

Trial Hearing
WITNESS: DRC-D18-D-0251

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI
3 Situation: Democratic Republic of the Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing - Courtroom 2
8 Thursday, 7 December 2017
9 (The hearing starts in open session at 9.31 a.m.)
10 THE COURT USHER: [9:31:49] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: [9:32:20] Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: [9:32:25] Thank you, Mr President.
16 The situation in the Democratic Republic of the Congo, in the case of The Prosecutor
17 versus Bosco Ntaganda, case reference ICC-01/04-02/06.
18 We are in open session.
19 PRESIDING JUDGE FREMR: [9:32:40] Thank you, court officer.
20 Now appearances please, starting with Prosecution.
21 MS RABANIT: [9:32:46] Good morning, Mr President. Good morning,
22 your Honours. Appearing today for the Prosecution are Selam Yirgou,
23 Charlotte Grippi, Nicole Samson, and I am Marion Rabanit.
24 PRESIDING JUDGE FREMR: [9:32:58] Thank you, Ms Rabanit.
25 Defence, please.

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1 MR BOURGON: [9:33:04] (Interpretation) Good morning, your Honour.

2 Representing Bosco Ntaganda, who is present in the courtroom this morning,

3 Julia Jan, Isabelle Martineau, Didas Nyirinkwaya and myself, Stéphane Bourgon.

4 Thank you, your Honour.

5 PRESIDING JUDGE FREMR: [9:33:21] Thank you, Mr Bourgon.

6 And Legal Representatives of the Victims, please.

7 MS PELLET: [9:33:29] (Interpretation) Thank you, your Honour. The former child

8 soldiers are represented by Vony Rambolamanana and myself, Sarah Pellet, counsel

9 at the OPCV. Thank you.

10 MR SUPRUN: [9:33:42] (Interpretation) Good morning, your Honours. The victims

11 of the attacks are represented by Claire Lefevre and myself, Dmytro Suprun, counsel

12 with the OPCV. Thank you.

13 PRESIDING JUDGE FREMR: [9:33:54] Thank you, Ms Pellet. Thank you,

14 Mr Suprun.

15 Today we are going to hear the last witness of this evidentiary block, Witness D-251.

16 For the record, I recall that in our decision filed on 20 October 2017 bearing filing

17 number 2079, the Chamber granted the Defence request to add this witness to its list

18 of witnesses.

19 I further recall that pursuant to the Chamber's previous instructions, and in that

20 regard I refer to transcript numbers T-254 and T-257, the witness will testify via video

21 link from Democratic Republic of the Congo.

22 It's also recalled that on 6 December 2017, in a decision bearing filing number 2142,

23 the Chamber granted the Defence request for protective measures in relation to the

24 witness in the form of voice and face distortion during the witness testimony and the

25 use of a pseudonym for the purposes of the trial. Relatedly, I know that on

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1 6 December 2017 the VWU provided its vulnerability assessment for the witness in
2 which no special measures are recommended.

3 And finally, and noting that the Chamber rejected the Defence request to admit the
4 prior recorded testimony of this witness under Rule 68(3) contained in the decision
5 bearing filing number 2114, I recall that the Defence has indicated that it estimates it
6 will require three and a half hours for its examination-in-chief of the witness.

7 The Chamber finds this estimation as realistic and reasonable, so we allotted Defence
8 three and a half hours, and the Prosecution, as per usual practice, will be entitled to
9 the same amount of time for its cross-examination.

10 I also have to say that we, the Chamber, received a request from Legal Representative
11 of Victims, Ms Pellet, and we will decide about that request after cross-examination
12 conducted by Prosecution.

13 So now nothing prevents us from turning to the scheduled testimony. So,
14 court officer, please connect us with transmission room in DRC. And we are -- okay.

15 So now I would like to ask court officer in the DRC to bring Madam Witness into the
16 transmission room.

17 (The witness enters the video-link room)

18 PRESIDING JUDGE FREMR: [9:38:29] Madam Witness, good morning.

19 Can you hear me and see me?

20 WITNESS: DRC-D18-D-0251

21 (The witness speaks Swahili)

22 (The witness gives evidence via video link)

23 THE WITNESS: [9:38:39] (Interpretation) Yes, I can see you.

24 PRESIDING JUDGE FREMR: [9:38:46] I also can confirm that we also can -- here in

25 The Hague, we can see and hear you well.

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1 Madam Witness, allow me to provide you with some guidance. Today you are
2 called to testify in the case against Mr Bosco Ntaganda and you will be asked soon
3 questions both by the judges and lawyers who are sitting here in the courtroom in
4 The Hague.

5 And before you start, I would like to provide you with, first of all, guidance on how
6 you should answer those questions.

7 So please listen carefully to the questions, and if you do not understand, feel free to
8 ask for the questions to be repeated. We want you to tell the truth and tell us what
9 you saw, heard and sensed yourself.

10 It is natural that you may not remember all details and it doesn't matter. Please
11 testify just on that which you remember. Don't guess, don't make things up. There
12 is nothing wrong in saying, "I don't know" or "I don't remember".

13 Do you understand all this, Madam Witness?

14 THE WITNESS: [9:40:36] (Interpretation) Yes.

15 PRESIDING JUDGE FREMR: [9:40:40] Good. Now I will move to other topic and it
16 is protective measures. Those protective measures are put in place to ensure that
17 your identity is not revealed to the public. This, in practice, means that on the video
18 stream available to the public your face cannot be recognised and that your voice is
19 being disguised so that the public also cannot recognise it.

20 We, during the proceedings, we will refer to you as "Madam Witness" only and
21 ensure that your name and any other information that risks revealing who you are is
22 not broadcast to the public. Therefore, whenever you need to describe anything,
23 Madam Witness, that might reveal your identity we will do so in private session so
24 that no one, apart from the court officer sitting with you and apart of the persons here
25 in The Hague, in the courtroom to be precise, can hear your answer.

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1 Do you understand all that, Madam Witness?

2 THE WITNESS: [9:42:13] (Interpretation) Yes.

3 PRESIDING JUDGE FREMR: [9:42:14] Very well, Madam Witness.

4 Now I ask you to make your solemn undertaking to tell the truth, so I will read it out
5 and please repeat after me.

6 So I am starting to read out: I solemnly declare.

7 THE WITNESS: [9:42:44] (Interpretation) I solemnly declare.

8 PRESIDING JUDGE FREMR: [9:42:50] That I will speak the truth.

9 THE WITNESS: [9:42:54] (Interpretation) That I will speak the truth.

10 PRESIDING JUDGE FREMR: [9:43:05] The whole truth.

11 THE WITNESS: [9:43:09] (Interpretation) The whole truth.

12 PRESIDING JUDGE FREMR: [9:43:11] And nothing but the truth.

13 THE WITNESS: [9:43:19] (Interpretation) And nothing but the truth.

14 PRESIDING JUDGE FREMR: [9:43:28] All right, Madam Witness. So it means that
15 now, from now you are under oath, so you also need to be aware that it is an offence
16 to give false testimony.

17 Do you understand that, Madam Witness?

18 THE WITNESS: [9:43:52] (Interpretation) Yes.

19 PRESIDING JUDGE FREMR: [9:43:54] Fine. And finally a few practical matters
20 you should have in mind when giving your testimony. It's important to speak into
21 the microphone, but so far you are doing it very well. Also to speak clearly, and to
22 speak at a slow pace, like me, to allow the interpreters to translate everything.

23 Have you understood all that, Madam Witness?

24 THE WITNESS: [9:44:35] (Interpretation) Yes.

25 PRESIDING JUDGE FREMR: [9:44:37] So it's everything I wanted you, you to say

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1 before we start with your testimony. And now I will go -- I will give floor to
2 representative of Defence, since the Defence will start with your examination.

3 I guess it will be Mr Bourgon; am I correct? Okay, so Mr Bourgon, you have the
4 floor and we are in open session.

5 QUESTIONED BY MR BOURGON: (Interpretation)

6 Q. [9:45:19] Good morning, are you well?

7 A. [9:45:27] Yes, I'm very well.

8 Q. [9:45:30] When we met yesterday you did not feel very well. Are you feeling
9 better today?

10 A. [9:45:48] I'm still not quite recovered, but I'm here ready to offer my services to
11 you today and see how things -- and then afterwards I will return to medical care.

12 PRESIDING JUDGE FREMR: [9:46:07] Sorry to interrupt, Mr Bourgon.

13 Madam Witness, just to provide you with information in that regard. Normally our
14 session used to take 90 minutes, but if you would feel tired we can even make a short
15 break earlier, so it's up to you. Our goal is to complete your testimony today and
16 tomorrow.

17 Mr Bourgon, please proceed.

18 MR BOURGON: [9:46:44] (Interpretation) Thank you, your Honour.

19 Q. [9:46:48] Madam Witness, I would first like to introduce myself. We have
20 already met, but you can see me I think now. My name is Stéphane Bourgon. We
21 met in Bunia. And I am here with my colleagues. This morning we are going to
22 ask you some questions about Bosco Ntaganda. Do you understand that?

23 A. [9:47:20] Yes, I have understood.

24 MR BOURGON: [9:47:24] Mr President, could we please move to private session.

25 PRESIDING JUDGE FREMR: [9:47:28] Certainly.

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

2 And before doing that, in order to inform public, this witness is a protected one,

3 which means that this witness has been granted that her identity will not be revealed

4 to the public, so as soon there is a risk that potential questions could reveal her

5 identity we will have to move into private session, which is the case now. And it's

6 very likely, since we know something about the potential testimony that most of the

7 time of this testimony will be spent in the regime of private session.

8 Now, court officer, please let's move into private.

9 (Private session at 9.48 a.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: [9:48:26] We're in private session, Mr President.

11 PRESIDING JUDGE FREMR: [9:48:30] Thank you, court officer.

12 Mr Bourgon, please proceed.

13 MR BOURGON: [9:48:45] (Interpretation) Thank you, Mr President.

14 Q. [9:48:48] Madam Witness, we are now in private session, so no one can hear

15 what you are going to say. I am going to ask you some questions about your

16 (Redacted)

17 (Redacted)

18 A. [9:49:12] (Redacted)

19 Q. [9:49:18] (Redacted)

20 (Redacted)

21 (Redacted)

22 A. [9:49:30] (Redacted)

23 (Redacted)

24 Q. [9:49:59] (Redacted)

25 (Redacted)

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- 1 A. [9:53:06] (Redacted)
- 2 Q. [9:53:17] (Redacted)
- 3 A. [9:53:30] (Redacted)
- 4 (Redacted)
- 5 Q. [9:53:45] (Redacted)
- 6 A. [9:53:56] (Redacted)
- 7 Q. [9:54:03] I am now going to move to a different subject. Do you know
- 8 Bosco Ntaganda?
- 9 A. [9:54:13] Yes, I do.
- 10 Q. [9:54:16] And where did you meet Bosco Ntaganda for the first time?
- 11 A. [9:54:26] I met him for the first time in Katoto.
- 12 Q. [9:54:33] And what were you doing in Katoto when you met Bosco Ntaganda for
- 13 the first time?
- 14 A. [9:54:46] I was a soldier in the camp.
- 15 Q. [9:54:59] And when you say that you were a soldier, in which armed group
- 16 were you a soldier?
- 17 A. [9:55:10] It was the UPC.
- 18 Q. [9:55:20] When you met Bosco Ntaganda for the first time in Katoto, what
- 19 happened between you and Bosco Ntaganda at that time?
- 20 A. [9:55:40] I haven't understood your question. What do you mean what
- 21 happened between us?
- 22 Q. [9:55:47] I will repeat my question. When you met Bosco Ntaganda or saw
- 23 Bosco Ntaganda for the first time, did Bosco Ntaganda speak to you on that occasion?
- 24 A. [9:56:10] (Redacted)
- 25 (Redacted)

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1 Q. [9:56:40] Do you know Floribert Kisembo?

2 A. [9:56:50] Yes, I know him.

3 Q. [9:56:53] Who is he?

4 A. [9:57:00] He was the head of the general staff.

5 Q. [9:57:06] During the same period when you met Bosco Ntaganda for the first
6 time, did you on any occasion see Kisembo?

7 A. [9:57:23] I met Kisembo before Bosco Ntaganda arrived.

8 Q. [9:57:32] And when you met Kisembo, what was he doing on that occasion?

9 A. [9:57:48] Could you please repeat the question, which I didn't understand fully.

10 Q. [9:57:55] Yes. When you said earlier that you met Kisembo, even before
11 Bosco Ntaganda arrived in Katoto, when you did see Kisembo, do you recall what he
12 was doing when you met him or when you saw him?

13 A. [9:58:17] Kisembo had come to talk to the soldiers. He wanted to talk to us and
14 raise our awareness so that we could go to -- into Bunia. He came in the afternoon.

15 THE INTERPRETER: [9:58:45] He came from Mamedi. Correction from the
16 interpreter.

17 MR BOURGON: [9:58:54] (Interpretation)

18 Q. [9:58:56] Do you know somebody called Linganga?

19 A. [9:58:58] Yes, I do.

20 Q. [9:58:59] When you met Bosco Ntaganda for the first time in Katoto -- well, let's
21 start with a different question. Who is Linganga?

22 A. [9:59:14] Linganga is G3.

23 Q. [9:59:23] And when you met Bosco Ntaganda for the first time, was Linganga,
24 the G3, also present?

25 A. [9:59:37] Yes, they were together.

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1 Q. [9:59:43] Do you know where Bosco Ntaganda was before he arrived in Katoto?

2 A. [9:59:52] Yes.

3 Q. [9:59:57] And where was that?

4 A. [10:00:02] He was in Bunia.

5 Q. [10:00:14] (Redacted)

6 (Redacted)

7 A. [10:00:34] (Redacted)

8 (Redacted)

9 Q. [10:00:51] (Redacted)

10 (Redacted)

11 A. [10:01:06] Yes, he accepted. Because Bosco was his superior. And that's why

12 he accepted and said it wasn't bad.

13 PRESIDING JUDGE FREMR: [10:01:17] Sorry to interrupt, Mr Bourgon. But I

14 found right moment to put one or two additional questions now.

15 (Redacted)

16 (Redacted)

17 THE WITNESS: [10:01:47] (Interpretation) (Redacted)

18 PRESIDING JUDGE FREMR: [10:01:51] (Redacted)

19 THE WITNESS: [10:02:03] (Interpretation) (Redacted)

20 (Redacted)

21 (Redacted)

22 PRESIDING JUDGE FREMR: [10:02:23] (Redacted)

23 (Redacted)

24 THE WITNESS: [10:02:37] (Interpretation) (Redacted)

25 (Redacted)

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1 (Redacted)

2 PRESIDING JUDGE FREMR: [10:02:50] Thank you, Madam Witness.

3 Mr Bourgon, please proceed.

4 MR BOURGON: [10:03:03] (Interpretation)

5 Q. [10:03:09] Do you remember the activity you were involved in in Katoto when

6 Bosco Ntaganda arrived in Katoto?

7 A. [10:03:25] I was a soldier in the camp. That's what I did. Nothing else.

8 Q. [10:03:37] (Redacted)

9 (Redacted)

10 A. [10:03:51] (Redacted)

11 Q. [10:03:58] (Redacted)

12 A. [10:04:03] (Redacted)

13 (Redacted)

14 Q. [10:04:29] (Redacted)

15 (Redacted)

16 (Redacted)

17 A. [10:04:49] (Redacted)

18 (Redacted)

19 Q. [10:05:08] (Redacted)

20 (Redacted)

21 A. [10:05:25] (Redacted)

22 (Redacted)

23 Q. [10:05:38] (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 A. [10:05:53] (Redacted)
- 2 Q. [10:05:58] (Redacted)
- 3 (Redacted)
- 4 A. [10:06:11] (Redacted)
- 5 (Redacted)
- 6 Q. [10:06:25] (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 A. [10:06:45] All the boys and all the girls.
- 10 Q. [10:06:55] Did Linganga go on the trip?
- 11 A. [10:07:02] Yes. He was with us.
- 12 Q. [10:07:09] And where did you go in Bunia?
- 13 A. [10:07:16] We went to the residence in the town centre.
- 14 Q. [10:07:27] And which residence was that?
- 15 A. [10:07:32] (Redacted)
- 16 Q. [10:07:40] Do you remember how he went from Katoto to Bunia?
- 17 A. [10:07:50] We went to Katoto on a vehicle, from Katoto to Bunia by vehicle.
- 18 Q. [10:08:06] Do you remember what vehicle it was?
- 19 A. [10:08:11] Yes.
- 20 Q. [10:08:18] Could you describe the vehicle to the best of your recollection?
- 21 A. [10:08:30] Yes. It was a double, it was a double-cab vehicle, double-cab truck.
- 22 Q. [10:08:42] (Redacted)
- 23 you know who this house belonged to at that time?
- 24 A. [10:08:55] Yes.
- 25 Q. [10:08:57] And who did it belong to?

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- 1 A. [10:09:09] It belonged to Katekpa.
- 2 Q. [10:09:14] When you arrived at (Redacted) who did you meet
- 3 (Redacted)
- 4 A. [10:09:28] (Redacted)
- 5 Q. [10:09:40] (Redacted)
- 6 (Redacted)
- 7 A. [10:09:57] (Redacted)
- 8 Q. [10:10:08] (Redacted)
- 9 A. [10:10:11] (Redacted)
- 10 Q. [10:10:24] (Redacted)
- 11 A. [10:10:28] (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 PRESIDING JUDGE FREMR: [10:11:20] (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 MR BOURGON: [10:11:51] (Interpretation) (Redacted)
- 19 (Redacted)
- 20 PRESIDING JUDGE FREMR: [10:11:58] (Redacted)
- 21 MR BOURGON: [10:12:03] (Interpretation)
- 22 Q. [10:12:05] (Redacted)
- 23 (Redacted)
- 24 A. [10:12:29] (Redacted)
- 25 Q. [10:12:42] (Redacted)

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1 Q. [10:16:19] (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. [10:17:37] (Redacted)

8 Q. [10:17:46] (Redacted)

9 A. [10:18:02] (Redacted)

10 Q. [10:18:13] (Redacted)

11 A. [10:18:37] (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. [10:18:54] (Redacted)

15 (Redacted)

16 A. [10:19:11] (Redacted)

17 (Redacted)

18 Q. [10:19:26] (Redacted)

19 A. [10:19:43] (Redacted)

20 (Redacted)

21 PRESIDING JUDGE FREMR: [10:19:53] I'm sorry to interrupt, Mr Bourgon.

22 Madam Witness, in this regard, on what basis you made your estimation of their age?

23 If you are saying that his appearance could be even misleading, but according your

24 estimation he was older than he appeared. So what is basis for?

25 THE WITNESS: [10:20:25] (Interpretation) There was a list. There was a list of calls,

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1 somebody was responsible for the list who took down our dates of birth during the
2 rallies, or the assemblies. People were called by their identity.

3 PRESIDING JUDGE FREMR: [10:21:07] And you had a chance to read that list?

4 THE WITNESS: [10:21:17] (Interpretation) No, I didn't have the opportunity to read
5 (Redacted)

6 (Redacted)

7 PRESIDING JUDGE FREMR: [10:21:33] (Redacted)

8 (Redacted)

9 THE WITNESS: [10:21:55] (Interpretation) (Redacted)

10 (Redacted)

11 PRESIDING JUDGE FREMR: [10:22:09] (Redacted)

12 (Redacted)

13 (Redacted)

14 THE WITNESS: [10:22:34] (Interpretation) (Redacted)

15 PRESIDING JUDGE FREMR: [10:22:37] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 THE WITNESS: [10:23:38] (Interpretation) (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE FREMR: [10:24:04] All right, Madam Witness.

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1 Mr Bourgon, please proceed.

2 MR BOURGON: [10:24:12] (Interpretation)

3 Q. [10:24:15] I'm going to try to ask a last question on the subject. No, I'm going

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 A. [10:24:47] (Redacted)

8 Q. [10:24:49] (Redacted)

9 A. [10:25:02] (Redacted)

10 (Redacted)

11 (Redacted)

12 Q. [10:25:45] (Redacted)

13 (Redacted)

14 A. [10:26:02] (Redacted)

15 (Redacted)

16 Q. [10:26:33] (Redacted)

17 (Redacted)

18 A. [10:26:47] (Redacted)

19 (Redacted)

20 Q. [10:27:08] (Redacted)

21 (Redacted)

22 A. [10:27:23] (Redacted)

23 Q. [10:27:32] (Redacted)

24 A. [10:27:43] (Redacted)

25 Q. [10:27:50] (Redacted)

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1 Q. [10:31:33] (Redacted)

2 (Redacted)

3 (Redacted)

4 A. [10:32:02] (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 Q. [10:32:42] (Redacted)

9 A. [10:32:55] (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. [10:33:28] (Redacted)

14 (Redacted)

15 A. [10:33:38] (Redacted)

16 Q. [10:33:45] (Redacted)

17 A. [10:33:53] (Redacted)

18 Q. [10:34:02] (Redacted)

19 (Redacted)

20 A. [10:34:16] (Redacted)

21 Q. [10:34:27] (Redacted)

22 (Redacted)

23 (Redacted)

24 A. [10:34:48] (Redacted)

25 Q. [10:35:01] And can you give us a physical description of (Redacted)?

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1 A. [10:35:10] She was slim. She was deceptive, and she hasn't changed. Her
2 physical appearance hasn't changed. She's still very thin, as she was. She hasn't
3 changed at all.

4 PRESIDING JUDGE FREMR: [10:35:41] Sorry to interrupt, Mr Bourgon. I would
5 like to use this opportunity also put some additional questions.

6 Madam Witness, at the moment, nowadays, what is your height? How tall are you,
7 if you know?

8 THE WITNESS: [10:36:07] (Interpretation) I don't know. I might be 180, maybe,
9 1 metre 80.

10 PRESIDING JUDGE FREMR: [10:36:20] 1 metre 80. All right. Because I thought
11 that you needed -- for example, if you are buying, buying some clothing or something
12 like that. So you don't know? No problem.

13 And the other question: Your height today and at the time you joined the UPC was
14 the same or you just grew a bit from that time? I mean, your height, not your size.
15 You know, just the height. How tall you were that time and how tall you are now.

16 THE WITNESS: [10:37:01] (Interpretation) No. I was still young at the time. And
17 now I'm an adult. I don't look the way I did at the time.

18 PRESIDING JUDGE FREMR: [10:37:14] Forgive me, Madam Witness. I was not
19 clear enough. I am only interested in your height. So even if you don't know at the
20 moment how tall are you, my question is whether, at least roughly, your height was
21 the same that time when you joined the UPC as it is today?

22 THE WITNESS: [10:37:38] (Interpretation) No. My size was less than it is today.

23 We are talking about 2002, 2003, and now it's 2017. Do you think one can remain the
24 same size? Size changes.

25 PRESIDING JUDGE FREMR: [10:38:14] I am not sure that we are still talking about

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1 the same, but I am still only interested in the size in term of your height. So you are
2 in fact saying that you are now a little bit or a bit taller than you have been at 2002?

3 Am I correct? Is my understanding correct?

4 THE WITNESS: [10:38:40] (Interpretation) No. No, I am bigger than I was then.

5 PRESIDING JUDGE FREMR: [10:39:07] Thank you, Madam Witness.

6 Mr Bourgon, please proceed.

7 MR BOURGON: [10:39:14] (Interpretation)

8 Q. [10:39:16] Madam, earlier you mentioned that your height today is (Redacted).

9 Is that what you said?

10 A. [10:39:29] Yes.

11 Q. [10:39:34] (Redacted)

12 (Redacted)

13 A. [10:40:00] I was not very small, but I was slim. But my size was not the same as

14 I have -- as I am today. I was smaller then.

15 Q. [10:40:18] Madam Witness, I'm talking only about your height here. When you

16 were in (Redacted) were you as tall then as you are now? I'm

17 simply talking about your height.

18 A. [10:40:40] No. I didn't -- I wasn't as tall then as I am now.

19 Q. [10:40:54] Thank you, madam. Talking about (Redacted) and (Redacted)

20 do you know how old they were ?

21 *A. [10:41:10] (Redacted) was younger than me

22 Q. [10:41:22] Do you know how old she was?

23 A. [10:41:29] When -- well, at the time she must have been about 17.

24 Q. [10:41:41] And what about (Redacted) ?

25 A. [10:41:52] They were the same age. They were in the (Redacted), in fact.

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1 Q. [10:42:06] Earlier you were asked a question by the Presiding Judge relating to
2 your knowledge. Did you know the exact age at the time of (Redacted) you have
3 mentioned today?

4 A. [10:42:36] No. I wasn't in a position to know their respective ages. I can
5 simply make an estimate.

6 Q. [10:42:52] And of all the soldiers that you met in (Redacted)
7 both male and female, were there any who you think were aged under15?

8 A. [10:43:15] No.

9 Q. [10:43:17] Did you meet other people in (Redacted)?

10 A. [10:43:41] With regard to the people in (Redacted), there was
11 nobody, nobody under the age of15. The youngest was probably--the youngest
12 would have been16.

13 Q. [10:44:00] I will repeat my question. I am moving on to a different subject.

14 Other than the male and female soldiers, did you meet anyone else living in

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 A. [10:45:38] (Redacted)
- 2 Q. [10:45:40] (Redacted)
- 3 A. [10:45:46] (Redacted)
- 4 Q. [10:45:54] (Redacted)
- 5 (Redacted)
- 6 A. [10:46:21] (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 Q. [10:46:39] (Redacted)
- 10 (Redacted)
- 11 A. [10:47:02] (Redacted)
- 12 Q. [10:47:10] (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 A. [10:47:36] I only took part in one operation.
- 16 Q. [10:47:40] And which was that?
- 17 A. [10:47:46] I took part in the operation in Mongbwalu.
- 18 Q. [10:47:56] (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 A. [10:48:23] (Redacted)
- 22 later we went off to take part in that operation.
- 23 Q. [10:48:39] Talking about the Mongbwalu operation which you just mentioned,
- 24 do you know whether it goes by any other name?
- 25 A. [10:48:58] I don't know. Maybe it would be a good idea if you repeated your

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1 question for me.

2 Q. [10:49:10] Don't worry, madam, if you don't remember. But my question was
3 whether you had ever heard any other name applied to this operation in Mongbwalu?

4 A. [10:49:31] No, I don't know.

5 Q. [10:49:35] And when you took part in this operation, did you actually go to
6 Mongbwalu?

7 A. [10:49:51] Yes, we went to Mongbwalu.

8 Q. [10:50:00] Was Bosco Ntaganda part of this operation?

9 A. [10:50:09] Yes.

10 Q. [10:50:20] Do you recall how long you stayed in Mongbwalu once you'd arrived
11 there?

12 A. [10:50:36] No more than 48 hours.

13 Q. [10:50:45] Do you know why you didn't stay any more than 48 hours?

14 A. [10:50:55] Yes.

15 Q. [10:50:58] And what was the reason?

16 A. [10:51:08] We ran out of ammunition.

17 Q. [10:51:16] When you left Mongbwalu, where did you go?

18 A. [10:51:35] Mr Bosco sent a message to his superior Kisembo, requesting
19 ammunition. But the combat intensified and we had to withdraw and Bosco asked
20 Kisembo, "Why did you send me to this operation? Was it so I would get myself
21 killed?" And Bosco decided to retreat with his troops because he was afraid of being
22 killed. And then we left on the Dala road.

23 Q. [10:52:13] And then where did you go?

24 A. [10:52:21] We went to Dhego, from there to Largu, Mabanga, Barrière, and
25 Barrière, we went to Centrale.

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1 Q. [10:52:38] Did you then return to Bunia?

2 A. [10:52:48] No, we didn't go as far as Bunia.

3 Q. [10:52:56] Do you know why you didn't go to Bunia?

4 A. [10:53:07] Yes.

5 Q. [10:53:12] And what was the reason?

6 A. [10:53:22] When we left Mongbwalu, we got to Centrale and the French had
7 already arrived in Bunia. And therefore we didn't want to go to Bunia, which is why
8 we stayed where we were.

9 Q. [10:53:40] Earlier you mentioned a place by the name of Dhego. On your way
10 there, in other words, on your way from Bunia to Mongbwalu, did you go through
11 Dhego?

12 A. [10:54:01] Yes.

13 Q. [10:54:08] Do you remember who you met when you arrived in Dhego?

14 A. [10:54:19] Yes.

15 Q. [10:54:23] And who did you meet?

16 A. [10:54:32] I didn't understand your question.

17 Q. [10:54:36] When you arrived in Dhego, who was it that you met there?

18 A. [10:54:53] There was no one else there.

19 Q. [10:55:03] Madam, I am talking about the way there. How many people took
20 part in the Mongbwalu operation, to the best of your recollection?

21 A. [10:55:25] There were a lot of us.

22 Q. [10:55:30] Were there more of you than when you set off?

23 A. [10:55:38] Yes.

24 Q. [10:55:43] And where did you meet the other people who were part of your
25 group during the attack on Mongbwalu?

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1 A. [10:56:01] In Dhego.

2 Q. [10:56:08] And among all the soldiers there, both male and female which you
3 met in Dhego, were there any children under the age of 15 in this group, as best you
4 can recall?

5 A. [10:56:33] No. There were no soldiers of 15 or under 15 amongst us, because
6 Bosco did not accept young people of that age.

7 Q. [10:56:59] Madam, I would like now -- I would like to ask about the operation
8 from Mongbwalu, the whole thing, from leaving Bunia until you returned to Centrale.
9 And my first question is as follows: During the whole Mongbwalu operation, did
10 your group ever destroy or burn any houses?

11 A. [10:57:34] Not a single house was either destroyed or set on fire.

12 Q. [10:57:43] What instructions did you receive from Bosco Ntaganda on this
13 subject?

14 A. [10:57:59] Mr Bosco was extremely strict. He didn't like people who disobeyed
15 his orders, and he told us that he didn't want to hear of anybody looting the
16 population property, nor setting alight to the houses of the civilian population.

17 Q. [10:58:34] Were these instructions from Bosco Ntaganda only for this operation
18 or did you hear them also on other occasions?

19 A. [10:58:50] He mentioned them frequently. He wanted his troops to be
20 disciplined and he wanted them to respect the civilian population and their property.

21 Q. [10:59:07] During the entire Mongbwalu operation in which you took part, were
22 you involved in any fighting and, if so, where?

23 A. [10:59:32] I didn't understand your question. Could you please repeat it?

24 Q. [10:59:40] Certainly, I will rephrase it. During this entire operation from Bunia,
25 Mongbwalu to Centrale, were you involved in any fighting and, if so, where?

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1 A. [11:00:03] Personally I didn't take part in any fighting, except during the
2 (Redacted)

3 training, I didn't have any weapon. And after that I was given a military uniform
4 from -- by a friend.

5 Q. [11:00:31] Madam, I'm talking about the Mongbwalu operation. Was there any
6 combat at that time?

7 A. [11:00:47] We fought the enemy in camp Mine and Mbidjo. There we
8 encountered them while we were en route to Mongbwalu.

9 Q. [11:01:04] Thank you very much, madam.

10 MR BOURGON: [11:01:07] (Speaks English) Mr President, I believe the time is the
11 proper time for the break.

12 PRESIDING JUDGE FREMR: [11:01:09] Yes, exactly, Mr Bourgon. Now let's move
13 into open session for remainder.

14 (Open session at 11.01 a.m.)

15 THE COURT OFFICER: [11:01:28] We are in open session, Mr President.

16 PRESIDING JUDGE FREMR: [11:01:30] Thank you, court officer. Now,
17 Madam Witness, we will take our regular break for 30 minutes. So you can take
18 some rest and we will continue at half past 11.

19 THE COURT USHER: [11:02:34] All rise.

20 (Recess taken at 11.02 a.m.)

21 (Upon resuming in open session at 11.31 a.m.)

22 THE COURT USHER: [11:31:05] All rise.

23 Please be seated.

24 PRESIDING JUDGE FREMR: [11:31:24] Before we continue with the next part of
25 examination of our witness, I see some changes, if I am not wrong, in appearances.

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1 Ms Grabowski, please go ahead.

2 MS GRABOWSKI: [11:31:37] Yes, thank you, Mr President. Mr Suprun had to
3 attend to an urgent matter, so I will be replacing him in this session. Thank you.

4 PRESIDING JUDGE FREMR: [11:31:44] Well, noted, Ms Grabowski. And a part of
5 that also we were informed that Mr Bourgon would like to address us with request
6 for corrections of the transcript and we found better to make it in the absence of
7 witness not to -- at least to avoid any impact on her testimony.

8 Mr Bourgon, you have the floor.

9 MR BOURGON: [11:32:05] Thank you, Mr President. Indeed it is preferable to
10 have these corrections request.

11 PRESIDING JUDGE FREMR: [11:32:12] Sorry, and we are in open session so it
12 depends what will be kind of your request, if -- but I guess only of a technical nature
13 so probably we still can remain in open.

14 MR BOURGON: [11:32:25] Yes, Mr President, I believe so.

15 The first request for correction is page 9, lines 12 and 13 in English, compared with
16 page 8, lines 24 and 25 in French. This issue has to do with "before I went" or "after I
17 went" and it is material, Mr President. We heard that -- a specific version.

18 The second request has to do with page 10, lines 22 to 25 in English, and page 9, lines
19 25 to 28 in French. The issue is the word "Uganda".

20 The third request is on page 22, lines 19 and 20 in English, and page 21, lines 10 to 11
21 in French. We believe that one name is missing in the list of names that was
22 mentioned by the witness.

23 Fourth request is page 24, line 20 in English, and page 23, line 12 in French. And the
24 issue was just to -- without the -- I think I can say this in open session, is "joined APC"
25 and then "left APC". We heard that the second term was not APC, but UPC. This is

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1 the fourth request.

2 The fifth and last request is page 27, line 19 in English compared with page 26, line 6
3 in French. Here what we have on the transcript is "younger sister", what we heard
4 from what the witness said was simply that the, that the person, the name mentioned
5 there was younger than the witness and not sister.

6 So we would like to have these five issues listened to again from the audio.

7 PRESIDING JUDGE FREMR: [11:34:44] Thank you, Mr Bourgon.

8 Any comment on details of the request now submitted by Mr Bourgon, Ms Rabanit?

9 MS RABANIT: [11:34:57] We have no objection to the audio review. Thank you.

10 PRESIDING JUDGE FREMR: [11:35:00] And the Chamber also fully supports that
11 request.

12 And now I ask court officer in DRC to bring Madam Witness to her chair in the
13 transmission room.

14 (The witness enters the video-link room)

15 PRESIDING JUDGE FREMR: [11:36:13] Madam Witness, welcome back. Can you
16 hear me and see me?

17 THE WITNESS: [11:36:24] (Interpretation) Yes.

18 PRESIDING JUDGE FREMR: [11:36:31] Madam Witness, now we are going to have
19 another 90-minute session. And at the beginning I would like to say that I
20 appreciate that you fully obeyed my guidance that you spoke clearly, that you spoke
21 in a right pace, so please proceed in the same style.

22 THE WITNESS: [11:36:59] (Interpretation) Very well, thank you.

23 PRESIDING JUDGE FREMR: [11:37:01] All right. And now I am giving floor to
24 Defence, to Mr Bourgon. And, Mr Bourgon, we are in open session at the moment.

25 MR BOURGON: [11:37:12] (Interpretation) I am going to go into private session,

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1 your Honour.

2 PRESIDING JUDGE FREMR: [11:37:21] Sure.

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

4 (Private session at 11.37 a.m.) *(Reclassified partially in public)

5 THE COURT OFFICER: [11:37:35] We're in private session, Mr President.

6 PRESIDING JUDGE FREMR: [11:37:38] Thank you, court officer.

7 Mr Bourgon, please proceed.

8 MR BOURGON: [11:37:47] (Interpretation) Thank you, your Honour.

9 Q. [11:37:54] We are going to continue with the Mongbwalu operation, this is the
10 operation in which you participated. Now, my first question is as follows: Do you
11 remember if during the duration of the operation your group took prisoners, and, if
12 so, where?

13 A. [11:38:28] That was on the road.

14 Q. [11:38:36] So could you tell us a bit about what happened with the prisoners?

15 A. [11:38:51] Yes. We had prisoners. Some of them were asking for them to be
16 killed, but Bosco refused. He said they should be disarmed and we should leave
17 with them. And we left with them and we put them into our group.

18 Q. [11:39:25] What orders did Bosco Ntaganda give on the subject of prisoners?

19 A. [11:39:40] We wanted to kill them, but Bosco Ntaganda had refused. He
20 prohibited us from killing them. We had to guard them and disarm them. And
21 then we asked them where they came from and where the enemy was. And then we
22 integrated them.

23 Q. [11:40:12] According to the best of your recollection, madam, were the prisoners
24 mistreated at any time?

25 A. [11:40:32] No. Our leader was very severe, very strict, he did not want the

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1 prisoners to be mistreated.

2 Q. [11:40:40] When you arrived in Mongbwalu, did the members -- or were the
3 members of the civilian population present there?

4 A. [11:40:54] Yes. We met civilians in Mongbwalu.

5 Q. [11:41:04] So I am going to come back to the duration of the operation,
6 Mongbwalu operation in which you participated. During the entire operation you
7 and members of your group, did you shoot at civilians at any time during the
8 operation?

9 A. [11:41:30] No. We couldn't shoot the civilian population. We were fighting
10 against the enemy.

11 Q. [11:41:44] You already mentioned the word "pillaging" earlier in your
12 testimony. During the entire Mongbwalu operation were you ever a witness of acts
13 of pillaging carried out by your group?

14 A. [11:42:04] There were a lot of soldiers. I was involved with (Redacted)
15 There wasn't pillaging in the group, but if there were other soldiers who did that,
16 that's not something that I saw.

17 Q. [11:42:39] During the operation in Mongbwalu, what did you eat?

18 A. [11:42:54] We ate food that we had. In fact, as a soldier, we weren't allowed to
19 go and pillage, but as for food, you could take food and eat because you can only live
20 if you've eaten.

21 Q. [11:43:21] Did you know of food that was taken from houses in order to feed the
22 soldiers?

23 A. [11:43:37] Could you repeat the question?

24 Q. [11:43:52] Certainly. We are on the subject of food and what you ate on the
25 way to Mongbwalu. Now, you mentioned that you had food, but there was food

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1 which would have been taken from houses. So I am just asking if you saw that?

2 A. [11:44:16] Even I took food. I have to tell the truth. Because I couldn't die of
3 hunger while there was food.

4 PRESIDING JUDGE FREMR: [11:44:42] Sorry to interrupt, Mr Bourgon. One
5 additional question from my part:

6 And, Madam Witness, were goats and cows also understood as a food you and the
7 other soldiers could take or not?

8 THE WITNESS: [11:45:12] (Interpretation) No. We only took rice and beans.

9 PRESIDING JUDGE FREMR: [11:45:19] Thank you.

10 Mr Bourgon, please proceed.

11 MR BOURGON: [11:45:26] (Interpretation)

12 Q. [11:45:28] I'm going on to another subject.

13 I am going on to another subject, madam, the question of relations between

14 (Redacted)

15 (Redacted)

16 A. [11:46:20] (Redacted)

17 Q. [11:46:24] (Redacted)

18 A. [11:46:35] (Redacted)

19 Q. [11:46:44] (Redacted)

20 (Redacted)

21 A. [11:47:00] Never. That's something I have only heard about here.

22 Q. [11:47:19] To the best of your knowledge, did Bosco Ntaganda rape (Redacted)?

23 A. [11:47:32] That's false. I never heard anyone say that. It's only here that I
24 have heard that.

25 Q. [11:47:47] During your association with UPC, to the best of your knowledge,

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1 were you aware of any rapes committed by UPC soldiers (Redacted)

2 (Redacted)

3 A. [11:48:28] In the UPC we lived in love and agreement. The authorities were
4 very strict. I never heard anyone speak of such stories.

5 Q. [11:48:45] What was the position of Bosco Ntaganda concerning personal
6 (Redacted)

7 A. [11:49:13] (Redacted)

8 (Redacted)

9 Q. [11:49:31] (Redacted)

10 (Redacted)

11 (Redacted)

12 A. [11:49:55] (Redacted)

13 Q. [11:50:02] (Redacted)

14 A. [11:50:09] (Redacted)

15 (Redacted)

16 THE INTERPRETER: [11:50:54] (Redacted)

17 (Redacted)

18 MR BOURGON: [11:51:00] (Interpretation)

19 Q. [11:51:01] (Redacted)

20 (Redacted)

21 A. [11:51:21] (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 Q. [11:51:55] (Redacted)
- 2 (Redacted)
- 3 A. [11:52:14] (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 Q. [11:52:30] (Redacted)
- 7 A. [11:52:49] (Redacted)
- 8 (Redacted)
- 9 PRESIDING JUDGE FREMR: [11:53:02] (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 THE WITNESS: [11:53:21] (Redacted)
- 14 PRESIDING JUDGE FREMR: [11:53:22] (Redacted)
- 15 THE WITNESS: [11:53:24] (Interpretation) (Redacted)
- 16 PRESIDING JUDGE FREMR: [11:53:25] (Redacted)
- 17 (Redacted)
- 18 THE WITNESS: [11:53:43] (Redacted)
- 19 (Redacted)
- 20 PRESIDING JUDGE FREMR: [11:53:56] (Redacted)
- 21 (Redacted)
- 22 THE WITNESS: [11:54:01] (Interpretation) (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 PRESIDING JUDGE FREMR: [11:54:25] All right. Thank you, Madam Witness.

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1 Mr Bourgon, please proceed.

2 MR BOURGON: [11:54:30] (Interpretation)

3 Q. [11:54:36] Madam, I am going to go back to the last question. Were there (Redacted)

4 (Redacted)

5 (Redacted)

6 A. [11:54:54] (Redacted)

7 Q. [11:55:01] (Redacted)

8 A. [11:55:03] (Redacted)

9 Q. [11:55:28] (Redacted)

10 (Redacted)

11 A. [11:55:46] (Redacted)

12 Q. [11:55:53] (Redacted)

13 (Redacted)

14 A. [11:56:22] (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 Q. [11:56:47] (Redacted)

19 A. [11:56:55] (Redacted)

20 Q. [11:57:05] (Redacted)

21 A. [11:57:21] (Redacted)

22 (Redacted)

23 Q. [11:57:36] (Redacted)

24 A. [11:57:47] (Redacted)

25 (Redacted)

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1 Q. [11:58:15] (Redacted)

2 A. [11:58:28] (Redacted)

3 (Redacted)

4 PRESIDING JUDGE FREMR: [11:58:52] So sorry to interrupt, Mr Bourgon.

5 Again -- (Overlapping speakers)

6 THE WITNESS: [11:58:56] He disarmed us.

7 PRESIDING JUDGE FREMR: [11:58:58] I am sorry to interrupt you so many times,

8 but really I see that need.

9 Madam Witness, you said, "We fled." So by "we", it was you and who else?

10 THE WITNESS: [11:59:20] (Interpretation) (Redacted)

11 (Redacted)

12 PRESIDING JUDGE FREMR: [11:59:27] (Redacted)

13 (Redacted)

14 THE WITNESS: [11:59:46] (Interpretation) (Redacted)

15 (Redacted)

16 (Redacted)

17 PRESIDING JUDGE FREMR: [12:00:16] (Redacted)

18 (Redacted)

19 THE WITNESS: [12:00:38] (Interpretation) (Redacted)

20 PRESIDING JUDGE FREMR: [12:00:43] I thank you, Madam Witness.

21 Mr Bourgon, please proceed.

22 MR BOURGON: [12:00:52] (Interpretation) Thank you, your Honour.

23 Q. [12:00:57] (Redacted)

24 (Redacted)

25 A. [12:01:17] (Redacted)

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- 1 Q. [12:04:55] Did you stay in (Redacted) or did you go to another place?
- 2 A. [12:05:05] I went to Bunia to live with (Redacted) family.
- 3 Q. [12:05:20] Between the time you came back from Mongbwalu till the time you
- 4 (Redacted)
- 5 (Redacted)
- 6 A. [12:05:45] (Redacted)
- 7 Q. [12:05:56] (Redacted)
- 8 (Redacted)
- 9 A. [12:06:09] (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 Q. [12:07:07] Did you go back and resume your studies?
- 13 A. [12:07:13] Yes, I went back to school.
- 14 Q. [12:07:17] When you went back to school, do you know what class you joined?
- 15 A. [12:07:33] (Redacted)
- 16 (Redacted)
- 17 Q. [12:07:52] What level does that correspond to ? Is it primary, secondary ?
- 18 A. [12:07:56] It's secondary school.
- 19 Q. [12:08:01] What happened between (Redacted)
- 20 A. [12:08:11] (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 Q. [12:08:44] (Redacted)
- 24 (Redacted)
- 25 A. [12:09:14] (Redacted)

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1 Q. [12:09:19] (Redacted)

2 (Redacted)

3 A. [12:09:33] (Redacted)

4 (Redacted)

5 Q. [12:09:43] (Redacted)

6 (Redacted)

7 (Redacted)

8 A. [12:09:59] (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. [12:10:22] To the best of your recollections, was Bosco Ntaganda appreciated
12 and respected by his escorts?

13 A. [12:10:36] A lot. They liked him a lot.

14 Q. [12:10:47] To the best of your recollections, was Bosco Ntaganda close to
15 his -- both male and female escorts?

16 A. [12:11:09] Bosco Ntaganda was a very good commander, he was a brave man, he
17 knew how to talk to his soldiers and escorts and (Redacted)
18 (Redacted)

19 Q. [12:11:37] Before meeting the Defence team to give the witness statement when
20 was the last time you saw or met Bosco Ntaganda?

21 A. [12:12:04] (Redacted)
22 (Redacted)

23 Q. [12:12:26] Thank you so much, I have no further questions.

24 MR BOURGON: Thank you, Mr President. That concludes my
25 examination-in-chief.

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1 PRESIDING JUDGE FREMR: [12:12:29] I have to say I am a little bit surprised, but
2 pleasantly surprised.

3 So now I think we will break for five minutes to allow Ms Rabanit to prepare for
4 cross.

5 Is it fine with you, Ms Rabanit?

6 MS RABANIT: [12:12:44] (Microphone not activated)

7 PRESIDING JUDGE FREMR: [12:12:47] All right. So we now will break for five
8 minutes.

9 THE COURT USHER: [12:12:52] All rise.

10 (Recess taken at 12.12 p.m.)

11 (Upon resuming in private session at 12.19 p.m.) *(Reclassified partially in public)

12 THE COURT OFFICER: [12:19:02] All rise.

13 PRESIDING JUDGE FREMR: [12:19:24] So now let's return back, at least for a while,
14 into open session.

15 (Open session at 12.19 p.m.)

16 THE COURT OFFICER: [12:19:48] We are in open session, Mr President.

17 PRESIDING JUDGE FREMR: [12:19:50] Thank you, court officer.

18 So for the remainder of this session, till 1 o'clock, we are going to continue with
19 testimony of our witness, D-251. She now will be cross-examined by Prosecution,
20 namely, by its representative, Ms Rabanit.

21 Ms Rabanit, usual caveat, generally you should use the same time as Mr Bourgon.

22 Court officer, could you just publicly say how much time Mr Bourgon has used.

23 THE COURT OFFICER: [12:20:29] Yes, Mr President. The Defence has used 1 hour
24 and 32 minutes for its questioning of the witness.

25 PRESIDING JUDGE FREMR: [12:20:36] Thank you, court officer.

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1 So generally you should be -- you should complete your examination in 1 hour 32. If
2 you feel that you would need more, you have to address us with your request. So
3 I believe that at the beginning of the afternoon session you will have clear picture.
4 Then you can update us on that.

5 At the time moment we are in open session, do you want to conduct your, at least the
6 beginning of your cross in private or in open session?

7 MS RABANIT: [12:21:12] Thank you, Mr President. Your guidance is well noted
8 and I will need to go directly into private session.

9 PRESIDING JUDGE FREMR: [12:21:19] Mr Bourgon, before doing that, I have seen
10 you. A request for corrections?

11 MR BOURGON: [12:21:25] Indeed, Mr President. Just for a quick transcript
12 correction, because it is a material correction.

13 PRESIDING JUDGE FREMR: [12:21:33] Go ahead.

14 MR BOURGON: [12:21:34] Page 40, lines 6 to 7 in English and same page in French,
15 page 40, lines 7 to 8, there was some words that were not captured in the transcript.

16 I won't say more at this stage. Thank you.

17 PRESIDING JUDGE FREMR: [12:21:50] Noted and verification also supported by
18 the Chamber.

19 And caveat to the public, this witness is protected one so she was guaranteed that her
20 identity will not be revealed to the public, and because in this case there is very likely
21 that most of the questions could reveal her identity, it's very likely that most of this
22 examination will be done in private session.

23 So now let's move into private session, as requested.

24 (Private session at 12.22 p.m.) *(Reclassified partially in public)

25 THE COURT OFFICER: [12:22:27] We are in private session, Mr President.

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- 1 PRESIDING JUDGE FREMR: [12:22:38] Thank you, court officer.
- 2 And, Ms Rabanit, floor is yours.
- 3 MS RABANIT: [12:22:49] (Interpretation) Thank you, your Honour.
- 4 QUESTIONED BY MS RABANIT: (Interpretation)
- 5 Q. [12:22:57] Hello, Witness.
- 6 THE INTERPRETER: [12:23:12] I'm sorry, the Swahili booth cannot listen -- cannot
- 7 hear.
- 8 MS RABANIT: [12:23:18] (Interpretation)
- 9 Q. [12:23:21] Hello, Witness.
- 10 A. [12:23:24] Hello.
- 11 Q. [12:23:25] I am Marion Rabanit, we briefly met yesterday and I'm going to ask
- 12 you questions on behalf of the Prosecution, on behalf of the OTP.
- 13 Madam, during the main examination by the Defence counsel you gave us ages for
- 14 (Redacted)
- 15 A. [12:24:01] (Redacted)
- 16 Q. [12:24:03] (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 THE INTERPRETER: [12:25:11] I'm sorry, your Honour, but if counsel switches

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1 between French and English, we won't be able to capture it.

2 MS RABANIT: [12:25:20] (Overlapping speakers)

3 PRESIDING JUDGE FREMR: [12:25:20] Ms Rabanit, have you heard message from
4 the interpreters?

5 Please kindly, could you repeat it to Ms Rabanit again, to make it clear.

6 THE INTERPRETER: [12:25:31] If counsel could leave a slight break between French
7 and English, otherwise when we interpret we speak over counsel.

8 MS RABANIT: [12:25:44] Absolutely. My excuses to the interpreters. I will stay
9 in English when reading the transcript.

10 PRESIDING JUDGE FREMR: [12:25:52] All right.

11 MS RABANIT: [12:26:04]

12 Q. [12:26:04] So the next question that was put to you was: "To be more precise,

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Interpretation) Madam, do you remember that you said this earlier on this morning?

17 A. [12:26:46] Yes.

18 Q. [12:26:50] Madam, do you remember that you've given a written statement to
19 the Defence counsel two months ago approximately, under the control of my
20 colleague? I think it was 30 September -- 29 September, from 29 September to
21 1 October this year. Do you remember?

22 A. [12:27:28] Yes.

23 Q. [12:27:33] Was this written statement re-read to you when you gave it?

24 A. [12:27:59] Could you please repeat your question?

25 Q. [12:28:03] When you gave this statement two months ago, was this statement

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1 read back to you? Do you remember if it was read back to you?

2 A. [12:28:17] Yes.

3 Q. [12:28:21] Do you remember having signed it?

4 A. [12:28:26] Yes.

5 Q. [12:28:33] And you understood that the fact you signed this document meant
6 that everything you said was true and right to the best of your knowledge?

7 A. [12:28:53] Yes.

8 Q. [12:29:03] I am going to now read out this written statement, a part of it. It's
9 document DRC-D18-0001-6276. And I'm referring to page 6282 and I'm going to
10 quote paragraph 49.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 Madam, do you remember the preparation session with the Defence before you came
18 to testify? I think this preparation session took place on the 3rd and it ended
19 yesterday evening.

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

21 Q. [12:31:19] And during the preparation session the Defence was supposed to give
22 you an opportunity to review the statement and make any corrections. Am I not
23 right?

24 A. [12:31:42] Yes.

25 Q. [12:31:45] Madam, during this session you did not correct the age that you

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1 estimated (Redacted) was.

2 A. [12:32:01] Yes.

3 Q. [12:32:21] Madam, in reality, you knew that (Redacted) was below 18 but you did
4 not know his exact age; am I right?

5 A. [12:32:45] Yes.

6 Q. [12:32:52] And you said that he was small.

7 A. [12:33:05] Yes.

8 Q. [12:33:09] You never saw ID papers for (Redacted) isn't that right?

9 A. [12:33:22] Yes.

10 Q. [12:33:27] (Redacted)

11 A. [12:33:44] (Redacted)

12 (Redacted)

13 Q. [12:33:59] (Redacted)

14 (Redacted)

15 A. [12:34:18] (Redacted)

16 MS RABANIT: [12:34:39] (Interpretation) Your Honour, I would like to make
17 a particular request, and for that I would ask for the video link to be cut temporarily.
18 Thank you.

19 PRESIDING JUDGE FREMR: [12:34:56] Court officer, maybe it will be enough if you
20 could just put volume on zero. It would be fine with you, if there will be no
21 chance -- would it be harm if they could watch us? I think it is enough if they -- if
22 Bunia couldn't hear us; am I correct?

23 MS RABANIT: [12:35:18] You are correct, Mr President.

24 PRESIDING JUDGE FREMR: [12:35:21] So, court officer, please proceed accordingly.

25 THE INTERPRETER: [12:35:37] Counsel stated, "You are right", your Honour.

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1 PRESIDING JUDGE FREMR: [12:35:40] All right. So now, Ms Rabanit, please
2 proceed.

3 MS RABANIT: [12:35:45] Thank you, Mr President. What I propose to do now is to
4 confront this witness with what another witness has said, Defence witness. Now --

5 PRESIDING JUDGE FREMR: [12:35:54] Sorry, I have problem to understand. We
6 will have to arrange it in a way that we will not be disturbed.

7 Hold on, Ms Rabanit.

8 Now please proceed.

9 MS RABANIT: [12:36:53] Thank you, Mr President. So what I propose to do is to
10 confront the witness with what another Defence witness has said in testimony.

11 I don't propose to say who this witness is. Just for our purposes, I can say who he is.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 PRESIDING JUDGE FREMR: [12:37:37] (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 MS RABANIT: [12:38:00] (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE FREMR: [12:38:18] All right. What is Defence position?

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1 MR BOURGON: [12:38:24] Thank you, Mr President. My first observation is: I
2 note that there was no information provided by the Prosecution regarding the intent
3 to use this testimony in order to cross-examine the witness. So the Prosecution is
4 supposed to provide a list 24 hours in advance with the material that it intends to use
5 to cross-examine a witness.
6 This is paragraph 33 of the order on the conduct of proceedings. I note, Mr President,
7 that paragraph 33 does refer to documents that have not been previously admitted in
8 evidence. So this could be referred to as an exception, because of course it is
9 evidence in this case.
10 However, the Defence, whenever we sought to use or to refer to the testimony of any
11 witness during our cross-examination of Prosecution witness, we always used to put
12 in advance so that there would be no surprise. We would put in advance the
13 testimony or statements that we wanted to use. So this is a marked departure from
14 this practice. There has been very few Defence witnesses and we don't see the
15 reasons why the Prosecution should be allowed to use material where it did not
16 provide any advance notice to the Defence.
17 Now, regarding the use of the material itself, I understand my colleague's request as
18 being the necessary leave being sought pursuant to article 34 of the witness
19 preparation -- the -- not the witness, but the order on the conduct of proceedings,
20 which says that "... participants shall quote directly the relevant passages and give the
21 precise references, including the relevant lines."
22 So if the Chamber is inclined to allow the use of this particular evidence, it -- at this
23 particular point, Mr President, we don't see any problems with the use. So there is
24 no prejudice at this point, although it is not -- we would have liked to know in
25 advance, but there is no prejudice with this specific issue.

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1 What I want to avoid is that we have other surprises coming up where issues might
2 be much more important. So for this specific question we don't see any prejudice.
3 If this practice arises again, then we say enough is enough, the Prosecution must
4 provide the Defence with any statement of witnesses it intends to use.
5 Now, the basis of this, Mr President, is surprise, that's number 1. But the second
6 basis is also the fact that the Prosecution has had this witness statement since two
7 months now. So for two months they know if they intend to contradict anything in
8 the witness statement with what happens during the testimony. And there is no
9 reason for the Prosecution to keep to itself the fact that they intend to cross-examine
10 the witness with this material. So as a matter of principle we do object.
11 The last part where I will concede to my colleague is that I think that there is no issue
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 PRESIDING JUDGE FREMR: [12:44:26] Before I give floor to you, Ms Rabanit, I

8 would like to verify with Legal Representatives whether they would be fine with

9 revealing or not the name of the witness to whom Ms Rabanit is potentially ready to

10 refer to.

11 Ms Pellet?

12 MS PELLET: [12:44:53](Interpretation) Thank you, your Honour. I think we have

13 a problem of comprehension because I didn't understand that she was going to refer

14 to the name of my client, but to the name of another witness. And I have no

15 objection.

16 PRESIDING JUDGE FREMR: [12:45:12] There are still several alternatives how we

17 can take with this, you know, evidence.

18 Now, Ms Rabanit, you have the floor and please indicate what -- even Mr Bourgon

19 indicated several alternatives, what would you like to, to prefer.

20 MS RABANIT: [12:45:29] Thank you, Mr President. I have three very quick points.

21 (Redacted)

22 (Redacted)

23 Second, just to quickly respond on the surprise and the fact that this item will not be

24 on the list of items to use today. It hasn't been the practice of the parties to put

25 transcripts of testimony of witnesses in this case in the list of evidence. For example,

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1 the testimony of the accused has been referred to in detail and quoted and put to
2 questions to other witnesses. So it's not a departure from what is usually permitted
3 in this trial.

4 And there is no specific prejudice to the Defence or to this witness if I ask her to just
5 comment on the fact that someone else said something opposite to her. She can just
6 explain her point of view.

7 Yes, and sorry, I meant to ask also -- to also state that this exercise is purely an
8 exercise of reaction for cross-examination and nowhere in the statement is it said that
9 the witness discussed the age with (Redacted). So
10 given what she said today, it's important that we can react. We could not foresee
11 that she was going to say that today.

12 PRESIDING JUDGE FREMR: [12:47:09] So if I am -- if I understood well, you intend
13 to refer to some, some (Redacted), not to -- it's not revealing his or her identity, we
14 want to read out part of testimony or just to refer generally that he or she said
15 something and to summarise what he or she said?

16 MS RABANIT: [12:47:36] Well, I'm in your hands, your Honour, but I'm happy to
17 cite precisely the number of transcripts and what was exactly said in testimony.

18 PRESIDING JUDGE FREMR: [12:47:45] And last point before I will give floor to
19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 MS RABANIT: [12:48:32] Indeed, your Honour. We don't think that there is any
25 risk either.

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1 PRESIDING JUDGE FREMR: [12:48:36] And then is -- I would say, on behalf of the
2 Chamber, that it is always better then to be rather concrete if you want to challenge
3 somebody with a statement of the other person to say, okay, not somebody said
4 something, but Witness AB said, and quote, which in my view has stronger, stronger
5 value as a challenge, challenging mean.

6 Now, Mr Bourgon, do you want to reply?

7 MR BOURGON: [12:49:06] Yes, Mr President, briefly.

8 My colleague just referred to the practice of the parties. I think the S is -- should be
9 removed. The practice of the party, Prosecution, maybe. But I stand to be corrected,
10 but the practice --

11 PRESIDING JUDGE FREMR: [12:49:22] Sorry, Mr Bourgon, I just got some request
12 from Bunia. Witness, could be for a while excused. Yes, please, court officer,
13 convey this message that she could be released for a while.

14 And, now, Mr Bourgon, you may proceed.

15 MR BOURGON: [12:49:41] Thank you, Mr President. The practice of the Defence,
16 when referring to transcript or to -- of testimony or of statements has been to put on
17 the list the name of the applicable witness so that there would be -- no one would be
18 taken by surprise during the list of -- during the cross-examination.

19 In this case, my colleague mentions that there was an element of surprise and that
20 cross-examination is reactionary. That could be the case when a witness has just

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 PRESIDING JUDGE FREMR: [12:55:08] (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 PRESIDING JUDGE FREMR: [12:56:12] (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 MS RABANIT: [12:56:37] (Redacted)
- 16 (Redacted)
- 17 PRESIDING JUDGE FREMR: [12:56:56] (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 THE WITNESS: [12:57:18] (Interpretation) (Redacted)
- 21 PRESIDING JUDGE FREMR: [12:57:19] So welcome back. We will now continue
- 22 for not more than 10 minutes and then we will have longer break for, for lunch. So
- 23 please remain patient.
- 24 And now I am giving floor to Ms Rabanit who will proceed in her cross-examination.
- 25 Ms Rabanit, you have the floor.

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1 MS RABANIT: [12:57:37] Thank you, Mr President.

2 Q. [12:57:41] (Interpretation) (Redacted)

3 (Redacted) Do you

4 remember that?

5 A. [12:58:02] Could you put your question again, please.

6 Q. [12:58:18] Do you remember having told us the following -- I am quoting

7 transcript page 56 and, namely, lines 5 to 6 thereof. I asked you, and here I am going

8 to quote it in English: (Speaks English)

9 (Redacted)

10 (Redacted)

11 And you responded "Yes." Do you remember that?

12 A. [12:59:11] Yes.

13 Q. [12:59:13] (Interpretation) Madam, (Redacted) testified before this court a few days

14 ago, and I'm going to read part of the transcript of the testimony.

15 I am going to quote this for the benefit of the parties, (Redacted)page 85, lines 18, page 87,

16 lines 9. In fact, I will correct myself, page 87, lines 4 to 9. This is a question that's

17 put to the witness:

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 PRESIDING JUDGE FREMR: [13:01:37] And now, Ms Rabanit, you should probably

25 put your own question, whether you want confront or comment. But not -- you

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1 should finish in some way.

2 MS RABANIT: [13:01:47] Absolutely. Sorry, Mr President. (Overlapping
3 speakers) I was getting, I was getting there. It is because of the languages I have to
4 switch (Overlapping speakers) go back to French.

5 THE WITNESS: [13:02:11] (Interpretation) When they were joking, people could say
6 that "You shouldn't joke with me, I am not of your age." And that's exactly what
7 happened.

8 THE INTERPRETER: [13:02:26] Your Honour, the Witness was speaking at the same
9 time as Counsel Rabanit, so the Swahili booth could not understand everything, could
10 not hear everything.

11 PRESIDING JUDGE FREMR: [13:02:38] Yes. It was completely my fault. I just
12 contributed to some misorganisation.

13 So, Ms Rabanit, probably fine to put your question again, or rephrase. It's up to you.

14 MS RABANIT: [13:02:53] Thank you, Mr President.

15 Q. [13:02:58] (Interpretation) (Redacted)

16 (Redacted)

17 (Redacted)

18 A. [13:03:30] When the neighbours -- when the children of the neighbours and your
19 children are actually raised by yourself and they are talking of something, you will
20 understand them.

21 Q. [13:03:52] Sorry, madam, this is perhaps an interpretation problem. All I am

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 A. [13:04:25] (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 Q. [13:04:54] (Redacted)
- 4 (Redacted)
- 5 A. [13:05:19] (Redacted)
- 6 (Redacted)
- 7 Q. [13:05:29] (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 A. [13:05:53] (Redacted)
- 11 Q. [13:05:58] (Redacted)
- 12 A. [13:06:07] (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 Q. [13:06:29] (Redacted)
- 17 (Redacted)
- 18 A. [13:06:45] (Redacted)
- 19 (Redacted)
- 20 MS RABANIT: [13:07:00] (Microphone not activated)
- 21 PRESIDING JUDGE FREMR: [13:07:01] Mr Bourgon.
- 22 MR BOURGON: [13:07:03] Mr President, if we can lower the volume just for one
- 23 quick minute.
- 24 PRESIDING JUDGE FREMR: [13:07:09] Because I believe I will -- I can release
- 25 Madam Witness. Because we will have break anyway. So is any problem if I will

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1 release Madam Witness?

2 MR BOURGON: [13:07:19] No, Mr President.

3 PRESIDING JUDGE FREMR: [13:07:21] All right.

4 So court -- no, Madam Witness, thank you very much for the moment. We will now
5 break and we will take, and you as well, our lunch. And we will continue at half
6 past 2. So now you are free and you can leave the transmission room with the
7 assistance of court officer.

8 THE WITNESS: [13:07:47] (Interpretation) Thank you.

9 PRESIDING JUDGE FREMR: [13:07:48] You may proceed, Mr Bourgon. And
10 should we remain in private or could we?

11 MR BOURGON: [13:07:57] I believe we have to remain in private session,
12 Mr President.

13 PRESIDING JUDGE FREMR: [13:07:59] All right.

14 MR BOURGON: [13:07:59] I appreciate the question put by my colleague, the last
15 question, whether this witness knew that Witness D-17 had testified. We made
16 really a point of ensuring that these two witnesses would not know that each other,
17 that the other one had testified. This should have been the first question put to the
18 witness before going any further.

19 And I indicated earlier, Mr President, that we should also have -- it would have been
20 better, in my view, to verify whether there was any animosity between them.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 PRESIDING JUDGE FREMR: [13:08:53] Mr Bourgon, I think no need, it's -- point is

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1 clear. I will just ask Ms Rabanit.

2 Ms Rabanit, I know that Mr Bourgon can't dictate you what questions you should put.

3 But otherwise I would put such a question because I believe that for the truth finding

4 it would be better. So are you willing to put this question yourself, or otherwise I

5 will put it myself?

6 MS RABANIT: [13:09:12] Of course, Mr President.

7 PRESIDING JUDGE FREMR: [13:09:15] All right. No problem. Anything else,

8 Mr Bourgon?

9 MR BOURGON: [13:09:18] Well, it is much more for the witness, because she should

10 know why suddenly we are giving names of witnesses, because we told her many

11 times we are not giving names of witnesses, so now the witness must be surprised

12 that we are referring to witnesses. Because we made a point, and VWS makes

13 a point, repeatedly to tell witnesses you will not know who are the witnesses before

14 this Court. And that's important for her because now she must be wondering how

15 (Redacted)

16 Thank you.

17 PRESIDING JUDGE FREMR: [13:09:57] Mr Bourgon, I don't have the same feeling

18 like you.

19 Now let's move into open session.

20 (Open session at 1.10 p.m.)

21 THE COURT OFFICER: [13:10:11] We're in open session, Mr President.

22 PRESIDING JUDGE FREMR: [13:10:15] Thank you, court officer. And please could

23 you inform us about the time so far used by Ms Rabanit. It will not be, probably, too

24 much time.

25 THE COURT OFFICER: [13:10:24] The Prosecution has used 20 minutes so far.

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1 PRESIDING JUDGE FREMR: [13:10:27] So in according with our general rule you
2 still have one hour 10 minutes, roughly. Could you at this moment, Ms Rabanit,
3 envisage whether it will be enough for you to complete your cross?

4 MS RABANIT: [13:10:40] I can't. I can do that when I come back from the break. I
5 just want to stress that there is quite a large part of the statement that hasn't been
6 covered by the Defence for reasons that are of use to us. But this part may be of
7 interest for us. So just, just for this it may be I need the whole time or a little bit more,
8 but I will inform the Chamber as I come back from the break.

9 PRESIDING JUDGE FREMR: [13:11:06] All right.

10 So now we break and we will reconvene at half past 2.

11 THE COURT USHER: [13:11:11] All rise.

12 (Recess taken at 1.11 p.m.)

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

14 THE COURT USHER: [14:31:56] All rise.

15 Please be seated.

16 PRESIDING JUDGE FREMR: [14:32:22] I believe there are no changes in
17 appearances, so we, then we can continue with the last part of cross-examination of
18 our witness, D-251, by Prosecution. Namely, by Ms Rabanit.

19 So, Ms Rabanit --

20 And Madam Witness, good afternoon. And I believe that it will be the last session
21 you have to be with us, so I believe that in two hours you will be free.

22 Now, Ms Rabanit, you have the floor, and I am just highlighting that we are in open
23 session. So I'm directing asking do you want to move into private?

24 MS RABANIT: [14:33:06] (Interpretation) Yes, your Honour. Thank you.

25 PRESIDING JUDGE FREMR: [14:33:11] And before that, still in open session, are

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1 you able to provide us with some estimation that you will be fine with the remaining
2 time or not? You believe so? You hope so?

3 MS RABANIT: [14:33:29] (Interpretation) I think the remaining time will be
4 sufficient. But I will not try -- I will not make any promises, but that is definitely my
5 intention to stick within the remaining time.

6 PRESIDING JUDGE FREMR: [14:33:54] All right. All right then. Let's move -- I
7 can't hear myself -- can you hear me? Now it's fine. All right.
8 Then let's move into private session.

9 (Private session at 2.34 p.m.) *(Reclassified partially in public)

10 THE COURT OFFICER: [14:34:04] We are in private session.

11 PRESIDING JUDGE FREMR: [14:34:19] Thank you, court officer.

12 Ms Rabanit, floor is yours.

13 MS RABANIT: [14:34:24] (Interpretation) Thank you, your Honour.

14 Q. [14:34:29] Witness, I'm going to ask you questions on what you said this
15 morning. I'm going to broach a subject on the operation in which you participated in
16 Mongbwalu. You do remember that we spoke about that this morning?

17 A. [14:34:51] Yes.

18 Q. [14:34:55] Let me just quote the transcript from this morning, and it's in the
19 French version, page 31. We asked you the following question, madam:

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 And you answered this morning:

24 "No. Amongst us there was no soldier who was 15 or below. Bosco did not accept
25 young people of this age."

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1 Madam, do you remember having said that this morning?

2 A. [14:35:43] Yes.

3 PRESIDING JUDGE FREMR: [14:35:48] Hold on. Yes.

4 Now, Mr Bourgon.

5 MR BOURGON: [14:35:49] Mr President, I would like to have a transcript

6 reference because the question was posed on the basis of Mongbwalu, but I believe

7 that the -- what we are quoting is not based on Mongbwalu but based on

8 (Redacted) I'd like to know which one my colleague is going for.

9 Thank you.

10 PRESIDING JUDGE FREMR: [14:36:13] Ms Rabanit.

11 MS RABANIT: [14:36:16] (Interpretation) I am referring to the group that

12 attacked Mongbwalu and the group that joined Dhego, and I'm referring to page 31

13 of the transcript from line 3 to line 9.

14 Q. [14:36:43] Madam Witness, do you remember having said that this morning?

15 A. [14:36:58] Could you please read the passage again?

16 Q. [14:37:04] Yes, of course. We asked you:

17 "Amongst all the people and soldiers, both male and female, that you met in Dhego,

18 were there children below 15 in this group? And you answered: "No. Amongst

19 us there was no person who was 15 or below that age. Bosco did not accept young

20 people of that age."

21 Madam, do you remember having said this?

22 A. [14:37:41] Yes.

23 Q. [14:37:46] Madam, I'm going to quote something from the statement provided

24 to the Defence - and for my opposing counsel it's paragraph 3 - in which you say the

25 following -- paragraph 63, sorry:

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1 "In Dhego we had many soldiers from our group and I think there were about 500
2 members of the UPC present here."

3 Is this right, madam?

4 A. [14:38:18] Yes. We were in large numbers. Yes, it is possible that this was
5 the figure.

6 Q. [14:38:28] Madam, you haven't -- you haven't been able to see each and every
7 person, right, in this group of 500 soldiers?

8 A. [14:38:41] Yes.

9 Q. [14:38:47] You haven't seen all of them?

10 A. [14:38:55] Yes. They were in really large numbers. It was very hard for me
11 to see each and every person.

12 Q. [14:39:04] And you did not know everyone, right?

13 A. [14:39:09] Yes.

14 Q. [14:39:13] And you haven't spoken to each and every soldier, right?

15 A. [14:39:19] Yes.

16 Q. [14:39:24] So you couldn't have known the age of each and every person; am I
17 not right, madam?

18 A. [14:39:37] I couldn't know the age of each and every person. It is just an
19 estimate.

20 Q. [14:39:50] You are right that each -- you did not see each and every person,
21 you did not see each and every person belonging to the group, so you weren't able to
22 make a personal estimate; am I not right?

23 A. [14:40:09] Yes.

24 Q. [14:40:13] Madam, I'd like to take you to the second part of the answer that
25 you gave this morning. I'm going to read it out to you. So the first part was as

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1 follows, and my question would be on the second part. You said:

2 "Amongst us there was no one who was 15 or below 15. Bosco did not accept young
3 people of this age."

4 My question is as follows: Did Bosco Ntaganda personally tell you that he did not
5 accept young people less than 15?

6 A. [14:40:57] Yes.

7 Q. [14:41:06] And did he state this age specially?

8 A. [14:41:25] He wasn't talking to me. He, as a high-ranking commander, he
9 was telling the troops. He said that the policy was to only induct people who were
10 of an age that can provide military service and who can travel with us.

11 Q. [14:41:55] I'm talking about 15 years, did he mention this age 15 years in
12 particular? Did he mention that to you? Or generally speaking?

13 A. [14:42:11] No. He was not talking to me in particular, it was during a
14 gathering. He said during this gathering that it was out of question to induct young
15 soldiers (Redacted) He preferred to have mature soldiers.

16 Q. [14:42:42] Madam, do you know the age below which you cannot recruit
17 soldiers according to this Court?

18 A. [14:43:18] Could you please repeat your question.

19 Q. [14:43:23] Do you know the age below which it is forbidden to recruit soldiers
20 according to the legislation of this Court?

21 A. [14:43:51] I cannot answer this question.

22 Q. [14:44:01] Do you know that Thomas Lubanga was convicted for the
23 recruitment of soldiers below the age of 15?

24 A. [14:44:18] Yes, I do know that.

25 THE INTERPRETER: [14:44:26] The interpreter corrects himself: The recruitment

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1 of child soldiers below the age of 15.

2 MS RABANIT: [14:44:40] (Interpretation)

3 Q. [14:44:43] I'm going to change the subject, madam.

4 Madam, (Redacted)

5 A. [14:45:04] Yes.

6 Q. [14:45:06] You could not oppose his orders; am I not right?

7 A. [14:45:18] Yes.

8 Q. [14:45:20] If you did not agree with his orders you had no means of going

9 against it and you had no recourse; am I not right?

10 A. [14:45:41] Could you please repeat your question?

11 Q. [14:45:44] (Redacted)

12 (Redacted)

13 (Redacted)

14 A. [14:46:08] Mr Ntaganda gave orders that he received from his superiors and

15 these orders were passed, handed down to people below the pecking order and these

16 orders were meant to be executed.

17 Q. [14:46:35] My question is slightly different, madam.

18 You as a soldier, if you did not agree with an order given (Redacted) by Bosco Ntaganda,

19 you had no recourse to this order; am I right or not?

20 A. [14:47:00] (Redacted)

21 (Redacted)

22 Q. [14:47:26] (Redacted)

23 (Redacted)

24 A. [14:47:50] (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 Q. [14:48:20] (Redacted)
- 3 A. [14:48:35] (Redacted)
- 4 Q. [14:48:38] (Redacted)
- 5 A. [14:49:02] (Redacted)
- 6 PRESIDING JUDGE FREMR: [14:49:12] Hold on. Hold on, Madam Witness.
- 7 Mr Bourgon.
- 8 MR BOURGON: [14:49:15] Asked and answered, but we have a second answer.
- 9 Thank you.
- 10 PRESIDING JUDGE FREMR: All right then.
- 11 MS RABANIT: [14:49:22] Mr President, to answer very briefly, I think on these
- 12 points, I should be allowed to stress a little bit those points, press her on those points.
- 13 PRESIDING JUDGE FREMR: [14:49:38] All right.
- 14 Q. [14:49:54] (Redacted)
- 15 (Redacted)
- 16 A. [14:50:12] (Redacted)
- 17 (Redacted)
- 18 Q. [14:50:34] (Redacted)
- 19 (Redacted)
- 20 A. [14:50:55] (Redacted)
- 21 Q. [14:51:02] (Redacted)
- 22 (Redacted)
- 23 A. [14:51:18] (Redacted)
- 24 (Redacted)
- 25 Q. [14:51:41] (Redacted)

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1 (Redacted)

2 A. [14:52:02] That's not true. It's completely untrue. I do not understand these
3 accusations.

4 Q. [14:52:14] Madam, there's a lot of shame that falls upon women who are
5 victims of rape in your community. Is that not true?

6 A. [14:52:46] I haven't understood your question.

7 Q. [14:52:53] I'll try and reword my question.

8 Women who are victims of sexual violence are -- sorry, I'm going to try and reword
9 my question again, and let me just take a minute.

10 So women who are victims of sexual violence feel a lot of shame in your community;
11 is that not right?

12 A. [14:53:27] If that had happened to me, I would have talked about it. And I've
13 come here to tell you the truth. I cannot lie. These accusations are completely false.

14 Q. [14:53:51] Who would you have complained to if this had happened to you at
15 that period of time?

16 A. [14:54:10] If I was victim of rape, I would have talked (Redacted) But this was
17 not my case. I had a love relationship (Redacted) It's the only person with whom
18 I've had this sort of relationship.

19 Q. [14:54:54] Madam, I'm going to quote your -- a part of your written statement
20 once again. It's paragraph 66 -- sorry, it's paragraph 76 in your written statement,
21 speaking of rape:

22 (Redacted)

23 (Redacted) Bosco Ntaganda was not such a commander."

24 So, madam, should I understand that there were such commanders in the UPC, such
25 type of commanders in the UPC?

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1 A. [14:56:13] I have never heard about relationships between various soldiers.

2 These were relations that were desired, which was the case between myself and

3 (Redacted)

4 Q. [14:56:33] Nevertheless, Abelanga was well known. It was a well-known fact
5 that Abelanga in the UPC was a rapist; is that not right?

6 A. [14:56:51] You have to make a distinction between a rumour and a fact. And
7 a fact that you witnessed. I personally cannot tell you something that I haven't seen
8 with my own eyes.

9 Q. [14:57:16] Yes, madam, you have to make a distinction between what you
10 heard from other sources and what you saw yourself. You can actually very simply
11 explain this. My question is as follows: Did you know or were you told that
12 Abelanga was a rapist?

13 A. [14:57:51] I was never a witness and I've never been told that Abelanga was a
14 rapist. I was at (Redacted) and Abelanga was elsewhere. (Redacted)
15 (Redacted)

16 (Redacted) But I can't tell you what happened outside
17 the station where I was posted.

18 Q. [14:58:29] Madam, in paragraph 48 of your declaration you are stating the
19 (Redacted)

20 you also quote Abelanga and you quoted him this morning as well. Do you
21 remember?

22 A. [14:58:56] Before Abelanga was the chief escort. (Redacted) he was
23 transferred to another location and he became an officer.

24 Q. [14:59:22] Madam, this morning, I'm going to quote the transcript in English,
25 in page 41, line 5 to line 8. We asked you a question and this is what you answered,

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- 1 PRESIDING JUDGE FREMR: [15:03:59] (Redacted)
- 2 (Redacted)
- 3 MS RABANIT: [15:04:08] (Interpretation) (Redacted)
- 4 Q. [15:04:11] (Redacted)
- 5 (Redacted)
- 6 A. [15:04:32] (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 Q. [15:04:54] (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 she joined (Redacted)."
- 13 Can you confirm this?
- 14 A. [15:05:17] Yes.
- 15 Q. [15:05:40] Madam, this morning you spoke of (Redacted)
- 16 (Redacted) called (Redacted) And for the Defence, that's on page 24.
- 17 Do you recall that, madam?
- 18 A. [15:06:02] Yes, I know (Redacted)
- 19 Q. [15:06:09] And when, according to you, did (Redacted) join the group of
- 20 (Redacted)?
- 21 A. [15:06:54] I don't know when she joined the group of. (Redacted)
- 22 (Redacted). I don't know when she was part of
- 23 this group of (Redacted).
- 24 Q. [15:07:26] Do you know that -- you know that (Redacted) was part of
- 25 (Redacted) earlier in 2002; is that correct?

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1 A. [15:07:43] Yes.

2 Q. [15:07:58] Coming back now to (Redacted) this morning you told us that (Redacted)

3 (Redacted) is that correct?

4 A. [15:08:14] Yes.

5 Q. [15:08:29] (Redacted)

6 (Redacted)

7 A. [15:09:27] They all went.

8 THE INTERPRETER: [15:09:32] Correction from the Swahili booth: Both of them

9 went.

10 MS RABANIT: [15:09:49] (Interpretation)

11 Q. [15:09:54] How do you know that, madam, that (Redacted)

12 (Redacted)

13 A. [15:10:12] (Redacted)

14 (Redacted)

15 Q. [15:10:27] (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 Can you confirm all of that?

20 A. [15:10:55] Yes.

21 MS RABANIT: [15:11:08] (Redacted)

22 (Redacted)

23 (Redacted)

24 PRESIDING JUDGE FREMR: [15:11:17] (Redacted)

25 (Redacted)

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1 (Redacted)

2 MS RABANIT: [15:11:57] (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 So, in our submission, we should be able to put to this witness something that she

9 says people have told her, when those people have said something different

10 (Redacted)

11 (Redacted). And she testified to those very private facts herself,

12 so there is no risk either to the dignity or to the security of other people involved, in

13 our submission, and we think for, to give her the opportunity to give her version on

14 two very specific stories, it would be better if we can give her the identity of this

15 person. And this item is on the list of evidence.

16 PRESIDING JUDGE FREMR: [15:13:07] Yes. But you, you would, anyway would

17 like to remain in private session?

18 MS RABANIT: [15:13:11] Yes.

19 PRESIDING JUDGE FREMR: [15:13:15] Defence, your position?

20 MR BOURGON: [15:13:17] Thank you, Mr President.

21 One thing I will say is that the item is on the list of evidence or items the Prosecution

22 intends to use in cross-examination. We oppose this request.

23 Mr President, the paragraph 34 of the decision on the conduct of hostilities -- sorry,

24 conduct of proceedings on paragraph 34 states that, "when referring to another

25 witness's testimony or previous statements the parties and participants" and then it

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1 goes on.

2 "Witness" in paragraph 34, Mr President, refers to witness in this case. And

3 witnesses in this case, the definition of witness has been elaborated upon by the Trial

4 Chamber in at least one other protocols and, more recently, we had an issue dealing

5 with what is a witness.

6 Mr President, to put the testimony of a witness in a different case is absolutely

7 inappropriate. If the Prosecution had wanted to use the testimony of a witness in

8 another case, it would have need to put -- get a statement from that witness. In this

9 case the Prosecution had ample time to do so. So whether it is reactionary or not,

10 they had two months since they have the testimony of -- since they have the statement

11 from this witness.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 The same applies to the Prosecution. They cannot go into another case and get

18 testimony from another case.

19 On a couple of occasions I did attempt to refer to the Lubanga judgment and I was of

20 course precluded from doing so by the Chamber, saying that another case is another

21 case.

22 So in order to use the testimony of a witness in another case, whether it's public,

23 whether it's private, whether it is inappropriate, Mr President, that should not be

24 allowed. And then -- because, if it is allowed, then of course the -- everything, all the

25 questions that we put based on the information we had on (Redacted) would also

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1 have to be taken into account. We would simply overburden the record with
2 something that is not necessary.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 unfair to the witness, it is prejudicial to the witness, and should not be allowed.

7 Thank you.

8 PRESIDING JUDGE FREMR: [15:16:57] Thank you.

9 Ms Rabanit, do you want to add anything?

10 MS RABANIT: [15:17:01] Thank you, Mr President.

11 Very quickly, first this is testimony under oath in another case and counsel, Defence
12 counsel knows that many statements have been put to witnesses that were taking for
13 another case. This actually already arose when the Prosecution put to
14 Bosco Ntaganda the testimony of Peter Dz'ho in the Lubanga case, and it was
15 accepted and it was used during the testimony of Mr Ntaganda.

16 PRESIDING JUDGE FREMR: [15:17:40] Yes.

17 And Mr Bourgon, please briefly as well.

18 MR BOURGON: [15:17:44] Well, again, Mr President, my colleague likes to refer to
19 the practice of one party in this courtroom. The fact that testimony was used when
20 the accused testified, and the person who was referred to, we objected at the time and
21 the Trial Chamber overruled us. This was the accused and the Trial Chamber,
22 I don't recall exactly what the ruling was, but we certainly objected and we object
23 again, because it is inappropriate to take testimony from a different case.
24 The Prosecution, if they had wanted to do something, my colleague refers to the fact
25 that there are something like testimony of witnesses that was taken under oath.

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1 Yes, there are different rules based on Rule 68, 68(2)(b), 68(2)(c), 60. That all exists,
2 but you have to go through the motion of taking the statements.
3 They've had two years, the Prosecution has had two years. If they wanted to
4 contradict or to show that the evidence that we -- that they apparently have in their
5 possession contradicts the witness and contradicts (Redacted), they
6 had all the time in the world to do so. To allow the Prosecution to do so at this 11th
7 hour of the last witness in this block is simply inappropriate, prejudicial, and should
8 not be allowed.

9 Thank you, Mr President.

10 PRESIDING JUDGE FREMR: [15:19:20] Thank you.

11 No. No need for further submissions. I will briefly consult my colleagues because
12 seeing there is a great difference in parties' approach to that issue.

13 (Trial Chamber confers)

14 PRESIDING JUDGE FREMR: [15:20:10] So after brief silent deliberation in the
15 courtroom our ruling is that the objection is overruled. We really don't see any
16 prejudice if one party is -- wants to challenge a witness with a reference to testimony
17 before this Court in another case.

18 And a very brief remark to Mr Bourgon's reference to our argument that another case
19 is another case. Yes, we said that, but we said about the judgment, because we really
20 can't be bound by some arguments expressed in different judgment.

21 So to be brief, we share argumentation presented by Prosecution.

22 Mr Bourgon.

23 MR BOURGON: [15:20:57] Thank you, Mr President. I understand that this is an
24 issue that is taken up in cross-examination that I did not look up into. I certainly
25 intend to request time for re-examination tomorrow, after I have had a time to look at

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1 (Redacted)

2 And that way I will have sufficient time to do so.

3 Thank you, Mr President.

4 PRESIDING JUDGE FREMR: [15:21:23] Mr Bourgon, you for sure have such a
5 right, but I am not guarantee that we will accept your request.

6 Now please let's move.

7 And yes, so Ms Rabanit, please proceed.

8 MS RABANIT: [15:21:37] I'm grateful, Mr President.

9 PRESIDING JUDGE FREMR: [15:21:47] Please hold on. Because I see gesture
10 from our court officer. There is probably some obstacle to proceed.

11 Now we can proceed.

12 MS RABANIT: [15:22:00] Merci, Mr President.

13 Q. [15:22:09] (Interpretation) Madam, do you know that (Redacted) testified for the
14 Defence in the case of Mr Lubanga?

15 A. [15:22:36] I don't know.

16 Q. [15:22:48] I will quote to you what he said on the subject of the matter we've
17 been discussing. (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 A. [15:24:10] (Redacted)

2 (Redacted)

3 PRESIDING JUDGE FREMR: [15:24:50] In the meantime, one addition to the
4 transcript, English version, page 92, line 24, 25, "you for sure have right" to make such
5 a request. So those words are missing, "you have right to make such a request".
6 Ms Rabanit, please proceed.

7 MS RABANIT: [15:25:13] Merci, Mr President.

8 PRESIDING JUDGE FREMR: [15:25:21] And sorry, the rest of the sentence was not
9 "I am not guaranteed" but "I can't -- I cannot guarantee that we will accept". Now it's
10 complete.
11 Please proceed.

12 MS RABANIT: [15:25:43] (Interpretation) Thank you, your Honour.

13 Q. [15:25:47] Madam, when you were in the UPC there was a conflict between the
14 Lendu and the Hema; is that correct?

15 A. [15:26:05] Yes.

16 Q. [15:26:06] And this was also the case when you were (Redacted)
17 is that correct?

18 A. [15:26:17] Yes.

19 Q. [15:26:22] And you yourself are Hema Nord; is that correct?

20 A. [15:26:31] Yes.

21 Q. [15:26:33] Not today, but in your written statement you said that members of
22 your family had been killed in an attack on (Redacted) in 2002; is that correct?

23 A. [15:26:55] Yes.

24 Q. [15:26:58] And this attack had been launched by Lendu combatants, according
25 to you; is that correct?

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1 A. [15:27:14] Yes. Yes.

2 Q. [15:27:19] And this played a great role in your decision to join the UPC; is that
3 correct?

4 A. [15:27:34] Yes.

5 Q. [15:27:37] And you joined the UPC as part of a group made up mainly of
6 people of your ethnicity, Hema; is that correct?

7 A. [15:27:56] Yes.

8 Q. [15:28:02] And you knew that the UPC was going to fight to protect your
9 ethnic group; is that correct?

10 A. [15:28:16] Yes.

11 Q. [15:28:21] And you know that Bosco Ntaganda was dedicated to the protection
12 of your ethnic group; is that correct?

13 A. [15:28:35] Yes.

14 Q. [15:28:47] And you joined the UPC camp in Mandro a bit later; is that correct?

15 A. [15:29:13] I never worked in Mandro. I only passed through.

16 Q. [15:29:29] Were you in the UPC camp in Mandro?

17 A. [15:29:38] (Redacted)

18 (Redacted)

19 Q. [15:30:09] Were you in contact with recruits in the Mandro camp?

20 A. [15:30:23] I saw them, but I didn't undergo any training there. I did my
21 training elsewhere.

22 Q. [15:30:38] I'd like to read a part of your written statement, paragraph 26:

23 "My friends finished their military training, wore military uniform and each of them

24 had a weapon. And I was impressed and I wanted to do this military training in

25 Mandro. I spent a week with my friends, who shared some of their knowledge with

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1 me in terms of drills and handling weapons."

2 My question is as follows: During your training you learnt drills and you learnt to
3 handle weapons; is that not right?

4 A. [15:31:37] Not in Mandro.

5 Q. [15:31:41] And yet this is what is stated in your written statement. Would
6 you like to retract from it today?

7 A. [15:32:04] Please show me the page and tell me in which paragraph and if it's
8 really what I said.

9 Q. [15:32:15] I can actually restate it. It's paragraph 26, under the control of my
10 opposing counsel. It's in paragraph 26. With reference to Mandro, you said:

11 "My friends finished their military training, they were wearing the UPC uniform and
12 each of them had a weapon. This really impressed me and I really wanted to -- I
13 really had the desire to do this military training in Mandro. I spent a week with my
14 friends, who shared some of their knowledge with me on drills and on handling
15 weapons, on operating weapons."

16 You did not make any corrections to this paragraph during your preparation session
17 with the Defence; is that not right?

18 A. [15:33:13] It's true.

19 Q. [15:33:17] Madam, when were you in Mandro approximately in 2002? Was it
20 in the first part of the year or during the second part of the year?

21 A. [15:33:40] It was not in 2002. If I'm not mistaken, it was in 2003.

22 Q. [15:33:47] In paragraph 25 of your written statement you said the following
23 thing:

24 "One day, towards the end of 2002, after Lompondo was driven from Bunia, I went to
25 Mandro where I met my friends."

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1 So it was towards the end of 2002 that you were in Mandro, right?

2 A. [15:34:31] Yes, I think you're right.

3 Q. [15:34:32] And you were 17; is that not true? Madam, you were 17 at that
4 point of time?

5 A. [15:35:00] I do not remember.

6 Q. [15:35:02] You remember your birthday very exactly. You remember your
7 birthday, your birth month and your year of birth as well.

8 A. [15:35:17] Yes.

9 PRESIDING JUDGE FREMR: [15:35:25] Sorry to -- sorry to interrupt, Ms Rabanit.
10 Remember the date of your birthday. Could you tell us how did you get know
11 about the date of your birthday.

12 THE WITNESS: [15:35:39] (Interpretation) It's when I looked at my christening
13 card, my baptism card, that I got to know when my birthday was, and it's my parents
14 who kept that.

15 PRESIDING JUDGE FREMR: [15:36:09] Thank you, Madam Witness.
16 Please proceed, Ms Rabanit.

17 MS RABANIT: [15:36:16] (Interpretation)

18 Q. [15:36:17] Madam, shortly after you went to the military camp called
19 Tchomia?

20 A. [15:36:27] That's right.

21 Q. [15:36:30] Do you remember, was it before Christmas festivities or after?

22 A. [15:36:46] No further information on that one.

23 Q. [15:36:57] In Tchomia you were a basic soldier, to quote you; is that not right?

24 A. [15:37:09] That's right.

25 Q. [15:37:14] In fact, when you were part of (Redacted) you

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1 were -- you already had associations with the UPC for months; is that not true?

2 A. [15:37:41] For two months, right.

3 Q. [15:38:20] I am sorry, there is a difference between the French and the English
4 transcript, so just for clarifications I'm going to ask you the question again.

5 I asked you, I told you, in fact, that ever since you were (Redacted) it
6 was several months that you were associated with the UPC, and what was your
7 answer to that question?

8 THE INTERPRETER: [15:38:54] The interpreter -- the Swahili interpreter would
9 like to request the witness to repeat the answer because there is also an echo and it's
10 hard to hear.

11 PRESIDING JUDGE FREMR: [15:39:23] Madam Witness, we got message from the
12 interpreters that because of some technical problems they haven't caught your
13 response. Could you kindly repeat it again.

14 THE WITNESS: [15:39:42] (Interpretation) I was saying I went to Tchomia and I,
15 (Redacted) I came back to Centrale. And then I -- then to
16 Katoto and Bosco found me there. And then it took me practically two months and a
17 few days, in fact one and a half months.

18 MS RABANIT: [15:40:28] (Interpretation)

19 Q. [15:40:31] Madam, how would you describe the relations between
20 Bosco Ntaganda and Floribert Kisembo?

21 A. [15:40:51] Kisembo was the general chief of staff and Bosco Ntaganda was the
22 deputy general chief of staff. And it was the permanent head of staff that was above
23 that Bosco Ntaganda was supposed to follow his orders.

24 Q. [15:41:23] In fact I was talking about their relation, their personal relationships.
25 Did they like each other?

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1 A. [15:41:32] Yes. As a soldier there was mutual respect. They respected each
2 other.

3 Q. [15:41:42] I'm going to state paragraph 92 of your written statement, and this is
4 what you said: And to give you some context we're talking of an attack in Tchomia,
5 so you're the one saying it:

6 "I heard that, but I don't remember when, that Kisembo ordered Bosco Ntaganda to
7 launch this attack which was in fact a trap so that Bosco could be arrested by the
8 MONUC or killed by the enemy. Fortunately, Bosco Ntaganda did not participate in
9 this operation and this was not the first trap for Bosco Ntaganda by Kisembo."

10 PRESIDING JUDGE FREMR: Ms Rabanit, next time slow down a bit.

11 MS RABANIT: [15:42:38] My apologies to the interpreters.

12 Q. [15:42:53] Madam, given this information that you provided yourself, do you
13 maintain that the relations between Bosco Ntaganda and Kisembo were respectful?

14 A. [15:43:17] Yes.

15 Q. [15:43:20] This morning, madam, you said -- I'm going to completely change

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 A. [15:44:04] (Redacted)

20 Q. [15:44:20] (Redacted)

21 A. [15:44:28] (Redacted)

22 Q. [15:44:30] (Redacted)

23 A. [15:44:42] (Redacted)

24 Q. [15:44:45] (Redacted)

25 A. [15:45:18] (Redacted)

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- 1 Q. [15:45:21] (Redacted)
- 2 (Redacted)
- 3 A. [15:45:43] (Redacted)
- 4 Q. [15:45:45] (Redacted)
- 5 (Redacted)
- 6 A. [15:46:06] (Redacted)
- 7 Q. [15:46:10] (Redacted)
- 8 A. [15:46:23] (Redacted)
- 9 Q. [15:46:23] (Redacted)
- 10 A. [15:46:29] (Redacted)
- 11 Q. [15:46:38] (Redacted)
- 12 A. [15:46:50] (Redacted)
- 13 Q. [15:46:55] (Redacted)
- 14 (Redacted)
- 15 A. [15:47:22] (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 THE COURT OFFICER: [15:47:35] You have 10 minutes left.
- 19 MS RABANIT: [15:47:39] (Interpretation)
- 20 Q. [15:47:42] Madam, I'm going to read out paragraph 75 -- 96, sorry:
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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1 (Redacted)

2 Madam, do you confirm this information that you've given to the Defence?

3 A. [15:48:34] Yes, he helped us.

4 Q. [15:48:36] And he helped you because you had (Redacted); is that not?

5 A. [15:48:54] He helped us as if we were his own children.

6 Q. [15:49:14] And you are testifying for him because you have (Redacted) and
7 you feel that you owe him something because of the financial assistance he provided
8 to you; is that not?

9 A. [15:49:36] That's not it.

10 Q. [15:49:44] Thank you for having answered my questions. And thank you for
11 your time.

12 PRESIDING JUDGE FREMR: [15:49:52] Thank you, Ms Rabanit, for
13 respecting - and even sparing some time - respecting our time limit.

14 Now, I am turning to Ms Pellet. Ms Pellet, I have in front of me three topics you
15 indicated. Do you believe -- I see at least maybe under B still was not covered.

16 What is your position? Do you still see some topics that you should explore?

17 MS PELLET: [15:50:22] (Interpretation) Thank you, your Honour.

18 THE INTERPRETER: [15:50:31] The counsel is not audible. Could she please talk
19 louder, please. I can't hear the counsel. She's not audible.

20 PRESIDING JUDGE FREMR: [15:50:41] Sorry, Ms Pellet, the interpreters haven't
21 heard you. Please try to speak louder they said.

22 MS PELLET: [15:51:01] (Interpretation) Right. Given the answers that were
23 provided during the main examination and cross-examination, I withhold my
24 request.

25 PRESIDING JUDGE FREMR: [15:51:17] All right.

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1 Now Defence, do you have any request for redirect?

2 MR BOURGON: [15:51:25] Indeed, Mr President. And I believe it is necessary for
3 the witness to lower the volume so I can make my request for redirect.

4 PRESIDING JUDGE FREMR: [15:51:37] Understandable.

5 So court officer, please turn down the audio for a while. Is it done? Yes, it has been
6 done.

7 Mr Bourgon, please proceed.

8 MR BOURGON: [15:51:59] Thank you, Mr President.

9 Mr President, this is the third Defence witness in a row, and for the last two witnesses
10 it is my respectful submission that I was precluded to do my work in re-examination
11 due to time constraints. What I would like to suggest, Mr President, respectfully, is,
12 instead of asking for time, is to highlight the issues and get a ruling from the Chamber
13 whether the issues can or cannot be addressed, whether it is open for re-examination.
14 And then to get the proper time to address these issues. So this is what I would like
15 to do at this time, to highlight the issues I would like to take upon in re-examination
16 and get a ruling from the Chamber whether I can or cannot.

17 PRESIDING JUDGE FREMR: [15:52:48] Yes, you can come with issues. But still
18 we will have to give you some time limit because, you know, it's up to us, and up to
19 me mainly, to keep some control over duration of the trial.

20 So if we take into account time used by Ms Rabanit, if we -- and we will have to take
21 into account what topics, or new topics she brought, then in light of that we will
22 evaluate your request. So please, feel free to come with topics, and also your
23 estimation how much time you will need to cover them.

24 MR BOURGON: [15:53:19] Thank you, Mr President.

25 The first topic arose at page 79, lines 1 to 7, when it was addressed what

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1 Bosco Ntaganda would have said about the age of soldiers. It is an issue that I have
2 not addressed and I would like to address that issue with the witness because this
3 was not explored during the examination-in-chief. This is the first issue.

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 The next issue arose on page 82 where it was explored with the witness --

19 MS RABANIT: [15:55:27] I'm sorry.

20 PRESIDING JUDGE FREMR: [15:55:29] Ms Rabanit, is there really need to
21 interrupt Mr Bourgon?

22 MS RABANIT: [15:55:34] I'm very sorry, I wish I didn't have to, but I see the time
23 running, and I don't think that before ever we discussed the subject to be -- to be
24 treated in re-examination. So I'm just, I'm just wondering what is the goal of this
25 exercise?

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1 PRESIDING JUDGE FREMR: [15:55:51] Mr Bourgon - we will then hear to, to

2 Ms Rabanit - the fact that something hasn't been touched during the direct, it

3 shouldn't be decisive, decisive is whether the issues you would like to cover arose

4 during the cross. I think it's (Overlapping speakers)

5 MR BOURGON: [15:56:08] Well, this is exactly my point. It's an issue that arose

6 in cross that was not addressed in-chief.

7 PRESIDING JUDGE FREMR: [15:56:16] I will then give --

8 MR BOURGON: [15:56:18] And this, this has been our, the way we proceeded

9 since the beginning of this trial.

10 PRESIDING JUDGE FREMR: [15:56:22] Fine. But please finish, or complete your

11 submission.

12 MR BOURGON: [15:56:26] Thank you, Mr President.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Mr President, of course all of this could be avoided if the statement had been in, and

23 then the Prosecution could have cross-examined on all of these issues. But the

24 statement was not put in evidence and we did not proceed to 68(3).

25 The next issue, Mr President, goes with page 98, lines 11 to 13. And what was

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1 addressed is what was happening, whether she was trained or not in Mandro. I did
2 not touch anything on this issue during examination-in-chief and I would like to
3 address this with the witness.

4 Equally, Mr President, on page 98 it was addressed in reading only one sentence out
5 of a paragraph as to the fact that the witness would have been a basic soldier in
6 Tchomia. It is an incomplete quote that was put to the witness. It is something that
7 I did not address in examination-in-chief and something that deserves to be
8 addressed in re-examination.

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 from the testimony in a different case. Other than the fact that we will consider
23 recalling the Prosecution witnesses to put to them all the testimony in the Lubanga
24 case, because if that's open, if that's fair game then we'll probably be asking for a
25 recall. But other than that I would like to have some time to look at the testimony of

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 But again, to me, Mr President, we hear, we write, we argue, we plead that this is a
6 Court that is the search for the truth. Well, we have plenty of time, tomorrow is free
7 all day, and there's no reason, Mr President, to not to look and not to search for the
8 truth when we have an opportunity to search for the truth.

9 It happened yesterday with Witness 243, it happened with Witness 0017. It is
10 important, Mr President, in our view, to explore these issues in the name of seeking
11 and searching for the truth. That is why I make this request at the present time.

12 Mr President, I believe that the best thing is to adjourn until tomorrow and I can do
13 everything in 45 minutes tomorrow morning. Thank you, Mr President.

14 PRESIDING JUDGE FREMR: [16:01:33] Thank you, Mr Bourgon.

15 Ms Rabanit.

16 MS RABANIT: [16:01:37] Thank you, Mr President.

17 Extremely quickly, because I don't want to take up the Court's time. The Defence
18 chose to examine this witness for only an hour and a half when he had said to the
19 Chamber it needed three hours and a half to do it. So it was the choice to broach
20 some subject and to put some subjects aside and he cannot now --

21 PRESIDING JUDGE FREMR: [16:01:57] Not Ms Rabanit -- Mr Bourgon I think
22 reacted and said that in fact you opened some issues that they didn't intend to touch.
23 So I think it has been answered by Mr Bourgon. Please proceed.

24 MS RABANIT: [16:02:08] The issues that I opened were because they were in the
25 statement, and the Defence was very aware that the Prosecution would go there.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 We submit that the -- sorry, the Defence should not be allowed to supplement its chief
10 examination when it itself elected to have a very short one by asking for a third of the
11 time more. And it should happen in no more than 10, 15 minutes and it should
12 happen today, as the Prosecution had to itself change its plans to go on for
13 cross-examination way earlier than it was supposed to, with the disclosure of the prep
14 notes way later than it was supposed to arrive.

15 PRESIDING JUDGE FREMR: [16:03:40] Thank you.

16 Give me a second, because it's clear that we have extremely different positions. I
17 will consult my colleagues.

18 (Trial Chamber confers)

19 PRESIDING JUDGE FREMR: [16:04:56] So I will try to be brief. On the one hand,
20 we can agree with Ms Rabanit that Defence knew about some topics that they
21 intentionally didn't cover. But at the same time, the purpose, purpose of redirect is
22 also to react on cross.

23 According our protocol on conduct of proceedings, the cross is not strictly limited to
24 the issues touched in the direct. So you had full right to go further and you went
25 further. But now, in our view, Defence also have a right to react on that.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 For example, if she said "I don't remember", "I don't know", it, in our view, doesn't
7 make any sense to explore those areas again.

8 So we will not -- and we see the problem to set up any time limit. We still believe

9 that something about 30 minutes should be, should be enough. We will anyway

10 start today and if, if such a need will arise we will continue tomorrow morning.

11 But even Prosecution can be on alert and if the question obviously will go beyond the

12 scope and topics touched by Ms Rabanit, you can object and we will, we will decide.

13 So now, Mr Bourgon, are you ready to start with your redirect?

14 MR BOURGON: [16:07:17] Yes, Mr President. I am.

15 PRESIDING JUDGE FREMR: [16:07:20] So please proceed, and we are still in

16 private session.

17 And anyway we will finish, we will adjourn today at half past 4.

18 MR BOURGON: [16:07:37] Can we ask the witness to --

19 PRESIDING JUDGE FREMR: [16:07:41] Madam Witness, we had to discuss some

20 procedural issues, so there are still last 20 minutes for today before us. Are you

21 ready to continue for last 20 minutes today? But we probably then continue with

22 maybe few minutes tomorrow as well. But for today, it's last 20 minutes. Do you

23 understand?

24 THE WITNESS: [16:08:08] (Interpretation) Yes.

25 QUESTIONED BY MR BOURGON: (Interpretation)

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1 Q. [16:08:21] Thank you, Madam Witness. I have some questions to ask you
2 arising from Prosecution's cross-examination.

3 So page 79, 1 to 17, in this part of the statement you were asked whether
4 Bosco Ntaganda had spoken to you or in general with regard to the age of the recruits
5 that he wanted. And what you said was Bosco Ntaganda preferred to recruit mature
6 soldiers. That's what's there in the English transcript. So when Bosco Ntaganda
7 said that openly, that he wanted mature soldiers, what -- how did you understand
8 that statement?

9 A. [16:09:38] You had to be mature to go into the battlefield. If there would have
10 been children, they would have had difficulty. (Redacted)
11 (Redacted)

12 Q. [16:09:56] And according to your understanding, when does one move from
13 being a child to being mature? At what age?

14 A. [16:10:16] From the age of 18.

15 Q. [16:10:19] My second question, madam, is something that you said on (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)

19 A. [16:10:58] (Redacted)

20 Q. [16:11:02] (Redacted)

21 A. [16:11:13] (Redacted)

22 Q. [16:11:21] Moving on to another subject, page 80, you were asked or it was
23 suggested to you that if you were not happy with an order from Bosco Ntaganda that
24 you had no choice but you had to follow the order. So my question is as follows:
25 (Redacted) you knew that this was against

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1 Bosco Ntaganda's instructions; is that correct?

2 PRESIDING JUDGE FREMR: [16:11:59] Hold on, Madam Witness.

3 Ms Rabanit.

4 MS RABANIT: [16:12:04] This issue doesn't arise from the cross-examination and it
5 was already asked in chief examination.

6 PRESIDING JUDGE FREMR: [16:12:14] Mr Bourgon, I have the same impression,
7 that absolutely the same question, and Madam Witness admitted that it was, it was
8 prohibited. But they did it anyway.

9 MR BOURGON: [16:12:36] (Redacted)

10 (Redacted)

11 PRESIDING JUDGE FREMR: [16:12:49] (Redacted)

12 (Redacted)

13 (Redacted)

14 MR BOURGON: [16:13:10] (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 PRESIDING JUDGE FREMR: [16:14:11] (Redacted)

2 (Redacted)

3 (Redacted)

4 MR BOURGON: [16:14:43] (Interpretation) Thank you, your Honour.

5 Q. [16:14:46] Madam, the question I would like to ask you is as follows: You

6 said in the transcript - and for the purposes of my colleague, it's page 80, lines 17

7 to 19 - you said it was difficult to go against orders received (Redacted) But

8 when you (Redacted) did you know that this was in

9 opposition to Bosco Ntaganda's orders?

10 A. [16:15:25] Yes, we did know. But we were adolescents at that time.

11 Q. [16:15:42] The next subject I'd like to raise with you, Madam Witness, is

12 something you said on page 81. (Redacted)

13 (Redacted)

14 (Redacted)

15 A. [16:16:22] (Redacted)

16 (Redacted)

17 Q. [16:16:31] (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 A. [16:17:19] (Redacted)

23 Q. [16:17:27] (Redacted)

24 (Redacted)

25 A. [16:17:47] (Redacted)

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1 Q. [16:17:50] (Redacted)

2 (Redacted)

3 A. [16:18:10] (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. [16:18:26] (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 A. [16:20:10] (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. [16:20:40] Moving on to another subject on page 98, it was suggested on the

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1 basis of your statement -- and I will read the statement which relates to Tchomia, and
2 the paragraph in your statement says that you were a basic soldier in Tchomia. And
3 that was, I think, paragraph 30. It was -- no, in fact the paragraph wasn't read out.
4 It was simply put to you that you were a basic soldier in Tchomia and you confirmed
5 this. So my question is as follows: When you spent time in Tchomia in a military
6 camp, did you receive a weapon?

7 A. [16:21:48] No.

8 Q. [16:21:51] Did you get hold of a uniform and if so, how?

9 A. [16:21:59] One of us had two military uniforms and she gave one to me.

10 Q. [16:22:15] So the first time you were given -- where were you given your first
11 UPC uniform officially?

12 A. [16:22:36] That was in Tchomia, and when I was in Katchoma (phon), I didn't
13 have one. When I arrived at (Redacted) I realised that there were good
14 uniforms and I was given one.

15 Q. [16:23:00] Did you have a uniform in Katoto?

16 A. [16:23:07] Yes.

17 Q. [16:23:12] Did you have a weapon in Katoto?

18 PRESIDING JUDGE FREMR: [16:23:17] Hold on, Madam Witness. Hold on,
19 Madam Witness.

20 Ms Rabanit.

21 MS RABANIT: [16:23:21] This has already been elicited. It's beyond the scope of
22 re-exam.

23 PRESIDING JUDGE FREMR: [16:23:30] Mr Bourgon.

24 MR BOURGON: [16:23:32] I don't believe so, Mr President. This issue was -- it
25 was suggested to the witness that in Tchomia she was a basic soldier, and my -- what

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1 I'd like to approach with the witness is the fact that she at that time had no weapons,
2 no uniform, and that she only received a uniform and weapon later.

3 PRESIDING JUDGE FREMR: [16:23:57] All right. Please go on.

4 Ms Rabanit.

5 MS RABANIT: [16:24:06] I'm sorry. I would just like to note for the record that
6 the witness (Overlapping speakers)

7 PRESIDING JUDGE FREMR: [16:24:09] The witness had a chance to hear that.

8 Yes, yes.

9 MS RABANIT: [16:24:14] --Mr Bourgon just explained to her.

10 MR BOURGON: [16:24:18] I will move on, Mr President.

11 PRESIDING JUDGE FREMR: [16:24:21] All right then.

12 MR BOURGON: [16:24:24] (Interpretation)

13 Q. [16:24:26] Now I would like to move to something that happened on page 101,
14 lines 22 to 25, and 102, 1 to 5. (Redacted)

15 (Redacted)

16 (Redacted)

17 A. [16:25:04] (Redacted)

18 Q. [16:25:17] It was explained to you today that (Redacted)

19 (Redacted)

20 MR BOURGON: [16:25:41] (Redacted)

21 PRESIDING JUDGE FREMR: [16:25:42] (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 MR BOURGON: [16:26:04] (Redacted)

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1 Q. [16:26:17] (Interpretation) Madam, there was a discussion of Mandro and
2 you said that you just passed through. And it was suggested to you that you
3 followed training in Mandro. That was on page 96 in the English transcript, it was
4 lines 2 to 12, for the matter of training. So my question is as follows: In Mandro, to
5 pick up on what you said, where you said you were passing through, did you have
6 any formal training in Mandro?

7 A. [16:27:14] No.

8 Q. [16:27:21] Thank you very much, madam.

9 PRESIDING JUDGE FREMR: [16:27:26] We still can adjourn. But I wouldn't like
10 to adjourn for five or ten minutes to bother witness. So, Ms Rabanit, but I'm not
11 pushing on you, do you want to make any recross? If yes, how much time you
12 would need?

13 MS RABANIT: [16:27:42] No, Mr President. We're done. Thank you.

14 PRESIDING JUDGE FREMR: [16:27:46] All right then. So it means that I think
15 there's no need to adjourn. I will have just -- yes, I will have just one question to
16 Madam Witness.

17 Madam Witness, have you ever heard the term or slogan "kupiga na kuchaji"?

18 THE WITNESS: [16:28:18] (Interpretation) Yes, I have heard this mentioned.

19 PRESIDING JUDGE FREMR: [16:28:24] And on what occasion you have heard this
20 slogan?

21 THE WITNESS: [16:28:44] (Interpretation) I saw nothing related to that. A soldier
22 can say this, but not carry them out. And our leaders didn't want us to loot. If it
23 had been permitted, then we would have done it.

24 PRESIDING JUDGE FREMR: [16:29:13] You went a little bit too fast. But now
25 we -- I will then just one step backwards and if you -- if I would ask you to explain me,

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1 what does it mean? So how do you understand this slogan? What does it mean?
2 Because I don't understand Swahili. So how would you translate or how would you
3 explain me what does it mean?

4 THE WITNESS: [16:29:47] (Interpretation) Kupiga na kuchaji is -- for example, in a
5 battle where you have attacked and you come to a place and then you loot. But this
6 was not allowed.

7 PRESIDING JUDGE FREMR: [16:30:02] Yes, I understood.

8 So if there are no further requests for some recross to my question, we can conclude
9 this testimony.

10 Madam Witness, I would like to thank you very much. I can imagine that was very
11 long day for you, but I appreciate that you patiently responded all and so many
12 questions put to you. And I believe that your testimony will assist the Chamber in
13 our effort to find the truth in this case.

14 (Redacted)

15 (Redacted)

16 may leave this transmission room. Thank you very much.

17 THE WITNESS: [16:31:03] (Interpretation) Thank you.

18 (The witness is excused)

19 PRESIDING JUDGE FREMR: [16:31:05] Before we adjourn, are there any further
20 requests for the floor?

21 Mr Bourgon, please.

22 MR BOURGON: [16:31:12] Thank you, Mr President. I indeed wish to put a
23 request forward respectfully to the Trial Chamber. I mentioned it yesterday during
24 my -- when responding to the questions during the status conference. However, on
25 the transcript 257 in English, page 91, line 15, to page 92, line 9, my colleague from

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1 the Prosecution was addressing the issue of timing for a rebuttal. Now, we have on
2 the record here, and I quote:

3 "And there is a pending decision that the Prosecution has filed with the Chamber
4 ex parte for which we require a response, respectfully, before we can conclude
5 whether that is a rebuttal point for us or not."

6 I did say yesterday, Mr President, that this was a serious source of concern for us, that
7 there would be ex parte submissions made by the Prosecution on an evidentiary
8 matter as to whether something does or does not constitute a - as was mentioned by
9 my colleague - rebuttal, which can be rebuttal evidence for the Prosecution.

10 I know that ex parte submissions are much more used before the International
11 Criminal Court than everywhere else I have practised, but on evidentiary matters,
12 I would imagine, Mr President, that it is not the norm for ex parte proceedings to take
13 place on evidentiary matters.

14 So we would request at this time, respectfully, Mr President, that the Defence be
15 informed, whether in some kind of redacted form, as to what this request is about and
16 to have an opportunity to play a meaningful role in this debate. If it deals with
17 evidence, and if it deals with rebuttal before the Prosecution has even made an initial
18 submission, we believe that we should -- the Defence should be involved, and that is
19 required in order to protect the rights of the accused.

20 Thank you, Mr President.

21 PRESIDING JUDGE FREMR: [16:33:45] Ms Samson, probably, do you want to
22 comment that?

23 MS SAMSON: [16:33:48] Certainly, Mr President. Well, as the Chamber is aware,
24 as we've argued previously in relation to detention centre litigation, there are
25 appropriate moments at which parties may bring filings on an ex parte basis. It's up

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1 to the party to justify that classification and it's ultimately up to the Chamber to agree
2 and approve it.

3 What I can indicate to the Defence at this time is that the Chamber, via the filing, is
4 not adjudicating on evidence. It is adjudicating a procedural - if I may call it
5 that - point. And we maintain the ex parte classification for that filing. When the
6 Chamber adjudicates, it will determine whether or not the ex parte classification
7 should remain.

8 Thank you.

9 PRESIDING JUDGE FREMR: [16:34:43] Yes, I can't see -- can't say more. In fact,
10 I can confirm at this stage what now just has been said by Ms Samson. But I can, in
11 order to react to your request, return back to that with my colleagues, whether there is
12 some reason for reconsideration. If yes, we will react accordingly.

13 Now, so I think we in fact completed this evidentiary block. And before we adjourn,
14 I would like to take this opportunity and on behalf of the whole Chamber thank all
15 who supported us devotedly the whole year. I mean the interpreters and court
16 reporters. And I am aware that sometimes it was not easy with us, especially with
17 me. I also thank security officers who guaranteed our security last 12 months. I
18 also thank court ushers and court officers, who provided very reliable service to us as
19 well.

20 I also have to thank parties. It might be just my subjective view, but I believe that
21 counsel of both parties and Legal Representatives of Victims fundamentally
22 contributed to the fact that proceedings before our Chamber was completing as it
23 should be, but at the same time fair, expeditious and dignified.

24 So I thank you and I wish all of you, including Mr Ntaganda, Merry Christmas.

25 And now Court is adjourned.

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- 1 THE COURT USHER: [16:36:37] All rise.
- 2 (The hearing ends in private session at 4.36 p.m.)
- 3 RECLASSIFICATION REPORT
- 4 Pursuant to the Trial Chamber VI's Order, ICC-01/04-02/06-1887, dated 4 May 2017,
- 5 the public reclassified and lesser redacted version of this transcript is filed in the case.