidance but you did it
2 perfectly yesterday, it means to focus on questions, to try to answer directly the
3 question put to you, also observe pauses between question and your response. But
4 you did it perfectly yesterday, so please continue in the same way.

5 And now I can hand over the floor to Ms Samson.

6 Ms Samson, you have the floor. And do you want to proceed in private or in open?

7 MS SAMSON: Open session, please, your Honour.

8 PRESIDING JUDGE FREMR: So you may proceed.

9 MS SAMSON: Thank you.

10 QUESTIONED BY MS SAMSON: (Continuing)

11 Q. Good morning, Ms Witness.

12 A. Jambo sana.

13 Q. I'm going to continue today by showing you the video that we started to look at
14 yesterday. So I will start showing a sequence and I'll stop at a particular point and
15 ask you some questions about that sequence. Do you understand?

16 A. Yes.

17 MS SAMSON: For the court officer, the ERN of the video is DRC-OTP-0120-0293.

18 And if the court officer could allow the Prosecution to manipulate the video from our
19 bench, please.

20 (Viewing of the video excerpt)

21 MS SAMSON:

22 Q. Ms Witness, can you see an image on your screen?

23 A. Yes.

24 Q. At the moment we're at minute zero of this video, 00.00. Do you recognize the
25 person that you see on the screen, in the centre of the screen?

1 A. Yes.

2 Q. What's that person's name?

3 A. That's Thomas Lubanga.

4 Q. Do you recognize the person that's next to Thomas Lubanga on the left of the
5 screen in the red beret?

6 A. Yes.

7 Q. And what's that's person's name?

8 A. He's called Dekta (phon).

9 Q. Could you please repeat that name one more time slowly?

10 A. Dekta.

11 Q. Did he have any other names?

12 A. I knew him by the name of Dekta.

13 Q. Thank you. We'll continue with the video.

14 (Viewing of the video excerpt)

15 MS SAMSON: A question for the court officer: The video has no sound at the
16 moment and we would like to play it with sound, please.

17 (Viewing of the video excerpt)

18 MS SAMSON: We've stopped the video at minute 00.26.

19 Q. Do you recognize the person in the centre of the screen who was singing and
20 clapping during that sequence?

21 A. Yes, I recognize the person, but I've forgotten his name.

22 Q. Thank you. We'll continue.

23 (Viewing of the video excerpt)

24 MS SAMSON:

25 Q. Ms Witness, can you see the hill, trees and building in the background? Can

1 you tell the Court what that part of this camp was used for?

2 A. On the hill, where the mango trees are, the buildings that are there, on the left,
3 that's where we spent the night and --

4 THE INTERPRETER: On the right, corrects the interpreter.

5 THE WITNESS: (Interpretation) And on the left is where we prepared the food of
6 the recruits.

7 MS SAMSON:

8 Q. If I understood correctly, on the left you prepared food, and on the right is
9 where the recruits slept; is that correct?

10 A. Yes. Yes.

11 MS SAMSON: For the record, I had stopped the video at minute 00.52.

12 (Viewing of the video excerpt)

13 MS SAMSON: We've stopped the video at minute 01.01.

14 Q. Can you tell the Court, please, who are the people who are standing in civilian
15 clothes on the left of the screen?

16 A. They are the recruits.

17 Q. And do you recognize the building behind the recruits?

18 A. Yes.

19 Q. What was that building used for?

20 A. It was a house where the officers lived.

21 Q. Were civilians who were not recruits permitted to go to Rwampara training
22 camp?

23 A. I haven't understood the question. Could you repeat it, please?

24 Q. Certainly. Could anybody enter the Rwampara camp if they were a civilian
25 but if they were not undergoing training?

1 A. The civilians could not enter where the recruits were, they couldn't even enter
2 the camp.

3 Q. We'll continue.

4 (Viewing of the video excerpt)

5 MS SAMSON:

6 Q. I've stopped for a moment at minute 01.40. Do you see the man on the right of
7 the screen in civilian clothes? Do you know who that person is?

8 A. I've forgotten completely. But it was one of the commanders. But I've
9 forgotten his name.

10 Q. We'll continue now.

11 (Viewing of the video excerpt)

12 MS SAMSON:

13 Q. Do you -- I've stopped at minute 01.53. Do you recognize anybody in this
14 scene? In particular, the individual that's in the right of the screen next to the person
15 you identified as Thomas Lubanga.

16 A. The person who's wearing the military uniform?

17 Q. Yes. He's facing the camera. You can see his face fully on the screen.

18 A. Yes, he accompanied Thomas Lubanga. I've forgotten his role.

19 THE INTERPRETER: Could the witness be asked to repeat the last point, asks the
20 Swahili booth.

21 MS SAMSON:

22 Q. Would you please repeat the last portion that you said. You said that he
23 accompanied Thomas Lubanga and then you said something else but the interpreters
24 didn't hear.

25 A. I think he was one of the chiefs responsible for defence. I've forgotten his

1 official role. Perhaps I'll remember later.

2 THE INTERPRETER: But I've forgotten his name, corrects the interpreter.

3 MS SAMSON:

4 Q. Okay. We're going to continue.

5 (Viewing of the video excerpt)

6 MS SAMSON: I've stopped for a moment at minute 02.38.

7 Q. And when the individual in the centre of the image was clapping you could see
8 that he had something in his hand. Did you see what he had in his hand?

9 A. Yes.

10 Q. Can you tell us what you saw?

11 A. It's a Motorola.

12 Q. We'll continue.

13 (Viewing of the video excerpt)

14 MS SAMSON: We've stopped now at minute 03.05.

15 Q. Do you recognize the person who is in civilian clothes, in a blue shirt, who's to
16 the left of the individual you've identified as Thomas Lubanga?

17 A. Yes.

18 Q. Do you remember his name?

19 A. I no longer remember his name, but he was one of the commanders.

20 Q. Perhaps as we continue you'll see a better shot of his face as well.

21 We'll continue.

22 (Viewing of the video excerpt)

23 MS SAMSON: I've stopped at minute 03.42.

24 Q. Do you recognize the person in the screen -- in the centre of the screen who's
25 wearing purple civilian clothing?

1 A. Yes.

2 Q. What is that person's name, please?

3 A. It is Mzee Bosco.

4 (Viewing of the video excerpt)

5 MS SAMSON: I've stopped at minute 03.54.

6 Q. And I'd like you to focus on the three individuals in military uniform that are
7 next to the person you've identified as Mr Bosco, to his left. Do you see those three
8 people and do you recognize them?

9 A. Yes.

10 Q. Starting with the person who is closest to mister -- the person you've identified
11 as Mr Bosco, can you please tell us that person's name, the one whose arms are folded
12 across his chest?

13 A. That's Mapa.

14 Q. What was his role in the UPC?

15 A. He was one of the bodyguards of Bosco.

16 Q. And the person who's next to him, to the left, who you can only see his profile,
17 do you recognize him?

18 A. Yes.

19 Q. What was his name?

20 A. Museveni.

21 Q. What was his role in the UPC?

22 (Redacted).

23 Q. Did he have a particular role with Mr Bosco?

24 A. He was one of his closest.

25 Q. And the person who is next to Museveni, who has a hand in front of his face,

1 can you recognize him?

2 A. Yes.

3 Q. What is his name?

4 A. We called him by his call sign, 61-Sierra.

5 Q. Do you know any of his other names, his real names?

6 A. I didn't know his name. We just called him 61-Sierra.

7 Q. What was his role within the UPC?

8 A. He arrived. And afterwards, after the battle in Mongbwalu, he arrived with
9 Mzee Bosco.

10 Q. Did he have a particular task with Mr Bosco?

11 A. No, he was just one of his close persons. And he was there wherever he went.

12 And they spoke in their language. I didn't understand what they said.

13 Q. We'll continue with the video.

14 (Viewing of the video excerpt)

15 MS SAMSON: I've stopped at minute 04.03.

16 Q. The people on this side of the video screen, on this side of the camp in civilian
17 clothes, can you tell me what -- who they were, what they were -- what their role was?

18 A. Those are recruits.

19 Q. And can you see what they have in their hand?

20 A. I can't see very well.

21 Q. I'll play a bit more of the video and perhaps I'll stop again and you can see more
22 clearly.

23 (Viewing of the video excerpt)

24 MS SAMSON: I've stopped at minute 04.06.

25 Q. Were you able to see what they had in their hands?

1 A. Yes.

2 Q. What is it?

3 A. It's their bits of wood.

4 Q. Do you know what they used the bits of wood for?

5 A. They used them as guns.

6 Q. Are these bits of wood the same thing that you described yesterday as
7 branches?

8 A. Yes.

9 Q. We'll continue.

10 (Viewing of the video excerpt)

11 MS SAMSON: I've stopped at minute 4.24.

12 Q. Can you tell us what the songs they're singing are about?

13 A. They're singing about the Ugandans because the Ugandans don't know Lingala.

14 Q. We'll continue.

15 (Viewing of the video excerpt)

16 MS SAMSON: I've stopped at minute 06.44.

17 Q. Here we can see a number of individuals in military uniform also holding sticks.
18 What was their role? Who are they?

19 A. They are recruits who'll soon have finished their training.

20 MS SAMSON: Mr President, may we move into private session just for one or two
21 questions, please?

22 PRESIDING JUDGE FREMR: All right.

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

24 (Private session at 10.08 a.m.)

25 (Redacted)

Trial Hearing

(Private Session)

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13 Page 11 redacted – Private session.

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10 (Open session at 10.12 a.m.)

11 THE COURT OFFICER: We're in open session, your Honour.

12 PRESIDING JUDGE FREMR: Thank you.

13 Ms Samson, you may proceed.

14 MS SAMSON: Thank you.

15 We'll continue with the video. We had stopped briefly at minute 07.02 to move into
16 open session, and we'll continue now.

17 (Viewing of the video excerpt)

18 MS SAMSON: I've stopped at minute 08.05.

19 Q. Do you know, Ms Witness, what the -- do you know what the purpose is of
20 singing such songs, why it was done?

21 A. Yes.

22 Q. Can you tell us please why, why these songs were sung?

23 A. It was to boost morale. When the commander was there, it was necessary to
24 boost morale and make the troops aware.

25 Q. What were the troops supposed to be made aware of?

1 A. I don't understand.

2 Q. You had said that it was necessary to sing the songs to boost morale and to
3 make the troops aware. What does that mean, "to make the troops aware"?

4 A. Whenever there was a gathering it was necessary to sing. It was a tradition,
5 we had to sing.

6 Q. We'll continue with the video.

7 (Viewing of the video excerpt)

8 MS SAMSON: I've stopped at minute 09.04.

9 Q. And for the purpose of the record, the person who's speaking at this point,
10 what's his name?

11 A. It's Thomas Lubanga.

12 Q. What was the purpose of this talk to your knowledge?

13 A. I don't remember exactly, but he was making a speech in the presence of the
14 recruits.

15 Q. We'll continue with the video.

16 (Viewing of the video excerpt)

17 MS SAMSON: I've stopped at minute 10.54.

18 Q. There is a tall person in military uniform with a stick under his arm. Do you
19 see him?

20 A. Yes.

21 Q. Is he also a recruit?

22 A. No, it's not a recruit.

23 Q. Do you know that person's name?

24 A. I don't know his name.

25 Q. Do you know what that type of stick is used for?

1 A. Instructors had these types of stick. It's the recruits' instructors who had them.

2 Q. What did they use those sticks for?

3 A. The sticks were used for lots of different things. They could be used to salute
4 authorities or to punish recruits.

5 Q. We'll continue.

6 (Viewing of the video excerpt)

7 MS SAMSON: I've just stopped at minute 31.05.

8 Q. And I want to know if you can tell me what's happening in this scene? What
9 do you see happening?

10 A. This extract here?

11 Q. Yes. I can play a little bit more if you would like, but do you recognize what
12 you're seeing here?

13 A. Yes.

14 Q. What is it?

15 A. They are greeting the authorities who came to visit, who are leaving.

16 Q. We'll continue.

17 (Viewing of the video excerpt)

18 MS SAMSON: I've stopped at minute 31.50.

19 Q. Who are the people in uniforms who are saluting Mr Lubanga and Mr Bosco?

20 A. An instructor.

21 Q. And the people behind him who are in line?

22 A. They are the recruits who are at the end of their training. They are presenting
23 their honours.

24 Q. We'll continue.

25 (Viewing of the video excerpt)

1 MS SAMSON: I've stopped at minute 37.25.

2 Q. Do you know what's happening in this scene?

3 A. The commanders are going to go back into the vehicle in order to leave.

4 Q. Do you recognize a person in uniform, he is towards the left of the screen and
5 can you see right now that there's a white mouse icon circling that person? The
6 person is not as tall as the people next to him. You can see the person you've
7 identified as Mr Lubanga in the centre. To his left there's another man, and then
8 there's another person. Do you recognize that person?

9 A. Yes, that's one of our kadogos.

10 Q. What was his role? Who is -- what was he doing?

11 A. He was a member of the bodyguard.

12 Q. Whose bodyguard?

13 A. Mr Bosco's bodyguard.

14 Q. Do you remember his name?

15 A. I've forgotten his name.

16 Q. How old is he at that time?

17 A. I no longer remember his age, but I know that he was a kadogo. I no longer
18 remember the age. He was a kadogo.

19 Q. Was he older than you or younger than you?

20 A. He was younger than me.

21 Q. We'll continue.

22 (Viewing of the video excerpt)

23 MS SAMSON: I've stopped at minute 37.29.

24 Q. Do you know whose truck that white truck is?

25 A. That is the vehicle of Mr Bosco.

1 MS SAMSON: May I ask one question or two in private session, please,

2 your Honour?

3 PRESIDING JUDGE FREMR: All right.

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

5 (Private session at 10.54 a.m.)

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1 (Open session at 10.57 a.m.)

2 THE COURT OFFICER: We're in open session, your Honour.

3 PRESIDING JUDGE FREMR: Thank you.

4 Ms Samson, you may proceed.

5 MS SAMSON: Thank you, your Honour.

6 We'll continue and play the last bit of the video.

7 (Viewing of the video excerpt)

8 MS SAMSON: The video ends at minute 37.51.

9 Mr President, I have a few more questions unrelated to the video. We have two
10 minutes left. I'm in your hands as to whether you would like me to start with those
11 questions or do so after the break.

12 PRESIDING JUDGE FREMR: How much time are you -- maybe it would be better to
13 still continue. How much time you will need to continue with questions on video?

14 MS SAMSON: I'm finished with the video questions. I'm done with questions
15 about the video. I will seek to admit the video into evidence, and thereafter I have
16 questions for no more than 10 minutes and then my examination is finished.

17 PRESIDING JUDGE FREMR: So then I would prefer to continue, and then we will
18 just shift the break.

19 So you may proceed.

20 MS SAMSON: Certainly.

21 Your Honour, I now move to tender the video into evidence along with the transcript
22 and translation, which are items 2, 3 and 4 of the Prosecution's list of evidence.

23 The video I've already identified by ERN, it is DRC-OTP-0120-0293.

24 The corresponding transcript in Swahili is at -- it is number 2 on the Prosecution's list
25 of documents, it is at DRC-OTP-0120-0318.

1 The translation of that transcript into English is number 3 on the Prosecution's list of
2 documents at DRC-OTP-0120-0298.

3 And lastly, the translation of the transcript into French, number 4 on the Prosecution's
4 list of documents, is at DRC-OTP-0120-0335. Thank you.

5 PRESIDING JUDGE FREMR: Ms Samson, we in fact operate it with two versions of
6 video; one with French subtitles, the other one without. The ERN number of version
7 without subtitles is what?

8 MS SAMSON: It is actually the same ERN. And the subtitled version is at a
9 different page of the ERN. The subtitled version is at DRC-OTP-0120-0293, and then
10 there's an underline EX01, and underline S -- capital S and lower case b. And so that
11 is the version that we showed with subtitles. Thank you for the question.

12 PRESIDING JUDGE FREMR: Thank you.

13 Defence, your position to the request made by Prosecution?

14 MR BOURGON: Thank you, Mr President. Regarding the video itself, which is the
15 item, I guess, number 1 on the Prosecution's list, if I'm correct, we would like -- we
16 request the Chamber to delay admission into evidence of this video until the
17 cross-examination has taken place. We believe, Mr President, that we highlighted
18 the reasons why this is so, and that at the end of the cross-examination this will be
19 clearer to the Chamber.

20 PRESIDING JUDGE FREMR: I think you have already indicated that a bit.

21 So it means that your position as to the translations and transcripts is derived from
22 this, from the number 1; am I right?

23 MR BOURGON: Indeed, Mr President. However, I wish to underscore that -- the
24 issue of the translation issue.

25 The translation, issue, Mr President, I -- we informed the Chamber already some time

1 ago that we have contacted the Registrar in order to find a solution so that we would
2 be able to put in place and to abide with the guidance provided by the Chamber.
3 To this day, we have not received a response from the Registry. And we certainly
4 want to be able to verify these excerpts but we are just not in a position to do so at this
5 time because we just don't have the capacity to do so.

6 As soon as we have the capability to do so, it is certainly our intention to verify these
7 transcripts and to make sure that they can be -- that we can agree with the
8 Prosecution on these, especially the excerpts. Thank you, Mr President.

9 PRESIDING JUDGE FREMR: Give us a second, we will deliberate.

10 (Trial Chamber confers)

11 PRESIDING JUDGE FREMR: So the Chamber having had in mind the character of
12 objection already indicated by the Defence decided to postpone decision on the
13 Prosecution's request at the end of this testimony.

14 So now Ms Samson you may -- Mr Bourgon?

15 MR BOURGON: If I may, Mr President, regarding the transcript itself, there is still
16 an outstanding issue as to if the Chamber should decide at the end of the testimony to
17 consider admitting the transcript in evidence.

18 To us it is a very important issue in principle. When we do admit a transcript or if
19 we don't admit a transcript, there needs to be a purpose for doing so, especially in a
20 case like this one.

21 If we do admit a transcript into evidence, then the Prosecution must say what is the
22 purpose of admitting the transcript. The transcript in this case was not used, there
23 were some subtitles with the video itself. The Chamber decided to use the video
24 with subtitles. So there is an outstanding issue on which I would like to make some
25 arguments later on. Thank you, Mr President.

1 PRESIDING JUDGE FREMR: Well noted.

2 Ms Samson, could you then now continue with your questions within the 10 minutes
3 you promised, okay?

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

5 Q. Ms Witness, I have a last series of questions for you on several different topics
6 going over some of the material that you mentioned, some of the evidence you gave
7 yesterday, and I have some supplementary questions.

8 So first of all, you mentioned that when you, yourself, were in training that you had
9 to perform certain military exercises. And I'd like to know whether all of the
10 youngest of the recruits that you referred to as kadogo, could they physically perform
11 those military exercises? Was it easy for them, or was it difficult?

12 A. Yes, all of us carried out the same exercises.

13 Q. And was it -- did you note if it was particularly difficult or easy for the young
14 ones to perform those exercises?

15 A. It was difficult, whether for the young ones or the adults, but we all had to carry
16 out the exercises and we did it together.

17 Q. Would anything happen if somebody could not perform the exercises because
18 they were physically unable to do it?

19 A. If somebody couldn't carry out the exercise, then he or she was punished.

20 Q. What type of punishments would be used in that case?

21 A. They had to do press-ups, they were whipped, or they were told to roll around
22 in dirty water, do summersaults in dirty water, that sort of punishment.

23 Q. And on a different topic, you spoke to us about rapes by commanders at the
24 Rwampara training camp. Did you know of any rapes at the Mandro training camp
25 by any commanders?

1 A. Are you talking about the place where the training was carried out?

2 Q. Yes. Did you know, hear of, or witness any rapes of recruits by commanders at
3 the Mandro training camp?

4 A. Yes. It happened everywhere.

5 Q. How did you know that it happened at the Mandro training camp?

6 A. The practices were the same in all of the training camps, whether it was Mandro,
7 Rwampara or anywhere else. It was exactly the same.

8 Q. On a different -- I have several questions on different topics.

9 And, Mr President, I think it may be best to move into private session for those last
10 questions, with your leave.

11 PRESIDING JUDGE FREMR: All right. Let's move into private session, court
12 officer, please.

13 (Private session at 11.10 a.m.)

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Trial Hearing

(Closed Session)

ICC-01/04-02/06

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- 16 (Redacted)
- 17 (Redacted)
- 18 (Closed session at 11.15 a.m.)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Open session at 11.15 a.m.)
- 24 THE COURT OFFICER: We're in open session, your Honour.
- 25 PRESIDING JUDGE FREMR: Thank you.

1 And now I would like to ask Ms Pellet, who is Legal Representative of Victims, that if
2 she want, in the light of questions put to the witness by Ms Samson, to amend her
3 previous request, if yes, on what areas?

4 Ms Pellet, you have the floor.

5 MS PELLET: (Interpretation) Thank you, your Honour. Yes, I stand by my
6 request to put questions to the witness. However, in the light of the questions put by
7 the Prosecution and the answers provided by my client, I would only have questions
8 to put concerning the consequences of the harm suffered by the witness concerning
9 not only her own interests with a view to possible reparations, but also personal
10 interests of the 283 other victims that I represent who might have been subject to
11 similar crimes and suffered the consequences of said crimes as well.

12 Thank you, your Honour. Oh, I'm sorry, as regards the questions, I don't think I'll
13 need more than 15 minutes. Thank you.

14 PRESIDING JUDGE FREMR: So if I understood well, in fact, you would like to
15 focus on the item 3 from your previous request; am I right?

16 MS PELLET: (Interpretation) Yes, your Honour. And also paragraphs 4 and 5 of
17 my request because in the decision concerning the conduct of proceedings of 2
18 June 2015 you indicated in paragraph 67 that the legal representative was to inform
19 you of the possibility of putting questions concerning reparations. Thank you.

20 PRESIDING JUDGE FREMR: Now I would like to get position of the parties to that.
21 Prosecution?

22 MS SAMSON: No objection, your Honour.

23 PRESIDING JUDGE FREMR: Thank you, Ms Samson.
24 Defence?

25 MR ST-MICHEL: There is no formal objection on our side, Mr President. I would

1 just, for the record, highlight that it is item -- from my understanding, that is item 11(a)
2 of my colleague's request that she'll be addressing.

3 And, well, I just want to recall the Chamber's guidance that was issued in relation to
4 Witness P-805. So as long as consequences that will be addressed by my colleague
5 during her questions are related to the harm that was allegedly suffered by the
6 witness and other related witnesses, the Defence has no formal objection to that.

7 Thank you, Mr President.

8 PRESIDING JUDGE FREMR: Thank you. We will deliberate during the break and
9 we will render our ruling after the break.

10 Now -- sorry, Ms Pellet.

11 MS PELLET: (Interpretation) I'm sorry, your Honour. Let me clarify something;
12 it concerns paragraph A and paragraph C in 11 of my request.

13 PRESIDING JUDGE FREMR: Well noted.

14 So as I said we will deliberate on that. And we break now and we will reconvene at
15 10 to 12.

16 THE COURT USHER: All rise.

17 (Recess taken at 11.19 a.m.)

18 (Upon resuming in open session at 11.55 a.m.)

19 THE COURT USHER: All rise.

20 Please be seated.

21 PRESIDING JUDGE FREMR: We will start this session by oral ruling on the LRV
22 request to question Witness P-10.

23 Over the break we deliberated and, having heard the submissions of Ms Pellet and of
24 the Defence, we have made the following decision on the request to put questions to
25 Witness P-10 by the Legal Representative of Victims.

1 Considering the content of the testimony of the witness, the Chamber grants your
2 request Ms Pellet to question the witness, noting its previous decisions with respect to
3 the questioning of victims in this case by the legal representatives.

4 The Chamber considers that while questions by the legal representative must be
5 carefully tailored to elicit responses on the concrete harm suffered by the witness,
6 such questions may also extend to the harm suffered by other victims allegedly
7 recruited under the age of 15 years by the UPC or FPLC as long as there is sufficient
8 link with the testimony of the current witness.

9 Therefore, the Chamber finds that the witness may be questioned on the topics
10 identified in the amended legal representative's request to the extent that they comply
11 with this guidance.

12 In addition, consistent with the Chamber's guidance in relation to previous witnesses,
13 please, Ms Pellet, try not to be repetitive of any of the Prosecution questions.

14 So now, Ms Pellet, you have the floor.

15 MS PELLET: (Interpretation) Thank you, Mr President.

16 QUESTIONED BY MS PELLET: (Interpretation)

17 Q. Good morning, Madam Witness.

18 A. Good morning.

19 Q. For the requirements of the record we know each other only too well, but I'd
20 like to specify that I am your legal representative and I shall be putting a number of
21 question to you with regards to the consequences that your service within the
22 UPC/FPLC militia had on you personally. Is that all right?

23 On Tuesday, you explained that at the end of your military training you were given a
24 military uniform and a weapon and you were deployed out into the battlefield.

25 I would like to know whether you used this weapon against the enemies of the

1 UPC/FPLC?

2 A. I didn't really understand your question.

3 Q. I shall repeat it. At the end of your training you were given a weapon. And
4 did you use said weapon during the fighting?

5 A. Yes.

6 Q. Do you recall the first occasion upon which you used said weapon?

7 A. Yes.

8 Q. Could you explain to me what occurred?

9 A. On the first occasion that I used the weapon, the bullet that I shot hit somebody.
10 And I didn't feel at all good about that. It was as if the hair -- it was as if I had lost
11 all the hair on my head. I did not feel at all well.

12 Q. I thank you, Madam Witness.

13 You explained that you took part in many battles when you were within the
14 UPC/FPLC. Were you wounded during said battles?

15 A. Yes.

16 Q. Could you explain to me where you were wounded?

17 A. I was wounded on my right leg. I received a gunshot wound.

18 Q. And did you receive any treatment for this wound?

19 A. I did receive treatment, but I still feel pain in my leg today. Especially when I
20 walk for a long period of time, I feel pain in my leg.

21 Q. Could you explain to me precisely what form of treatment you received?

22 A. The bullet remained lodged in my leg. I did not receive any stitches; rather,
23 a -- a dressing was put on the wound.

24 Q. If I understand correctly, the bullet is still in your leg today?

25 A. No, the bullet was extracted.

1 Q. I thank you for that clarification.

2 You explained this morning in response to a question put to you by the Office of the
3 Prosecutor that you, yourself, smoked hemp and drank alcohol on a regular basis
4 when you were within the militia. Now, did those have -- did those practices have
5 any consequences or impact upon your health?

6 A. Yes.

7 Q. And what were they?

8 A. By virtue of the fact that I smoked, I feel pain in my rib cage and in my lungs.
9 And my lungs are not in a good state.

10 Q. And what consequences did such practices have upon you, whether it be the
11 consumption of hemp or alcohol whilst you were in the ranks of the militia?

12 A. You know, it's not a good thing to smoke hemp because it destroys your spirit.
13 And a lot of people who made use of this substance were a little bit off-kilter.

14 Q. And on what occasion did you use this substance? Were there particular
15 occasions or instances?

16 A. No, there was no moment in particular. No opportune moment to smoke
17 hemp. We would smoke it at any time.

18 Q. Thank you, Madam Witness. You explained on many an occasion that all the
19 PMF, the female soldiers, were raped by the UPC commanders, including yourself.
20 Did you benefit from any form of treatment subsequent to this?

21 A. No. To date, we have never received any treatment.

22 Q. And these rapes that you were victim of, did they have a consequence upon
23 your health and upon your life in general terms to date?

24 A. Yes.

25 Q. Could you explain this to me?

1 A. I would say that, subsequent to the rapes, I have occasional pain in my stomach.
2 Despite the medication that I have been taking, it does not stop me from feeling this
3 pain in my stomach.

4 Q. And apart from this physical pain, have there been any other forms of impact or
5 consequences upon you?

6 A. Yes.

7 Q. And what are they?

8 A. I often think about the rapes that I was a victim of. And I cannot at all forget
9 the rapes that I experienced. It is an open wound to me.

10 Q. Thank you, Madam Witness. And during your testimony you already
11 explained -- you also explained that you were in the fourth year of primary school
12 when you were forcibly enlisted in the UPC/FPLC. Now, did you return to school
13 after your demobilisation after having fled the militia?

14 A. No.

15 Q. Why was that?

16 A. I did not have the financial means to take up my schooling again. I did not
17 have any parents and there was nobody to help me go back to school.

18 Q. Madam Witness, you have just explained to us that when coming out of the
19 UPC/FPLC you never found your family members; is that correct?

20 A. (No interpretation)

21 PRESIDING JUDGE FREMR: Ms Witness. Ms Witness, I would like to move to
22 private session for this response.

23 (Private session at 12.10 p.m.)

24 (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Open session at 12.10 p.m.)

11 THE COURT OFFICER: We are in open session, your Honour.

12 PRESIDING JUDGE FREMR: Ms Pellet, you may proceed.

13 MS PELLET: (Interpretation) Thank you, Mr President.

14 Q. Madam Witness, and this will be my last question: How do you envisage your
15 life today? You have explained to us that you are still thinking about the events that
16 unfolded more than 12 years ago now. How do you envisage your future life?

17 A. Until today, I am alone in life. I do not have any parents, I do not have any
18 brothers or sisters. I live alone, like a bird. That's my life.

19 Q. I thank you, Madam Witness.

20 Mr President, I have no further questions for the witness.

21 PRESIDING JUDGE FREMR: Thank you very much, Ms Pellet. And I also
22 appreciate that you perfectly kept the time limit, or the estimation of time you will
23 need.

24 Now before we move to cross-examination, Ms Witness I would like just to give you
25 some additional guidance now.

1 You will be questioned by Defence. I would like to emphasise that this Court is
2 governed by the principle of fair trial, which means that both parties, both
3 Prosecution and Defence, have to be treated equally. So I would like you to respond
4 to the questions that will be put to you by the Defence in the same way how you did
5 it to questions put to you by Prosecution. Do you understand?

6 THE WITNESS: (Interpretation) Yes.

7 PRESIDING JUDGE FREMR: Very well.

8 So now -- and one announcement before Defence starts: According my information,
9 time exhausted by Prosecution, and I would like to highlight that its time does not
10 include some procedural issues, so really time covering the real questioning itself,
11 used by Prosecution was 6 hours and 23 minutes.

12 So according our rules, I would like Defence, you also use the same time and only if
13 there will be some special circumstances that you may request for some additional
14 time. So now who will be questioning the witness?

15 MR BOURGON: I will, Mr President.

16 PRESIDING JUDGE FREMR: And last remark from my part: Mr Bourgon, please
17 have in mind the special guidance the Chamber made on this concrete witness.
18 You may proceed.

19 MR BOURGON: Mr President, there is only one podium to -- to use and it's on the
20 other side, so I'm not sure if the court usher can --

21 PRESIDING JUDGE FREMR: Court officer, please assist Mr Bourgon.

22 MR BOURGON: Mr President, I -- I'm in a position already to inform the Chamber
23 that I will be seeking to use more time than the time used by the Prosecution and that
24 this request should be made in the absence of the witness. I can do it -- do so right
25 now or at the end of this session.

1 PRESIDING JUDGE FREMR: I think it will be enough to make it in the end of the
2 session.

3 MR BOURGON: Thank you, Mr President.

4 PRESIDING JUDGE FREMR: Ms Samson.

5 MS SAMSON: Just before we begin, your Honour, I know according to the
6 Chamber's decision regarding to the conduct of the proceedings, any objection to the
7 use of the documents that the Defence intends to use during cross-examination could
8 be made at the outset of the cross-examination, or should your Honours decide
9 differently, it could be made when the item is to be used.

10 So the only point I'd like to make right now is in relation to one video that was
11 disclosed to the Prosecution this morning. We were not able to access it until after
12 10 a.m. I don't have a translation of that video, which is not in English or French.
13 And according to the protocol, the Defence is required to provide one.
14 Since we were provided with that video only this morning and not 24 hours in
15 advance, I would ask that the video not be used until tomorrow so that I can have an
16 opportunity to view it if possible. Thank you.

17 PRESIDING JUDGE FREMR: Mr Bourgon, your reaction on this request or oral
18 objection?

19 MR BOURGON: Thank you, Mr President. Of course we are -- we do not agree. I
20 intend to go into the video immediately because this is what we were doing this
21 morning. So it logically flows from the Prosecution's examination-in-chief. This
22 video, we do not have a translation either because we have no resources, we're not the
23 Prosecution. So we do not have any translation for this video.
24 However, the video -- I have some submissions I can make on this video and it will be
25 better to make them in the absence of the witness, Mr President.

1 PRESIDING JUDGE FREMR: Okay.

2 Now, court officer, please we will have to move first to the regime of closed session
3 and the witness will be escorted out of the courtroom.

4 (Closed session at 12.18 p.m.)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Open session at 12.19 p.m.)

10 THE COURT OFFICER: We are in open session, your Honour.

11 PRESIDING JUDGE FREMR: Thank you.

12 Mr Bourgon.

13 MR BOURGON: Mr President, I guess the proper procedure would be for the
14 Prosecution to object to the use of the video. I don't know if they're only objecting to
15 the time, the timing of the use of the video, or the use itself, and then I can respond,
16 Mr President.

17 PRESIDING JUDGE FREMR: I think you -- you just indicated the -- the core of the
18 issue because, if I am not wrong, according our conduct of proceedings decision, the
19 proper time for the Defence to indicate items that are intended to be used for
20 cross-examination is at least 24 hours, which I guess in this case was not met,
21 Mr Bourgon.

22 MR BOURGON: Indeed, Mr President, it was not met. Our list of
23 cross-examination items was handed to the Prosecution last night.
24 You will recall, Mr President, that the Prosecution had indicated 10 hours for the
25 conduct of its examination-in-chief. We had no idea that the -- that the

1 examination-in-chief would conclude as early as it did.

2 Yesterday afternoon we were informed that things were progressing very quickly and
3 that it would finish earlier. So we immediately worked last night on our list of
4 exhibits. And our list of exhibit was forwarded to the Prosecution last night. The
5 exact timing, I think, it's somewhere around 9 o'clock last night. And we sent the list
6 to the Prosecution.

7 On this list appears one item, this one item is a video. And this video was uploaded,
8 in accordance with the applicable procedure, was uploaded into eCourt and a copy of
9 which was given to the Prosecution at the earliest opportunity this morning as soon
10 as we entered the courtroom.

11 If the Chamber wants me to go into the substance of the video, it is actually exactly
12 the same video as the Prosecution with, of course, one exception; and this exception
13 that it contains 10 minutes before and 10 minutes after the video which was shown by
14 the Prosecution.

15 So there's really no surprise. It is the same event that was led by the Prosecution, but
16 we have 10 minutes before and 10 minutes after and some people that -- that showed
17 up during those -- those two instances. And we intend to ask questions to the
18 witness as to who those people are, and the events that took place before and after.
19 So there's really no surprise to the Prosecution.

20 As for the issue of the translation, we just don't have one. Again, we do not
21 have -- we do not have resources to make translations. And moreover, this is only
22 an excerpt of the video, of a longer video.

23 Now, this excerpt that we intend to use, of course, we intend to use that for
24 impeachment purposes. So it is clear-cut. We informed the Chamber earlier that
25 our -- our position is that the witness was not present in Rwampara and that the

1 person that she identified in the video is not her. And this will be of assistance in
2 showing this. And as far as the -- so it's only a video for the sake -- for the purpose
3 of impeachment only. If we do seek to have it admitted at the end, and it's part of
4 the longer video, and the longer video will, according to our -- to the applicable
5 procedure, will be disclosed by the Defence when the time comes to disclose our
6 material to the Prosecution.

7 So there's, in my view, no problem in proceeding with this video. And the
8 Prosecution, of course, has re-examination. This is something, of course, that will be
9 new because it is something that will be raised in cross-examination that was not
10 raised during examination-in-chief, therefore the Prosecution will have all liberty to
11 look at the video and to re-examine at the end on those two sections which are
12 additional.

13 One last issue, Mr President, I take this opportunity to raise that: It is in fact an issue
14 that we intend to raise with the Chamber, which is the fact that we're not sure yet, if
15 we had investigators maybe we would, but we are checking into the issue that the
16 video comes from the same source. At least -- "source" maybe not the right word,
17 but it is the same video. And we wonder why is it that we have a longer video than
18 that in the possession of the Prosecution.

19 Without going into too much detail at this point in time, it's our understanding that
20 someone from the Prosecution travelled to the area and selected video material from
21 other larger video material. They selected what they wanted, but they did not select
22 this part. We are, again, looking into this. Maybe my colleague can respond and
23 offer why we have a longer video, but this is an issue for later.

24 For now, I just keep my submissions at the fact that there is no surprise, there is
25 re-examination, the witness is there and the natural flow is to move from the first

1 video this morning to our own video. Thank you, Mr President.

2 PRESIDING JUDGE FREMR: Ms Samson, in the light of some new facts mentioned
3 by Mr Bourgon, they don't have translation, they state that the substantive part is, in
4 fact, the same like video you have presented, even there are some new pieces, so do
5 you insist on your objection?

6 MS SAMSON: Yes, your Honour. I haven't had a chance to look at this video.
7 The video was disclosed at some point this morning while we were in the courtroom.
8 We were unable to open it. I made a request to the Defence to have a copy that we
9 could actually view. I was advised that sometime after 10 o'clock this morning it
10 was put in eCourt. But I think I'm entitled to take a look at that video before I make
11 a final objection or not.

12 I take what the Defence has said and I don't disbelieve the Defence, but I think it is an
13 issue of fundamental fairness that I be allowed to view it. I don't know that I will
14 have time to do that over the lunch period. I have another meeting scheduled in
15 relation to a different witness. I just can't guarantee it.

16 So my request is that the Chamber's decision is implemented and that I get 24 hours
17 to view the video, which would mean that by 10 o'clock tomorrow Mr Bourgon can
18 use the video, I would even say by 9.30. I just need some time. And it is an issue of
19 fairness and in the adherence to the Chamber's decision.

20 The issue of translation may not in the main be a big deal if the portions are limited to
21 20 minutes, as my friend has suggested. We do have the capacity to understand the
22 video. It is again an issue of whether or not the Defence is saying that they have no
23 intention of adhering to the Chamber's decision and ever providing translations when
24 that is a requirement, and when the Prosecution does it, because that's what I've
25 understood my friend to say today. It is what I've understood him to say at other

1 times as well.

2 And I leave it to the Chamber to determine how best to implement its decision, but
3 I don't think it's satisfactory that at this stage the Defence provides a video on the day
4 they intend to use it and simply say, sorry, we can't do what the Chamber's ordered
5 us to do and provide a translation of that.

6 In terms of the issue, which is not really one that's meant for today, as to whether
7 there was a larger excerpt in the Prosecution's possession, I'm not aware of that,
8 your Honour. I really do not know at this moment, but I do not believe that we
9 selected excerpts of videos and only disclosed portions. Thank you very much.

10 PRESIDING JUDGE FREMR: Mr Bourgon.

11 MR BOURGON: Thank you, Mr President. First on the issue of translation, no
12 translation is required for the purpose for which we want to use the video. Now, if
13 the -- if we were conducting the case for the Defence and we were disclosing the
14 video to the Prosecution, we would take the necessary measures by asking for the
15 necessary resources in order to have, as we have said from the beginning, an
16 independent person prepare a translation to certify this translation and to verify,
17 verify and certify, and this video will then be issued to the Prosecution.
18 This is -- the case we are in now is completely different. This is simply
19 cross-examination. It is for the purpose of impeachment. The video was shown to
20 the witness. It happens that we have a longer video and we will show pictures. We
21 don't even need any sound. And then the witness can look at it.

22 Now, my colleague insists on the 24 hours. As a matter of fact, if my colleague
23 insists, I suggest, Mr President, that we -- that we delay the proceedings until
24 tomorrow morning so that the Prosecution has time to look at the -- at the exhibit.
25 We did as quickly as we could in the circumstances. This morning we came in with

1 a CD-ROM with the video on it. There was a technical error. Immediately upon
2 being informed, we proceeded to provide a copy. They've had the video since
3 10 o'clock. It's already 12 o'clock. They've had 20 minutes to look at it.
4 And where is -- where is the prejudice when they have re-examination? It's
5 wholly -- it's completely different. If the Prosecution uses a video and we don't get
6 to see it before examination-in-chief, this is a -- this is la preuve à charge, it is
7 completely different. Now we're just talking about evidence for the purpose of
8 impeachment and evidence that will assist the Chamber in understanding whether
9 the witness was there or not at Rwampara at any given time.
10 So we don't see the problem, but we're certainly -- actually, if we decide to -- to wait
11 until tomorrow morning, then I think, Mr President, that this would be a good idea.
12 It would ensure that everything is fair and it will also allow the Defence to have a
13 much more focused examination -- cross-examination. But I leave that in the hands
14 of the Chamber, Mr President. Thank you.

15 PRESIDING JUDGE FREMR: And one question in this context, in case the Chamber
16 decides that -- allow the postponement, wouldn't it be possible to start your
17 cross-examination from a different area and wait with this issue till tomorrow
18 morning?

19 MR BOURGON: This will be very difficult, Mr President, because this is the issue
20 that we have prepared because we knew, based on the information we had, that this
21 morning we would be looking at the video as a whole, and we ended last -- yesterday
22 afternoon with that. For us, this is the issue that we've been working on. To start
23 with another issue, I could have a couple of questions, but then I would ask the
24 Chamber for leave to begin tomorrow morning with the video. Thank you,
25 Mr President.

1 PRESIDING JUDGE FREMR: I see.

2 Ms Samson first, and then Ms Pellet.

3 MS SAMSON: Thank you, Mr President. One fundamental question that comes to
4 my mind is when did the Defence collect the video because if it had it last week it
5 obviously could have disclosed this video earlier than this morning.

6 And secondly, we oppose a suggestion that this cross-examination should wait yet
7 again. That will inevitably postpone the witness's return till certainly next week.
8 And she has been here a very long time.

9 I'm simply insisting that the rules the Chamber has set out are met and it ought not be
10 to the benefit of the Defence to get extra time to conduct cross-examination by
11 violating the orders of the Chamber. Thank you.

12 PRESIDING JUDGE FREMR: And Ms Pellet now.

13 MS PELLET: (Interpretation) Yes, thank you very much, your Honour. With
14 regard to this issue I would just like to put into the record that I have not received the
15 CD. We haven't been given it at the same time that it was given to the Office of the
16 Prosecutor.

17 I represent the witnesses. And furthermore, for the needs of the transcript as well,
18 the exchanges of emails which were mentioned yesterday concerning disclosure of
19 documents is something I was not copied on, even though I represent this witness.

20 And I would wish that the Chamber would be informed thereof.

21 And where it concerns the possibility of delaying the start of the cross-examination of
22 my client, she has shown for several days -- she has pointed out the fact that her stay
23 is extremely long here and that has consequences on her children who have to be able
24 to go to school and who, for the moment, do not have the possibility.

25 I would ask you to take that into consideration if this information has not already

1 been communicated to you by the people who are responsible for communicating that
2 and who are responsible for her protection and well-being. Thank you very much,
3 your Honour.

4 PRESIDING JUDGE FREMR: Thank you as well. So because the submissions are
5 rather extensive we will need to deliberate outside of the courtroom, but I think we
6 will need 10 or 15 minutes. And we will anyway render our ruling before the
7 lunch-break, so please remain in the courtroom and we will be back in, I guess, in 15
8 minutes.

9 THE COURT USHER: All rise.

10 (Recess taken at 12.34 p.m.)

11 (Upon resuming in open session at 1.02 p.m.)

12 THE COURT USHER: All rise.

13 Please be seated.

14 PRESIDING JUDGE FREMR: The Chamber has considered the submissions and
15 now renders its ruling.

16 The Chamber notes that the video appears to have only been disclosed by the Defence
17 three hours ago. This is contrary to the Chamber's direction that such materials must
18 be disclosed 24 hours in advance of cross-examination.

19 The Chamber understands that the examination-in-chief of this witness may have
20 been shorter than anticipated and the Defence, therefore, has less notice in terms of
21 providing the documents it intends to use with this witness.

22 Nonetheless, the Chamber wishes to remind the parties of the importance of adhering
23 to these deadlines as the Chamber already emphasised on Tuesday.

24 The Chamber considers that the Prosecution must be provided with a reasonable
25 opportunity to review the content of the video.

1 For these reasons, the Chamber directs that the Defence may not use the video with
2 the witness until tomorrow morning.

3 The Defence should however proceed with its cross-examination of the witness on the
4 other topics this afternoon. The Chamber does not accept that the Defence is only in
5 a position to examine in relation to this video today, noting that the Defence has
6 estimated it will require in excess of 6 hours for its cross-examination and that it
7 should have been entirely foreseeable to it that an objection would be raised to use of
8 the video within 2 hours of its disclosure.

9 The Chamber considers the Defence's proposal to postpone the proceedings
10 completely until tomorrow morning inappropriate, particularly in light of the
11 circumstances of this witness.

12 Regarding the legal representatives access, the Chamber understands that the video is
13 now available on eCourt.

14 That concludes our ruling.

15 And we will break now and resume at 2.30 with the cross-examination.

16 THE COURT USHER: All rise.

17 (Recess taken at 1.05 p.m.)

18 (Upon resuming in open session at 2.35 p.m.)

19 THE COURT USHER: All rise.

20 Please be seated.

21 PRESIDING JUDGE FREMR: As I have already indicated, we will this afternoon
22 continue with testimony of our witness, P-10, concretely with her cross-examination
23 by Defence.

24 So Mr Bourgon, you have the floor.

25 MR BOURGON: (Interpretation) May it please the Court.

1 QUESTIONED BY MR BOURGON:

2 Q. Good afternoon, Witness.

3 A. Good afternoon.

4 Q. Witness, I listened to your examination-in-chief with a great deal of attention,
5 and I have a number of questions to put to you in search of clarification to the
6 responses you've provided.

7 Let me introduce myself first and foremost. My name is Stéphane Bourgon, and I
8 am counsel representing Bosco Ntaganda. You will recall that we met, I believe, last
9 week, did we not?

10 A. Yes.

11 Q. And on that occasion, I was in the company of my colleague, who is also
12 counsel, by the name of Isabelle Martineau. Do you remember her being present?

13 A. Yes.

14 Q. And today I am in the company of two of my colleagues; I have Madam
15 Berta Casas Rochel and also William St-Michel by my side, and together we represent
16 the accused, Bosco Ntaganda, in this case.

17 Now, the first question that I would like to put to you, (Redacted)

18 (Redacted)

19 (Redacted)

20 PRESIDING JUDGE FREMR: Mr Bourgon, we have to move into private session, so
21 please hold on.

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

23 (Private session at 2.38 p.m.)

24 (Redacted)

25 (Redacted)

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(Private Session)

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2 (Closed session at 4.02 p.m.)

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13 (Open session at 4.03 p.m.)

14 THE COURT OFFICER: We are in open session, your Honour.

15 PRESIDING JUDGE FREMR: Thank you, court officer.

16 Mr Bourgon, you may proceed with your amended objection.

17 MR BOURGON: Thank you, Mr President. I will be very brief.

18 The witness testified in the Lubanga proceedings and the date was 5 and 6

19 March 2009.

20 Further to this testimony, she was met again by the Office of the Prosecutor on 19

21 December 2009.

22 The judgment in the Lubanga proceedings was rendered on 17

23 December 2014 -- sorry, 2012. Sorry.

24 In the judgment, the Trial Chamber, not looking at the facts, not looking at anything

25 else, simply concluded that it was necessary to withdraw the right of P-10 to

1 participate in the proceedings.

2 My first question is I've been trying to get an answer as to what happened after this
3 conclusion by the Chamber, but in this case it happens that the witness, after this
4 decision, made an application to participate in these proceedings, then provided a
5 statement, which is light years further than anything she ever said before.

6 Our submission is that there is a reason why Witness P-10 suddenly added to her
7 testimony a number of the things she said today and yesterday, and that reason -- one
8 of that reason is -- is the fact that her status was withdrawn, and in order to obtain it
9 again she knew that she had to put in more information.

10 And I submit respectfully, Mr President, that this is highly relevant. And I was not
11 going to embarrass the witness in anyway, my first question was at least to establish
12 whether she had been informed of that decision, and whether any measures had been
13 taken pursuant to the Trial Chamber's decision. And based on -- based on her
14 answer, I would probably have left it there, depending on the answer.

15 But it is relevant whether she was or not informed about that conclusion in the
16 Lubanga Trial Chamber to withdraw her status to participate, and then she makes her
17 second request to participate in these proceedings, and she provides a statement with
18 a lot more information.

19 Thank you, Mr President. For these reasons, I respectfully submit that we should be
20 able to -- allowed to put the question to the witness as well as to obtain an answer
21 from the powers to be at the International Criminal Court as to what happened
22 pursuant further to the Trial Chamber's ruling in the Lubanga judgment. Thank you,
23 Mr President.

24 PRESIDING JUDGE FREMR: Ms Samson.

25 MS SAMSON: Thank you, Mr President. The Lubanga trial judgment was issued

1 on 14 March 2012.

2 And in her trial testimony, this witness indicated that she was 13 years old at the time
3 of her recruitment and she went through various events, including her recruitment,
4 battles she fought in, training that she was -- she was at.

5 She subsequently met the Office of the Prosecutor in 2015 because we wanted to
6 know more about what her -- what facts she may be able to tell us that related to this
7 case that were never asked during the Lubanga proceedings. So it is not as if the
8 new meeting with the witness was connected to her victim application in any way.

9 And the withdrawal of her victim status is entirely related to the Chamber's decision
10 not to rely on her as a witness in the Lubanga's proceedings, not being able to find
11 certain things beyond reasonable doubt including her age.

12 And I note that the Prosecution in this case is not relying on the this witness as a
13 person under 15 given certain findings in the Lubanga decision and because of certain
14 discrepancies in documentary evidence.

15 We are -- we do not -- we think she may very well have been 13, but we're not sure
16 that that can be proven beyond reasonable doubt.

17 And so the line of questioning remains irrelevant. If the Defence would like to ask
18 her if she has in anyway changed or lied on any victim application form, they're free
19 to ask that question, but doing so via this route of the Lubanga judgment, or a
20 reparations form, and whether she was advised of being taken off the list strikes us as
21 somewhat harassing to the witness and unnecessary and irrelevant. Thank you.

22 PRESIDING JUDGE FREMR: Give me a second.

23 MS PELLET: (Interpretation) Excuse me, your Honour.

24 PRESIDING JUDGE FREMR: Ms Pellet, you are too much in the corner. Please, go
25 ahead.

1 MS PELLET: (Interpretation) I'm sorry. As Maître Bourgon said several times
2 over that I was also the legal representative of the witness in the Lubanga case, I
3 cannot testify myself, but of course the judgment in Lubanga and the passage that,
4 I don't know for what reason because it is to do with another case, that Mr Bourgon
5 wanted to read to him has already been explained to my client of course.

6 PRESIDING JUDGE FREMR: So give us a second. We will just -- Mr Bourgon, you
7 want to add something? Okay.

8 (Trial Chamber confers)

9 PRESIDING JUDGE FREMR: So I think we believe that this witness may be asked
10 about her obligation as a victim, but it shouldn't be put in any connection with the
11 Lubanga judgment.

12 So, in fact, we are very close to the argumentation of Ms Samson to be brief. So
13 please take it into account. And you can just ask whether there's some difference
14 between her testimony in the previous -- in previous proceedings and now, but that's
15 it, okay?

16 MR BOURGON: Thank you, Mr President.

17 PRESIDING JUDGE FREMR: And before we break, I would like to remind two
18 things: First of all, I would like to quote from our ruling on orders on additional
19 special measures, and I would quote this part of the ruling saying that "Parties should
20 use short simple questions and language which is easy to understand avoiding legal
21 terms, long sentences and double negations" which, in my view, was not always the
22 case, especially this afternoon. But in my view, it is not only -- it means that you
23 declined from our -- from our ruling, but it also, in my view, was less productive.
24 And the second part of our ruling, I would like to highlight is this, saying that parties
25 should put questions in a non-confrontational non-pressuring manner. I think the

1 Chamber is aware of the fact that it is a little bit in controversy with the purpose of
2 cross-examination, but still until now the Chamber has good reasons to believe that
3 this witness suffered a lot in the past, that she's still heavily traumatized and,
4 according the Rules of this Court, we all have to respect that and adjust the way of the
5 questioning to that.

6 So Mr Bourgon, but it is not only message to you, it is message to all who can be
7 potentially involved in the further examination of this witness, please respect that.

8 And I would like just to emphasise that I will insist on that during the rest of the
9 testimony of this witness.

10 That's it for today. And we will adjourn and we will reconvene tomorrow at half
11 past 9.

12 THE COURT USHER: All rise.

13 (The hearing ends in open session at 4.15 p.m.)