

Trial Hearing  
WITNESS: DRC-OTP-P-0317

(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 3  
8 Friday, 3 February 2017  
9 (The hearing starts in open session at 9.34 a.m.)  
10 THE COURT USHER: [9:34:34] All rise.  
11 The International Criminal Court is now in session.  
12 Please be seated.  
13 PRESIDING JUDGE FREMR: [9:35:04] Good morning, everybody.  
14 Court officer, please call the case.  
15 THE COURT OFFICER: [9:35:11] 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: [9:35:27] Thank you, court officer.  
20 Now appearances please in the usual order.  
21 MS LUPING: [9:35:33] Good morning, Mr President. Good morning, your  
22 Honours. Appearing this morning on behalf of the Prosecution are  
23 Ms Nicole Samson, senior trial lawyer; Selam Yirgou, case manager; Paolo Sacchi,  
24 assistant legal officer; and myself, Diane Luping, trial lawyer.  
25 PRESIDING JUDGE FREMR: [9:35:52] Thank you, Ms Luping.

1 Now, Defence, please.

2 MR GOSNELL: [9:35:56] Good morning, Mr President, your Honours.

3 Christopher Gosnell representing Mr Ntaganda this morning, assisted by

4 Margaux Portier and Victoria Cichalewska. Thank you.

5 PRESIDING JUDGE FREMR: [9:36:09] Thank you, Mr Gosnell.

6 Legal Representatives of Victims please.

7 MS PELLET: [9:36:16] (Interpretation) Thank you, your Honour. The former child

8 soldiers are represented by myself, Sarah Pellet, counsel with the Office of

9 Public Counsel for Victims.

10 MR SUPRUN: [9:36:30] (Interpretation) Good morning, your Honour, your

11 Honours. The victims of the attacks are represented by myself, Dimitri Suprun,

12 counsel with the Office of Public Counsel for Victims.

13 PRESIDING JUDGE FREMR: [9:36:45] Thank you, Ms Pellet.

14 Thank you, Mr Suprun.

15 The Chamber also notes the presence of a United Nations representative who, in

16 accordance with our decision number 888, will be present for the duration of this

17 witness's testimony and may make submissions if so authorised by the Chamber in

18 accordance with the guidance set out in our decision. Could you kindly please

19 introduce yourself for the record.

20 MR LAVIGNE: Thank you, Mr President. Your Honours, my name is Seth

21 Lavigne, legal representative for the United Nations.

22 PRESIDING JUDGE FREMR: [9:37:23] Thank you, very much. It is not the first

23 time we meet so I believe that there is no need to give you any guidance. You know

24 the procedure. Fine.

25 WITNESS: DRC-OTP-P-0317

1 (The witness speaks French)

2 PRESIDING JUDGE FREMR: [9:37:31] Madam Witness, good morning.

3 On behalf of the Chamber, I would like to welcome you to the courtroom. You are  
4 called to testify in the case against Mr Bosco Ntaganda. You will be asked questions  
5 both by the judges and lawyers in the courtroom and in this connection I would like  
6 to guide you as follows:

7 Please listen carefully to those questions. If you do not understand, feel free to ask  
8 for the question to be repeated. We want you to tell the truth and tell us what you  
9 saw, heard or sensed yourself. If you didn't see or hear it yourself but you found  
10 out in some other way, you should explain how.

11 Do you understand all this, Madam Witness?

12 THE WITNESS: [9:38:41] (Interpretation) I've understood. Thank you very much.  
13 It's not the first time that I have testified myself.

14 PRESIDING JUDGE FREMR: [9:38:47] I see. But it is my duty to provide you with  
15 the guidance as any -- to any other witness.

16 Now, as you are aware, you will be testifying publicly without protective measures,  
17 but we may move into private session for discrete portions of your testimony,  
18 should that be necessary.

19 Now, Madam Witness, you should find in front of you a piece of paper with the text  
20 of the solemn undertaking. Do you have it?

21 THE WITNESS: [9:39:29] (Interpretation) Yes, I have it.

22 PRESIDING JUDGE FREMR: [9:39:34] So please now make your solemn  
23 undertaking to tell the truth by reading out the declaration on this piece of paper.

24 THE WITNESS: [9:39:45] (Interpretation) I solemnly declare that I will tell the truth,  
25 the whole truth and nothing but the truth.

1 PRESIDING JUDGE FREMR: [9:39:56] Thank you, Madam Witness.

2 So it means you are now under oath. You need to be aware that it is an offence  
3 within the jurisdiction of this Court to give false testimony and again it is my duty  
4 to ask you whether you understand that.

5 THE WITNESS: [9:40:17] (Interpretation) Yes, I understand very well.

6 PRESIDING JUDGE FREMR: [9:40:24] And finally a few practical matters even if,  
7 as you said, you are familiar with the court procedure.

8 So the matters you should have in mind: Please speak clearly, speak in a slow pace  
9 to allow the interpreters to translate precisely everything. You should only start  
10 speaking when the person asking you the question has finished. And since your  
11 answers will be translated into English, it is also important to observe a pause of at  
12 least three seconds between the question and your answer in order to allow for  
13 translation.

14 If you have any questions during your testimony or if you feel that you need  
15 a break, do not hesitate to let us know by raising your hand and we will then give  
16 you the opportunity to speak.

17 Madam Witness, have you understood all that?

18 THE WITNESS: [9:41:36] (Interpretation) I have understood that well,  
19 your Honour.

20 PRESIDING JUDGE FREMR: [9:41:40] Good. And before we start with the  
21 testimony, the usual reminder for the parties about timing: Both parties have been  
22 allotted five hours each to examine the witness. And the Chamber also has taken  
23 note of the Defence notice of objections to the use or admission of certain documents  
24 and, as usual, we will address any such objections if and when they arise.

25 So now we can move to the testimony, but before that I see Mr Gosnell on his feet.

1 Mr Gosnell, you have the floor.

2 MR GOSNELL: [9:42:24] Mr President, while we are on the subject of objections,  
3 I am obliged to inform you that we received the proofing note for this witness  
4 yesterday evening at 9.06 p.m. It's 31 pages long. I have looked at it and I have  
5 attempted to digest it in the time since then, but I may request, from time to time,  
6 your indulgence to have additional time to take a position in respect of admission of  
7 some of the documents that the Prosecution may seek to tender. I just wanted to  
8 alert your Honours to that background and the reason why I may ask for additional  
9 time. Thank you very much.

10 PRESIDING JUDGE FREMR: [9:43:18] Ms Luping.

11 MS LUPING: [9:43:19] Yes, Mr President, your Honours, just briefly. Indeed, I  
12 have spoken to Defence counsel this morning in relation to this. We agree it is  
13 untimely. Unfortunately, due to the nature of the documents we needed to show to  
14 the witness, it was a perhaps longer witness preparation session than the ordinary  
15 witness. What we did for the purposes of this note was to listen in fact to the audio  
16 recordings to ensure that the note was as comprehensive and as accurate as possible.  
17 We erred on the side of taking almost close to verbatim notes to ensure that Defence  
18 counsel was able to properly understand precisely what the witness said in relation  
19 to each document.

20 Having said all of that, we do understand the Defence counsel's position on this.  
21 What I shall do is to endeavour to deal with documents earlier on this morning that  
22 should pose no surprises or difficulties for Defence counsel, including documents  
23 that have been used with previous witnesses. Those documents that are new, as  
24 such, I will seek to have them admitted after the break in order for counsel to have  
25 sufficient time to review the note in detail and to take an informed position on those

1 documents.

2 PRESIDING JUDGE FREMR: [9:44:37] For the moment, just briefly, the Chamber  
3 for sure doesn't find the situation ideal and, frankly saying, I don't think that the  
4 excuse provided could fully excuse such a conduct, because really 9 -- 9 o'clock is  
5 really, really late. So we will take it into account when an objection related to that  
6 arises, if any.

7 So now, Ms Luping, as I said, you have five hours. You have the floor.

8 MS LUPING: [9:45:16] Thank you, Mr President.

9 QUESTIONED BY MS LUPING:

10 Q. Good morning, Ms Bakar.

11 A. [9:45:20] (Speaks English) Good morning.

12 Q. [9:45:31] So, Ms Bakar, before we start, just one reminder that I would  
13 make - and that's really for both our sakes - is for both of us to try to speak as slowly  
14 as possible for the sake of the transcribers and the interpreters.

15 MS LUPING: [9:45:45] Mr President, your Honours, for the sake of efficiency and  
16 if there is no objection from Defence counsel, I would seek to lead the witness in  
17 relation to certain non-contentious aspects of her background.

18 PRESIDING JUDGE FREMR: [9:46:01] Ms Gosnell, any objection?

19 MR GOSNELL: [9:46:04] There is no objection unless it starts coming into the issue  
20 of timing of missions, in which case I would ask that there not be leading.

21 PRESIDING JUDGE FREMR: [9:46:13] All right.

22 Ms Luping.

23 MS LUPING: [9:46:14] Thank you, Mr President.

24 Q. [9:46:17] But first if you could state your full name for the Court. Could you  
25 state your full name for the Court.

1 A. [9:46:36] Sonia Bakar.

2 Q. [9:46:41] And are you known by any other name?

3 A. [9:46:45] (Interpretation) No. I am not called another name. However, as I  
4 have two passports, a French passport and a Turkish passport, the spelling of Bakar  
5 is different.

6 Q. [9:47:01] And what is your date of birth?

7 A. [9:47:05] 27 September 1963.

8 Q. [9:47:11] And where were you born?

9 A. [9:47:15] I was born in Istanbul, in Turkey.

10 Q. [9:47:23] Is it correct, Ms Bakar, that you are currently the coordinator of the  
11 rapid response mission planning and start-up unit of the emergency response  
12 section of the office of the High Commissioner for Human Rights?

13 A. [9:47:39] Yes, that's correct.

14 Q. [9:47:43] You studied at the University of Sorbonne, in Paris, from where you  
15 obtained a masters in European law and a diplôme d'étude approfondie in  
16 international law and the law of international organisations.

17 A. [9:48:06] Yes, that's correct.

18 Q. [9:48:08] And is it also correct you spent much of your career conducting  
19 investigations of human rights violations?

20 A. [9:48:18] Yes, that's correct.

21 Q. [9:48:24] And from 1992 to 1995 you worked for the Government of Armenia  
22 and amongst your various tasks and roles you helped to establish a human rights  
23 section within the Ministry of Foreign Affairs, which you headed up.

24 A. [9:48:45] Yes, that's correct.

25 Q. [9:48:50] From 1995 to 1996, you worked for the human rights office for the

1 Mission Internationale Civile in Haiti, initially in the legal department and then in  
2 the section dealing with the commission on peace and reconciliation.

3 A. [9:49:16] Yes, that's correct.

4 Q. [9:49:19] From 1996 to 1998, you worked as the chief of investigations for the  
5 Office of the High Commission for Human Rights in Burundi, investigating human  
6 rights violations, in particular massacres.

7 A. [9:49:42] Yes, that's correct.

8 Q. [9:49:44] From 1999 to 2001, you worked for the United Nations mission to  
9 Bosnia and Herzegovina, in Bosnia-Herzegovina, first on investigations of human  
10 rights violations committed by the national police and then as coordinator for the  
11 housing action team which helped minorities to return to their places of residence.

12 A. [9:50:15] Yes, that's correct.

13 Q. [9:50:24] From 2001 to 2002, you worked for the UN mission in Eritrea and  
14 Ethiopia as a human rights officer.

15 A. [9:50:41] Yes, that's correct.

16 Q. [9:50:44] From December 2002 to September 2006, you worked for the  
17 MONUC, the United Nations Mission in the Congo, in the Democratic Republic of  
18 the Congo.

19 A. [9:51:01] Yes, that's correct.

20 Q. [9:51:04] From 2002 to 2004, you were the head of the special investigation  
21 unit of the human rights section.

22 A. [9:51:15] Yes, that's correct.

23 Q. [9:51:17] And from 2005 to 2006, still in the Democratic Republic of the Congo,  
24 you were the deputy head of the human rights section.

25 A. [9:51:31] Deputy head of the division for human rights.



1 Q. [9:51:44] And November 2006 to June 2008, you worked for the office of the  
2 High Commissioner in Human Rights, essentially in your current capacity.

3 A. [9:52:00] Yes, that's correct.

4 Q. [9:52:03] And from June 2008 to January 2010, you worked as the deputy head  
5 of the human rights section of the United Nations Stabilisation Mission in Haiti, or  
6 MINUSTAH, before returning to your current position; is that correct?

7 A. [9:52:28] Yes, that's correct.

8 Q. [9:52:38] Now, Ms Bakar, I am now going to turn to the topic of the special  
9 investigation unit and your time with MONUC in the Democratic Republic of the  
10 Congo between 2002 to 2006. And you confirmed that you were the head of the  
11 special investigation unit of the human rights section. Could you explain to  
12 the Chamber how many staff at that time, so that's from 2002, roughly how many  
13 staff there were in the human rights section?

14 A. [9:53:19] Our section was composed of four persons: myself and another  
15 human rights officer, a national human rights officer, and an administrative assistant  
16 who was there on 50 per cent of the time.

17 Q. [9:53:42] Thank you. And that was the special investigation unit. And  
18 within the wider human rights section, could you explain how many staff there  
19 were, not only your unit but the entire human rights section?

20 A. [9:54:00] There were approximately 110 of us. There were periods when we  
21 recruited additional staff. During the electoral period in 2005, we had between 14  
22 to 16 officers. At the start we had 14, then we opened others, sub-offices, as it were.

23 Q. [9:54:27] And where were the human rights section offices during this period  
24 and how many were there?

25 A. [9:54:42] In each office there was at least one international officer, a national

1 officer, an administrative assistant, and in some there were up to six people. The  
2 offices were in Kindu, Kisangani, Lubumbashi, Mbuji-Mayi, Kasenyi, Bunia, Goma,  
3 Bukavu, Uvira, Matadi, Kananga, Gbadolite. Then we also opened offices or  
4 sub-offices, Kasenyi, Mahagi. And there might have been some that I forgot.

5 Q. [9:55:26] And when you first started in 2002, can you remember roughly how  
6 many offices there were and how many there were at the end in 2006?

7 A. [9:55:39] At the start I think there were 14 offices. At the end of 2006, the new  
8 offices were Kasenyi in Ituri, Mahagi in Ituri, and Matadi.

9 Q. [9:55:56] And when you arrived in 2002, where were you based, personally?

10 A. [9:56:02] I was based in Kinshasa but I carried out missions into the field.

11 Q. [9:56:26] And could you explain to the Chamber what was the mandate of the  
12 special investigation unit, what were its tasks.

13 A. [9:56:41] Well, its mission was to follow the human rights situation in the  
14 country through reports that we received in the field to identify the most serious  
15 human rights violations and to organise investigative missions with a pool of  
16 investigators who didn't just come from the human rights division but also from the  
17 section of -- the child protection section, the humanitarian section, the civil police  
18 section, and sometimes you had military observers.

19 I would also like to add, we organised training for human rights investigations and  
20 also for human rights officers and also for MILOBS and police who were in that  
21 pool of investigators for special investigations.

22 Q. [9:57:56] And can you explain what this training involved that you organised  
23 for these individuals, including from the military observers and civilian police who  
24 assisted at times with investigations. What exactly was this training?

25 A. [9:58:15] The training was into the theory of -- was on the theory of human

1 rights, international human rights law, humanitarian law, the way in which  
2 investigations are carried out, the way in which you have to operate when you are in  
3 the field, the role of different actors during the investigations. What was important  
4 for the report were the details, the role of forensics, the role of the forensic  
5 pathologist as well, and how to identify the perpetrators or suspected perpetrators  
6 or alleged perpetrators.

7 Q. [9:59:26] And in terms of the training that was provided in relation to how to  
8 conduct field investigations, could you provide more detail as to what that training  
9 involved.

10 A. [9:59:46] I'm sorry, I didn't understand the question, the substance.

11 Q. [9:59:53] You explained the kind of training that was offered to individuals,  
12 not only in the human rights section but also military observers, civilian police and  
13 others who assisted in investigations on occasion. And amongst the different types  
14 of training that you have listed, you included, as I understood it, training in relation  
15 to field investigations. Could you explain what that training involved? What was  
16 the training that was given by the human rights section on this topic of carrying out  
17 field investigations?

18 A. [10:00:37] That was what I was saying about this training. International  
19 human rights were dealt with, humanitarian human rights. We are also talking  
20 about the type of breaches you might encounter in the Congo. How to conduct  
21 interviews, that was a major chunk of the training in fact because we ran practical in  
22 situ interviews, how to run interviews with specific witnesses who have been subject  
23 to sexual violence or again dealing with children. How a team could be run.  
24 Things of that ilk.

25 Q. [10:01:21] And the training that was provided on how to conduct an

1 interview, could you provide more details about what that training involved?

2 A. [10:01:43] Well, we kind of organised a scenario for the person who would be  
3 playing the victim, the interviewee, and also the person playing the interviewer.

4 And we said the most important thing is to not put closed questions, to allow the  
5 victim to speak initially and then after to try and narrow things down a bit; to try  
6 and establish the psychological state of the victim; what had to be asked - the date,  
7 the place, the identity of the victim or other victims; how things went, the places,  
8 descriptions, physical descriptions of purported perpetrators; whether the victim, for  
9 example, had been subject to sexual violence; whether the victim had consulted  
10 a doctor, because sometimes we -- we did the follow-up work in cases of sexual  
11 violence. And then -- then we stepped in. Well, if you put a question this way,  
12 well, the question is a closed question and you need to put open-ended questions.  
13 That kind of thing.

14 Q. [10:02:58] And you stated before that there was also training provided on the  
15 issue of identifying alleged perpetrators. Could you explain a bit more about that.

16 A. [10:03:13] Yes. With regards to perpetrators, most times people didn't know  
17 the identity of alleged perpetrators and what we tried to establish or what we tried  
18 to get across to them is to get them to try and describe the person, the assailant, what  
19 were they dressed in, what language were they speaking, basically try to understand  
20 the modus operandi. In cases of groups attacks, for example, basically try to  
21 corroborate the same sets of information with other victims.

22 Q. [10:04:00] And the training that was provided by the human rights section,  
23 how long was this training? What was the usual time period?

24 A. [10:04:14] Five days.

25 Q. [10:04:17] And in terms of the human rights officers who you explained also

1 assisted on occasion with investigations, what was the usual background of these  
2 individuals, I mean in terms of qualifications and experience?

3 A. [10:04:40] Well, we took officers -- obviously, they had the most experienced  
4 investigators. Most of the human rights officers in peacekeeping missions in the  
5 various communities, they are legal people, maybe 10 percent who have done  
6 political science as their studies. But we choose basically people who'd already had  
7 experience in investigations, people who had been in Goma, for example, and we  
8 knew that those -- those people would be good material.

9 We also chose some colleagues. Myself, I did training with the Institute for  
10 International Criminal Investigations in The Hague. We also sent the person who  
11 was working with me to that same training section in addition to other colleagues.  
12 And in line with that there was also the high commissioner who organised training  
13 in investigations but that was later on.

14 Q. [10:05:38] And you have explained that at times for particular investigations  
15 you would need to bring in the assistance of other individuals and you've listed the  
16 different sections they came from, including the human rights section, child  
17 protection, the military observers, and civilian police, the United Nations police.  
18 When you brought together this larger team, what term would be used for this  
19 investigation team? I mean you had your own core special investigation unit. Did  
20 you call this larger team anything specific?

21 A. [10:06:28] Well, that team was called the special investigation team. And for  
22 a specific set of circumstances there are a number of special investigative teams.

23 Q. [10:06:57] And the special investigation team, this multidisciplinary team that  
24 you have described, when they conducted the investigations, who would be  
25 effectively supervising this team, this wider or larger team that you would bring

1 together for the purposes of your investigations?

2 A. [10:07:21] Well, it was supervised by the person who represented the special  
3 investigation unit in Ituri. Most times it was myself, but in other cases it was the  
4 person who was working with me.

5 Q. [10:07:41] So in terms of the investigations carried out in Ituri, just to clarify,  
6 are you stating that it was you who were supervising the special investigation  
7 teams?

8 A. [10:07:56] Yes, it was me who supervised the special investigative teams.

9 Q. [10:08:03] And for the periods of time that individuals from other sections,  
10 including the human rights officers, military observers, civilian police, any times  
11 when these individuals would assist in investigations and they would be part of  
12 your special investigation team, who would they report to during the course of these  
13 investigations?

14 A. [10:08:34] They would report to me.

15 Q. [10:08:37] And if they had any questions regarding the conduct of the  
16 investigations, who was coordinating them? Who was overseeing their work?

17 A. [10:08:54] I was the coordinator.

18 Q. [10:09:01] And you confirmed that it was from December 2002 that you  
19 started with the special investigation unit. When the special investigation unit was  
20 established, do you recall if there was any form of concept paper or background  
21 document that was produced to outline the intentions of the work of the unit and for  
22 the human rights investigations?

23 A. [10:09:36] Yes, of course that was drafted. There was a document that  
24 detailed what would be the terms of reference of the special investigative unit.

25 Q. [10:09:47] And do you know who had a role in the drafting of these

1 background concept papers in terms of the work of your unit and the section?

2 A. [10:09:59] It was me.

3 MS LUPING: [10:10:09] Mr President, your Honours, I will be guided by  
4 Defence counsel's views on this as well. I am proposing to show two documents.  
5 I don't have to seek to have them admitted at this stage. I do propose to show them,  
6 though, to the witness at this stage and I would refer to tab 29, DRC-OTP-0065-0268.

7 PRESIDING JUDGE FREMR: [10:10:34] Mr Gosnell, no objection?

8 MR GOSNELL: [10:10:38] That's not one of the ones we objected to, Mr President,  
9 indeed, so no objection.

10 PRESIDING JUDGE FREMR: [10:10:43] All right.

11 MS LUPING: [10:10:51] My apologies, Mr President, your Honours. I have just  
12 realised that as a matter of procedure and courtesy to your Honours, I should have  
13 asked for your authorisation this morning. I have discussed this with  
14 Defence counsel and seek your authorisation simply to expedite matters, because  
15 this is important for the Prosecution, an important document-related witness, we  
16 would seek to expedite matters by simply providing her with a copy of the identical  
17 trial binder that is available to all the parties and participants and to your Honours  
18 and to enable her to simply refer to the documents at the tabs rather than having the  
19 time to ask the court officer to call them up.

20 PRESIDING JUDGE FREMR: [10:11:32] Mr Gosnell, could you confirm that it is fine  
21 with the Defence?

22 MR GOSNELL: [10:11:35] I do confirm, Mr President.

23 PRESIDING JUDGE FREMR: All right, then.

24 MS LUPING: [10:11:36] Thank you, Mr President.

25 Q. [10:11:38] So, Ms Bakar, if you turn to the document first at tab 29, as referred

1 to, I would ask that you look at this document first, and when you have had  
2 a chance to look at it, to let me know if you recognise it

3 A. [10:12:07] Yes, I do recognise it.

4 Q. [10:12:12] And can you explain what it is?

5 A. [10:12:17] This is a document which details the terms of reference of the  
6 special investigation units, who is part of that, or those units, what's the  
7 responsibility of this unit, the establishing of a pool, how that's done, people from  
8 other sections who would be involved in the investigations, and the name given to  
9 each team that will be conducting the special investigations.

10 Q. [10:13:04] Thank you.

11 MS LUPING: [10:13:05] As I explained, I am not seeking to admit this yet. It will be  
12 at the end.

13 Q. [10:13:08] If you could please turn to tab 32. And if you could take a look at  
14 that document, that's DRC-OTP-0065-0274, and if you could let me know if you  
15 recognise that document.

16 A. [10:13:45] Yes, I recognise that document.

17 Q. [10:13:57] And can you explain what that is?

18 A. [10:14:05] This document details the various missions that were run in the  
19 Ituri region between July 2002 and June 2003. You will find in this document  
20 missions that were done before the establishment of the special investigation unit.

21 Q. [10:14:30] And are you aware who drafted this document?

22 A. [10:14:41] I think so, yes.

23 Q. [10:14:42] And who do you believe drafted this?

24 A. [10:14:47] No, I didn't say that I hadn't written it, but I couldn't remember  
25 a hundred per cent that it was me. It could well have been a person working with



1 me who wrote it.

2 Q. [10:15:01] Do you recognise from which section this document would have  
3 been produced?

4 A. [10:15:09] The human rights section.

5 Q. [10:15:13] And have you seen this document before?

6 A. [10:15:18] Yes, I have seen it before.

7 Q. [10:15:25] If I could ask you, please, to turn to a document at tab 33, and that is  
8 DRC-OTP-0065-0270. And if you could please look at that document and let me  
9 know if you recognise it.

10 A. [10:16:11] I don't remember, but the way it is drafted, it's my kind of style of  
11 writing.

12 Q. [10:16:26] And do you recall having seen this document before?

13 A. [10:16:31] Yes, you showed it to me.

14 Q. [10:16:36] I showed it to you during witness preparation. And before you  
15 saw it in witness preparation, do you recall having seen the document before?

16 A. [10:16:45] Yes, yes, this one. Yes, I think I have seen it, even though I can't  
17 recall all the details, but ...

18 Q. [10:16:58] And you can put that to one side now, Ms Bakar. I have no further  
19 questions at this stage about this document or the other three -- the other two I have  
20 shown you.

21 Now, you have explained in some detail what your role was at this time. You have  
22 explained your role as coordinating the investigations. Could you provide some  
23 further detail to the Chamber as to what precisely your role and tasks were as the  
24 head of the special investigation unit.

25 A. [10:17:49] All right. Well, first, I arrived in the Congo in December 2002

1 when there was the Mambasa attack. And by talking with other colleagues, it was  
2 me who established the very first multidisciplinary team. And then we went into  
3 Mambasa. It was me who drafted the concept of operations for that unit. And  
4 I was responsible for the unit, which meant that I was responsible for cases that we  
5 construed to be grave violations and required special investigations.  
6 To do that I drafted the reports on what we saw in the field. We were in direct  
7 contact with the field, but first and foremost I -- in Ituri there was no human  
8 sections unit or even a MONUC office in those days, and that was the case until the  
9 summer of 2003.  
10 And I was also responsible for each mission that was conducted. We did nine in  
11 Ituri and only -- there was only one in fact that I didn't attend. It was in Uganda.  
12 All the others, I was the coordinator of the team. It was me who went over all the  
13 cases, all the questionnaires on the Excel sheet in order to draft the report. It was  
14 me who decided what type of report would be written. And aside from the child  
15 protection side, I drafted all the reports going to investigations in Ituri, in addition  
16 to the report bearing upon 2002/2003 violations.  
17 After, where possible, we tried to examine the perpetrators. We saw Bemba in  
18 Gbadolite, for example, but we weren't able, in all cases, to access the alleged  
19 perpetrators. In any case, it was very difficult -- would have been very difficult to  
20 do that. And one incident came hard upon the heels of the other. We had  
21 almost -- well, we'd barely finished investigations in Mambasa and there was a new  
22 massacre that had been perpetrated and that had to be tracked. It wasn't  
23 straightforward to do that.  
24 And then I went back to Kinshasa. The report was at Kinshasa, and then it was me  
25 who was involved when -- when the international community needed to be

1 reported to about these cases in addition to the press. We were there at all the  
2 MONUC press conferences and it was me, in most cases, who spoke to the press.  
3 In addition, we also tried to do the legal follow-up, and I was in direct contact with  
4 the military prosecutor's office located in Kinshasa but also in Bunia.

5 After Ituri, there were other investigations, special investigations in the south  
6 Kivus, in north Kivu, in the equator area. Sometimes it was me, sometimes it was  
7 a colleague who was working with me who got involved with that.

8 Q. [10:21:34] Thank you. And you have mentioned that in Ituri that your special  
9 investigation team or the special investigation unit that you headed up, there were  
10 nine investigations carried out. Could you describe for the Chamber, without going  
11 into too much detail at this stage because I will be asking follow-up questions in  
12 relation to these investigations, but could you explain to the Chamber what the nine  
13 investigations related to, where and when these investigations took place.

14 A. [10:22:16] Well, the first investigation was the Mambasa one. We saw  
15 displaced people in -- in safe areas, if I can put it that way, because the assailants  
16 weren't there. We were in camps in Oicha, Eringeti, Butembo, Beni.  
17 And then there was also an investigation at the end of March, beginning of April,  
18 and we went off to investigate the Bogoro massacre. But when we actually arrived,  
19 we met the Lendus who begged us to go off and see the Kobu, Bambu, Lipri axis, so  
20 that was the first investigation then. And the next day we went to Lipri to speak to  
21 the displaced persons.

22 Another investigation was in Mandro. Another one was the Drodro attack in April  
23 where there were two investigating teams in operation. Then in May, when the  
24 Ugandans withdrew, there were clashes in the city. We are in Ituri the end of May,  
25 beginning of June. We are in Uganda to meet the Ituri refugees in July, August,

1 and then throughout one of those missions we are in Aru-Arua and Mahagi.

2 I didn't go into the finer detail.

3 Q. [10:23:47] And I just note for the record that in the English transcript there are  
4 some reference to locations that are missing. I will refer to the French transcript  
5 where it appears to be captured. In the French transcript it states that "we saw the  
6 Lendu who begged us to go to see Kobu, Bambu, Lipri and the next day we were in  
7 Lipri for discussions with the displaced persons." Is that correct, Madam Witness?

8 A. [10:24:20] That's correct.

9 Q. [10:24:20] In the French we have "Kobu, Bambu, Lipri."

10 A. [10:24:28] That's right, yes.

11 Q. [10:24:32] And when you travelled to these locations, was it secure or did you  
12 have to have escorts?

13 A. [10:24:46] It wasn't safe at all. We needed an escort and unfortunately there  
14 were only six military observers who weren't armed at that time actually in Bunia.  
15 Bogoro, Mandro, Lipri, Kobu, et cetera, et cetera, all that we did with the Ugandan  
16 army escort.

17 Later on, in Uganda, of course there was no security issue. Mahagi, Aru, there was  
18 no problem -- security problem there either. In some missions we had a security  
19 officer accompanying us.

20 And then when we went -- well, we did Bunia and Beni in May and then we didn't  
21 need an escort for the city, but we did have a security officer with us.

22 MS LUPING: [10:25:32] I'm sorry, I just need to pause for about a minute,

23 Mr President, your Honours. My screen is broken. The court officer is aware of it;  
24 they are going to find someone to fix it. But I will just simply need to get some  
25 binders to prop it up because it is very hard to follow the transcript.

1 PRESIDING JUDGE FREMR: [10:25:51] Fully understandable. No problem.

2 MS LUPING: [10:26:24] So this is a makeshift in the courtroom.

3 THE WITNESS: [10:26:28] (Speaks English) Yes.

4 MS LUPING: [10:26:29]

5 Q. [10:26:29] Now, in relation to these nine investigations that were carried out,  
6 could you explain how it was that you identified the incidents for investigation.

7 What were your sources of information, your lines of enquiry?

8 A. [10:26:54] There are various sources of information. There were the national  
9 offices in Ituri. There was the human rights office. There was also the  
10 representative of the church for Mambasa. Everybody knew him. Padre Silvano,  
11 he had gone off to Uganda, and he talked hugely about what happened. There  
12 were also the military observers' reports. Initially, we didn't have access to them,  
13 but afterwards we struck up an agreement with the MONUC military wing to be  
14 able to access the daily reports drafted by the MILOBS, and it was on that basis that  
15 we decided to run investigations.

16 Q. [10:27:50] And the nine investigations that were carried out, for roughly how  
17 long would your missions be?

18 A. [10:28:05] About two weeks, 10 days, two weeks. But sometimes we went  
19 back. In Mambasa we went back to run additional investigations in Mambasa itself.  
20 Mambasa, maybe it was 20 days or so, but for the others, around two weeks.

21 Q. [10:28:34] And in terms of the timing of the missions, usually roughly how  
22 long after the incidents themselves had taken place would the investigation begin?

23 A. [10:28:50] Really it depended on the safety situation. With Mambasa, for  
24 example, we were there when the MLC army was there. They hadn't yet  
25 withdrawn at that particular point. With Bogoro, Mandro, it was about a month

1 after. For Kasenyi, it was perhaps two, three weeks after. In Uganda, it really  
2 depended, but it wasn't too long after the fact.

3 Having said that, when we were in the displaced person's camps to see people from  
4 Bogoro, for example, there were people from all over Ituri who were also providing  
5 information of incidents that were much older and so we also added in those  
6 incidents as well.

7 Q. [10:29:50] And just focusing on the nine investigations that were carried out in  
8 Ituri, can you estimate roughly how many witnesses in total the special investigation  
9 team would have met, together with those that were seconded to you from other  
10 sections?

11 A. [10:30:23] Approximately 1,600.

12 Q. [10:30:28] And the witnesses that you met, what type of witnesses were they?

13 A. [10:30:35] Well, there were all types. There were the victims, for example,  
14 certain victims of sexual violence, victims who were able to flee, victims who had  
15 been arrested, who had been freed, but there were a lot who were witnesses who  
16 were able to save themselves because, as most of them were in massacres, it  
17 wasn't -- you weren't able to see victims.

18 And for the protection of children, we saw child soldiers. We also saw family  
19 members who were able to make a list of members of their family who had been  
20 killed or who had disappeared. And we also saw the administrators, the chef de  
21 localité, representatives of companies such as Kilo-Moto, hospitals, doctors, NGO  
22 representatives, et cetera.

23 Q. [10:32:03] And the NGOs from whom you received information, were they  
24 limited to local NGOs or did you also receive information from international NGOs?

25 A. [10:32:18] Local and international, both.

1 Q. [10:32:25] Before you carried out an investigation, what kinds of  
2 pre-authorisations did you need to go to start an investigation and also to go into  
3 a specific area?

4 A. [10:32:39] What we did, we wrote a draft for the operation, a mission brief  
5 detailing what we were going to do, who was going to be present, what dates it was  
6 going to be. We needed security clearance and we also needed the agreement of the  
7 head of the human rights division and the chef de mission as well. Now, once we  
8 had security clearance - that was in Bunia - from Bunia you had to do an additional  
9 request in order to go outside of the town.

10 Q. [10:33:25] And other than authorisations from within the United Nations, did  
11 you have to get any other form of local authorisations to go into specific areas?

12 A. [10:33:38] Not Kinshasa authorisations. At the time the country was already  
13 divided in two so the Kinshasa government did not have authority over Ituri.  
14 However, in Ituri itself at the time, of course we had to ask for the authorisation  
15 from the Ugandan army. And what we did as well, we informed, if we were able  
16 to, the locality that we were going to come. And there would often be a Lendu or  
17 Hema representative, but it was the Ugandans. Our security, it was the Ugandans  
18 in Ituri, responsible.

19 Q. [10:34:31] And to what extent, if at all, did you have to liaise or coordinate  
20 with the armed groups in these areas that you were going to?

21 A. [10:34:48] Yes. In certain cases we had to coordinate that. In others we  
22 didn't need to because these armed groups had withdrawn. In Mambasa, of course  
23 we said that we were going to go to Mambasa. Jean-Pierre Bemba was informed  
24 thereof. But for Mambasa we didn't say that we were going to carry out human  
25 rights investigations. And for Kobu, Lipri, that was going with a Lendu from the

1 region. And it didn't seem that he was from an armed group but you never know.  
2 And for Mahagi, Aru, we had informed Jérôme in advance. As for other places,  
3 there were investigations which had been carried out after the arrival of the UN  
4 force. Once the soldiers were there, investigations were carried out with a UN  
5 escort.

6 Q. [10:35:50] Now, before you would go into the field to conduct an  
7 investigation, what type of preliminary preparations did you undertake?

8 A. [10:36:10] If we had received information from the field, I would share that  
9 with everyone. As regards preparations, we would look at the map where the  
10 villages were situated, et cetera, and of course we would read the reports that had  
11 already been drafted on Ituri. And we would also see the NGOs in Kinshasa.  
12 Some of them had information on Ituri. We spoke to soldiers as well, because we  
13 also had information that came from MILOBS.

14 Q. [10:36:47] And when you started with the special investigation unit in  
15 December 2002, what types of preparations did you do yourself as the head of the  
16 unit to understand the context? Did you do any form of reading? What type of  
17 preparation did you undertake personally?

18 A. [10:37:16] Yes, particularly reading reports that had been drafted on Ituri, on  
19 the history, the background, on different political parties, different alliances which  
20 changed -- re-changed in Ituri. As well we also prepared -- did we have to take  
21 a GPS, take in cameras, bulletproof vests, this sort of thing.

22 Q. [10:37:55] Thank you. I just want to note for the record, again, it is at page 29,  
23 line 6, there is a reference to "and for Lipri." In the French it is a reference to both  
24 Kobu and Lipri. Could you confirm, Ms Bakar, that you referred to both Kobu and  
25 Lipri when you mention the fact that you went with a Lendu person to that area?



1 A. [10:38:21] Yes.

2 Q. [10:38:28] Now, when you -- I am still speaking just in general terms. When  
3 you would conduct an investigation and go into an area, what approach would you  
4 take to investigate an incident? Who would you first meet?

5 A. [10:38:50] If there was a representative of the community, we would meet the  
6 representative of the community first of all. Now, if there was a hospital, we would  
7 start with the hospital, and after that we would say -- we would explain why we  
8 were there and try to see the people who are victims or the witnesses who  
9 themselves had seen what had happened. If there was an armed group, we would  
10 start with them.

11 Q. [10:39:16] And could you explain how you would identify victims and  
12 witnesses, eyewitnesses of incidents. How would you identify who to meet?

13 A. [10:39:29] Most of the time the people who spoke -- the few people who were  
14 French or the educated people would come to you when they saw a United Nations  
15 car, and you would ask if the chef de village was there, the chief of the village, or the  
16 chef de collectivité, and speaking to them you would explain why you were there  
17 and they themselves would call the victims. Now, in other cases, there were  
18 hundreds of people who were around the car and you would explain to the crowd  
19 why you were there in terms of human rights, et cetera, and most of the time people  
20 were ready to speak anyway. In Kobu, Lipri camps, they didn't see international  
21 people come there so they needed to speak about it.

22 Q. [10:40:24] When it came to actually interviewing a person, what type of  
23 interview location was used and what were the circumstances in which you would  
24 meet an individual one on one?

25 A. [10:40:44] Of course, the basic rule was that interviews were carried out in

1 a confidential manner, but it wasn't always the case that you had a place in order to  
2 carry out confidential interviews. Sometimes you went to the other side of the  
3 forest and you tried to find a place. But the most thing is that a person who was  
4 being interviewed, when somebody was being interviewed, you would try and find  
5 closed spaces such that they would be more safe. But in the case of Lipri, for  
6 example, there weren't any so everybody was in some corner somewhere with  
7 somebody. But people could see who you were speaking to.

8 Q. [10:41:25] When you met with people, would you be speaking to them on  
9 their own, when you said people would be in a corner, or not?

10 A. [10:41:42] No. Some people spoke French. Some spoke Swahili. Others  
11 spoke Kalendu, Bahema, et cetera. So when it was Swahili, the reason why we took  
12 the humanitarian officer and the MILOBS was particularly for language purposes.  
13 Now, for this reason we didn't want to use Congolese people for their own security,  
14 and so these three people would carry out the translation. But if they didn't even  
15 speak Swahili, then we would take somebody who could interpret, somebody from  
16 the group, and a student.

17 Q. [10:42:23] And other than interpreters, would witnesses otherwise be spoken  
18 to on a one-on-one basis?

19 A. [10:42:36] Yes.

20 Q. [10:42:39] In terms of the actual interview, could you just explain briefly and  
21 in general terms the type of -- the interview techniques that were used. Is it the  
22 same as you described in the human rights training that was provided?

23 A. [10:42:57] Yes. What we did is that we explained who we were from the  
24 human rights section, that the interview could possibly be dangerous for them.  
25 They didn't have to speak to us if they thought that it would be dangerous. And

1 then we let the person speak and we would return, saying about the facts, when it  
2 occurred, how long it lasted for. There would be a detailed description, what they  
3 saw, what they were told to us, what they saw with their own eyes. When there  
4 was a source, we indicated that it was a source. We went into details with regards  
5 to the identity of victims - age, origin, gender, if there was a family relationship with  
6 the witness, if they had seen other victims, if so what their names were. Where it  
7 concerned themselves, we would give them our contact details, and we said if you  
8 need to -- or if you need protection, call us.

9 We spoke about the perpetrators, if he had been able to identify the perpetrators.  
10 And if they didn't have the name, how or what type of clothing that person was  
11 wearing, what did they say when they carried out the attack, if there was pillaging,  
12 if there was arrests of people who had disappeared, et cetera.

13 In certain cases when we had somebody who had been wounded, we took a picture  
14 of the wound. But that wasn't a widespread thing. We started taking photos  
15 a long time afterwards.

16 PRESIDING JUDGE FREMR: [10:44:59] Ms Luping, allow me one additional  
17 question to Madam Witness.

18 Madam Witness, I can imagine that you probably were not able to ask those who  
19 had been interviewed to provide their, let's call it, testimony under oath, but did  
20 you discuss or did you introduce them the issue of necessary to speak the truth in  
21 any way?

22 THE WITNESS: [10:45:34] (Interpretation) With the people with whom I was  
23 having discussions, no, not really. These were victims in cases, really in deplorable  
24 conditions most of the time. I think telling them you have to tell the truth, that  
25 would be a bit aggressive.

1 PRESIDING JUDGE FREMR: [10:46:01] All right. Thank you.

2 MS LUPING: [10:46:05]

3 Q. [10:46:07] Now, you have mentioned that you would also seek to elicit  
4 information about alleged perpetrators. Did you ask any questions in terms of the  
5 questions that were asked of commanders as well?

6 A. [10:46:25] Yes. Yes, of course, with regard to commanders. It was the  
7 perpetrators, the commanders, as well as all the rest, the armed group concerned, the  
8 name of the commander, of course.

9 Q. [10:46:44] And after you conducted the field visits or field missions and  
10 investigations, was there any process of seeking to verify information provided by  
11 interviewees?

12 A. [10:47:05] Whatever the case, in human rights investigations, what we have  
13 are interviews. Even if we carry out visits, you don't have material evidence other  
14 than certain letters, et cetera, and that's the reason why it is very important to  
15 interview hundreds of people in order to see where we go and get the information  
16 that is given by several different people at the same time.

17 We carry out a field mission, but afterwards we went into displaced persons' camps  
18 and of course in the displaced person's camps there were people who were from all  
19 these different localities that we had visited who also reported to us about the same  
20 incidents. And we also discussed a lot with the NGOs that were working in Ituri  
21 who had the same information, the international organisations who had the same  
22 information. But for us, the victims, it was the names of the victims given. That  
23 was a list that we established ourselves through the interviews that we carried out,  
24 and that's the reason why the victims sometimes -- or the number was much higher  
25 but we could only give the figure for the number of victims that we had established

1 ourselves through the interviews that we carried out.

2 Q. [10:48:22] So when you say that you established a number of victims by the  
3 interviews you conducted yourselves and that you have just mentioned, the large  
4 number of interviews that were conducted, was there any analysis or assessment of  
5 the different accounts to come to sort of figures or numbers of victims?

6 A. [10:48:52] When a victim says 25 victims, I don't take that as such. We just  
7 take the name. Even if they say 25, if that person has five names, it is these five  
8 victims. So it is not the figure that they give. Sometimes what we said is according  
9 to NGOs it should be higher than that, or perhaps what happened in other cases,  
10 they would say that the person died and ultimately the person disappeared and  
11 actually came back afterwards. And that is what happened in Bogoro. So the  
12 figure went down in fact because there were people who were already in Uganda  
13 and the family members thought that they were dead.

14 Q. [10:49:34] And in terms of your assessment of victims and numbers of victims,  
15 were you then, therefore, assessing these different sources of information in relation  
16 to specific named victims, just to understand what you mean? My question was  
17 confusing. I will rephrase my question.

18 A. [10:49:59] Thank you.

19 Q. [10:50:00] So when you talked about identifying victims and you have  
20 mentioned the list of victims that you were keeping and named victims, was there an  
21 assessment of the different sources of information so that you could come to a view  
22 yourself, for example, as to whether a victim had been killed as opposed to simply  
23 disappearing? Were you doing this type of assessment?

24 A. [10:50:34] The only assessment was in putting together the information that  
25 was given by several different people. That was -- it was corroboration of

1 information given when you interviewed a hundred people who reported the  
2 same -- the same incident, we thought that that would confirm that incident had  
3 taken place. But whatever the case, with regards to the report Ituri 2002/2003,  
4 certainly the NGOs on a case-by-case basis with regard to the information that they  
5 had, looking at what we had, and we had the same information.

6 Q. [10:51:09] And in addition to meeting with the witnesses, when you went on  
7 field missions, did you go to see the areas of alleged crime sites as well?

8 A. [10:51:23] Yes, of course we did. We saw them.

9 Q. [10:51:30] And can you provide some examples?

10 A. [10:51:37] Yes. I can give the example of the mission that we carried out on  
11 the Lipri-Bambu-Kobu road. Now, unfortunately, I didn't have a camera, because  
12 I think that that was one of the worst situations that I saw during all these years in  
13 the Congo. All the villages had been destroyed. When the -- when the houses  
14 were made of solid materials, there was no roof. Bambu was a pretty town with  
15 a hospital, a fountain. It was the seat of Kilo-Moto, the headquarters of Kilo-Moto,  
16 the mining company, and that had been completely pillaged, the hospital, the  
17 church, and the company offices as well. And what they weren't able to pillage,  
18 they destroyed, as if they didn't want this population to have access to health.  
19 And in Kobu, we also saw the place where we were told that 47 people had been  
20 buried, Lendu, that the -- Mulenda that they had been called, in order to negotiate  
21 pacification and they had all been killed. A lot of people died. We could have  
22 made a list of 150, but I think the figure is much higher. That's an example.  
23 The other example, we were in Mambasa, where it would appear that all the houses  
24 had been pillaged. We were shown places which were meant to be mass graves,  
25 but I can't confirm that. And I saw the representative of Jean-Pierre Bemba sitting

1 with the solar panels of the Catholic Church.

2 Q. [10:53:51] Now, just again focusing on, in general terms, with the  
3 investigations you conducted, when you met with witnesses, in what form did you  
4 record their information? In what type of document did you record their  
5 information?

6 A. [10:54:15] Yes. We had questionnaires. I didn't always follow the  
7 questionnaires. I wrote in a notebook because I knew what to ask them, because it  
8 was very important to have a questionnaire per person because it helped us  
9 afterwards to count how many interviews we had carried out.  
10 And in particular, when we had to ask MILOBS to carry out certain interviews, in  
11 Lipri, for example, because we only had one day, we didn't have enough time and  
12 everybody wanted to speak, so that helped the person to be able to follow the  
13 different information on victims, witnesses, dates, ethnic groups, et cetera, that  
14 sometimes people would forget.

15 Q. [10:54:57] And when you refer to the questionnaire, was this a standard  
16 questionnaire, then, that everybody was using?

17 A. [10:55:05] (Speaks English) Yes. (Interpretation) Yes.

18 Q. [10:55:14] Sorry, that was in the field. When you came back to your  
19 headquarters from the field, was the information recorded in any other format, in  
20 any other form? Did you compile the information?

21 A. [10:55:33] The first Mambasa mission, I just looked at it in terms of each  
22 violation. We didn't have a system. We had to write the report very quickly.  
23 Now, from March, it was Kristine who put the -- set up the Excel sheet and we  
24 started to fill in all the different cases in the Excel sheet. Each person would write  
25 in each different case, and based on what was on the Excel sheet, we would write the

1 report afterwards.

2 Q. [10:56:08] Now, you said each person would input the data into the Excel  
3 spreadsheet. Do you mean each of the investigators who had asked or who had  
4 taken -- who had filled out questionnaires with witnesses?

5 A. [10:56:27] Indeed.

6 Q. [10:56:28] And in terms of the Excel spreadsheet, who compiled all of the  
7 information together? Even if people inputted it separately, was it compiled  
8 together into a single spreadsheet?

9 A. [10:56:49] Yes, yes, indeed. Either I or Kristine, it would depend. In the end,  
10 the final table would come to me and I reviewed the entire table, Kristine as well,  
11 and then we could separate the report.

12 Q. [10:57:13] And for how long did you use the Excel spreadsheet as the form in  
13 which you would input all this data from the field? Until when?

14 A. [10:57:26] It was used until we set up a database, that's to say, June/July 2003.

15 Q. [10:57:38] And who was responsible for compiling the information that went  
16 into the database?

17 A. [10:57:50] All the human rights officers would put -- input into the database.  
18 Each office would just look at the case concerning that bureau. So if it was Goma,  
19 then they would just deal with that. Now, if there was a special investigation, then  
20 the head of the division would make changes into the database. There was a special  
21 part for special investigations as well.

22 Q. [10:58:28] And who was responsible for the database, for reviewing it and  
23 assessing the information in it?

24 A. [10:58:36] There was a unit which we called the desk which reviewed all the  
25 cases in the database, and in Sayo we were also responsible in a certain way to carry



1 out quality control with regard to the information.

2 Q. [10:58:55] And when you say "we were also responsible" for carrying out  
3 a quality control of the information, who precisely is "we"?

4 A. [10:59:06] The special investigation section.

5 THE INTERPRETER: [10:59:16] The special investigation unit, corrects the witness.

6 MS LUPING: [10:59:19]

7 Q. [10:59:19] And who within the special investigation unit had the overall  
8 responsibility in relation to the quality control of the database?

9 A. [10:59:35] (Speaks English) Myself or the person who was working with me.  
10 But until a certain date, until -- and until 2004 summer, because I was on maternity  
11 leave after that.

12 MS LUPING: [10:59:58] Mr President, I did have one topic that is interrelated but  
13 I can wait until after the break. I am noticing that we are at 11 now, so I can break  
14 now if you prefer.

15 PRESIDING JUDGE FREMR: [11:00:10] Yes, I would prefer a break now.

16 But before we break, allow me to make one announcement of a personal nature.

17 Ms Clare Lawson is leaving us today, and, as you all know, she was with us from  
18 the beginning of the case. She is a coordinator of the case, played a leading role  
19 within our legal team, managed its work and communicated with parties.

20 Due to the unique combination of her deep devotion to work with her excellent  
21 working skills, she had made a great contribution to the case. We will miss her  
22 a lot, but what is at least partially satisfactory that even if she is leaving us, she is  
23 not leaving the area of the international criminal law since she will share her  
24 superior expertise with another international criminal tribunal here in The Hague.  
25 Thus allow me on behalf of the Chamber, and I believe I can even afford to say on

1 behalf of the Court, to thank her.

2 So, Ms Lawson, thank you very much, and we sincerely wish you all the best, both  
3 in your professional career and your private life.

4 Now we break and we will reconvene half past 11.

5 THE COURT USHER: [11:02:09] All rise.

6 (Recess taken at 11.02 a.m.)

7 (Upon resuming in open session at 11.33 a.m.)

8 THE COURT USHER: [11:33:22] All rise.

9 Please be seated.

10 PRESIDING JUDGE FREMR: [11:33:40] Let's directly continue with the next part of  
11 direct examination of our witness.

12 Ms Luping, you have the floor.

13 MS LUPING: [11:33:55] Thank you, Mr President.

14 Q. [11:33:59] So, Ms Bakar, just before the break, I wanted to clarify something  
15 for the record. A number of times you referred to colleague from the child  
16 protection section. You referred to her as Kristine. Could you just state for the  
17 record her full name, please.

18 A. [11:34:22] Yes, Kristine Peduto.

19 Q. [11:34:31] Thank you. And before the break as well you were explaining the  
20 form in which information collected in the field would be noted. You have referred  
21 to an Excel spreadsheet, you have referred to a database, and you also have referred  
22 to reports that would be written and you have mentioned a number of reports that  
23 you yourself wrote. Could you explain the types, first of all, the types of reports  
24 that you wrote.

25 A. [11:35:06] Well, as regards the reports that we drafted, each time we went on

1 mission, those are reports on human rights. They describe the facts. They identify  
2 the presumed perpetrators, also including a follow-up carried out by the section.  
3 There is a separate report for Mambasa. There was a separate report for the events,  
4 Bogoro, Lipri, Kobu, Bogoro, Mandro, and Kobu, Bambu, Lipri. We had a report  
5 later on what happened in Bunia in the month of May. That's in PDF, and there  
6 was another report on Mahagi, Arua, and the mission in Uganda as well. And there  
7 was a report which included all the violations committed during 2002/2003 in Ituri.  
8 That report was based not only on our investigations, it was also based on  
9 investigations by NGOs because what we wanted to do was to do a sort of mapping  
10 of all violations that took place.

11 Q. [11:36:42] And these specific reports that you have just referred to, can you  
12 clarify who drafted the reports, starting with the Mambasa report. Who wrote that?

13 A. [11:36:56] The Mambasa report -- well, most of the reports were written by  
14 myself, apart from the part on the political situation and the part concerning  
15 violations of children. And where it concerned human rights violations in general,  
16 that was written by myself. The part concerning children was written by the  
17 adviser on rights of the child.

18 Q. [11:37:28] And can you name that person?

19 A. [11:37:32] Kristine Peduto. But for Mambasa it wasn't Kristine Peduto, it was  
20 another colleague.

21 Q. [11:37:43] And just to clarify your response. When you said you wrote the  
22 human rights sections, is that for all of these reports that you have now referred to  
23 that you listed, or you are just at the moment only referring to the Mambasa report?

24 A. [11:37:58] I'm speaking about all the reports, apart from the second report on  
25 Drodro which wasn't drafted by myself, but by colleagues from the human rights

1 commissariat and colleagues from my section.

2 Q. [11:38:19] And I will be asking you more questions about these individual  
3 reports in a moment, but before I do, you have mentioned these reports relating to  
4 the investigations and you have mentioned a report that you say mapped the  
5 violations from the 2002/2003 period. Other than these specific reports, were there  
6 also other types of reports that your unit or your team produced, or your section?

7 A. [11:38:56] Sometimes there were specific requests with regard to what was  
8 happening in Ituri so we took up everything that we had written and we would  
9 make a summary thereof. Now, once there was a field office, the field office would  
10 report to us on a daily basis, a weekly basis, a monthly basis, and the section would  
11 write a report every six months.

12 Q. [11:39:27] And these weekly, monthly and biannual reports that you have just  
13 referred to, did your unit make any specific contributions to those reports, either by  
14 way of information, drafting?

15 A. [11:39:46] Yes. We contributed to the part concerning special investigations.  
16 If during that week or the month concerned there had been investigations, then we  
17 would give the information that we had.

18 Q. [11:40:03] And the weekly and monthly reports, were you copied in these  
19 weekly/monthly reports of the human rights section?

20 A. [11:40:20] Yes. Everybody received them. But we had a unit which was just  
21 responsible for writing reports every six months. That was called "the desk".

22 Q. [11:40:34] And to clarify, was the desk part of the human rights section?

23 A. [11:40:38] (Speaks English) Yes. (Interpretation) yes. The desk was part of  
24 the section.

25 Q. [11:40:48] And were there certain weekly or monthly reports that you also had

1 input by way of drafting?

2 A. [11:41:01] No. There were people who were responsible for that. I just  
3 participated if there was a special investigation and I would send the information  
4 concerning that special investigation.

5 Q. [11:41:19] Now, going back for a moment to the incident-specific reports that  
6 you have mentioned before, were there different -- did they come in a different  
7 form? Did you have information being -- preliminary information being provided  
8 before you produced your final reports?

9 A. [11:41:43] Where it concerns the specific investigations, what we often did was  
10 to have a preliminary report in order to have information as fast as possible and  
11 afterwards a final report when we had analysed the interviews that were carried out  
12 in greater detail.

13 Q. [11:42:06] Now, the various reports that you produced, who did you report  
14 to? Who was actually receiving these reports? Other than the individuals from the  
15 human rights section itself that you mention everybody received them, but were  
16 there other individuals outside the human rights section who would receive the  
17 various reports being produced?

18 A. [11:42:29] The section was part of the office of the region concerned. So, for  
19 example, when it was Ituri, then that report was sent to the head of the MONUC  
20 office in Ituri. That was also part of the general report that the political section  
21 wrote. There was a human rights section every time. And it was the same for the  
22 weekly report, but sometimes it was a lot shorter than the report that was sent to the  
23 human rights section. And this report was also sent to Geneva, to a desk officer in  
24 Geneva responsible for the Congo who also received the report. Perhaps not the  
25 daily report, but the six-monthly reports, then you had to have clearance from

1 Geneva as well.

2 Q. [11:43:35] And you just mentioned daily reports. Did you receive a number  
3 of these daily reports as well?

4 A. [11:43:46] Yes.

5 Q. [11:43:48] Now, you said that a number of these reports would be sent to  
6 Geneva. Other than Geneva, would the reports also be sent to others within the  
7 United Nations?

8 A. [11:44:05] Yes. The political section received them and the chef de mission,  
9 the special representative of the secretary-general.

10 Q. [11:44:16] Now, I am going to move to a different topic now, Ms Bakar, and  
11 I am going to ask you quite a number of questions now about the investigation that  
12 you and your team conducted in the area of Lipri, Kobu, Bambu, and you already  
13 mentioned some aspects of that mission as well, including the timing of the mission.  
14 Could you first explain why this area of Lipri, Kobu, Bambu and the neighbouring  
15 villages in that area, why was it that your unit or your team selected this area for  
16 investigation?

17 A. [11:45:05] Our team was in Bunia because we had information about an attack  
18 on the village Bogoro, Mandro. But once we were there we met the NGOs who  
19 reported to us that there were attacks on Lendu villages, and we met a certain  
20 Lendu - I don't remember how - who told us that he was from that region and that  
21 the situation was catastrophic. Nobody wanted to go and see what was happening.  
22 And we spoke to the Ugandans in order to go there and that is how -- with the  
23 Lendu person concerned, he came with us, and a journalist, we went with an escort,  
24 10 Ugandans. We went to Lipri and Bambu and Kobu.

25 MS LUPING: [11:45:58] And for my next question, I would ask for leave,

- 1 Mr President, if we could please move briefly into private session.
- 2 PRESIDING JUDGE FREMR: [11:46:06] All right.
- 3 Court officer, let's move into private session now.
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1 (Open session at 11.52 a.m.)

2 THE COURT OFFICER: [11:52:39] We are in open session.

3 PRESIDING JUDGE FREMR: [11:52:46] Thank you.

4 Ms Luping, please proceed.

5 MS LUPING: [11:52:49] Thank you.

6 Q. [11:52:51] Can you describe what happened -- you said you travelled from  
7 Bunia to the area. Can you describe where you first travelled to and what you saw  
8 as you reached the area.

9 A. [11:53:14] As I was saying, we went with the Ugandan escort. We went  
10 through Lipri. We stopped a couple of minutes to say that we were going on, so  
11 that was the Lendu person who was speaking with people there. And afterwards  
12 we went to Bambu, and when we were on the road we saw houses which had been  
13 completely destroyed. They had been burnt down, and in the report I said  
14 80 per cent; perhaps it was 99 per cent. And where houses had been burnt down,  
15 there were -- because they were solid houses, they weren't able to destroy them but  
16 they had taken the corrugated iron roofs.  
17 When we were in Bambu, there was a fountain. We turned right, and when we  
18 went to the premises of Kilo-Moto, the mining company, the director was there and  
19 he showed us the premises. Everything had been pillaged, and what hadn't been  
20 pillaged was broken so that it could no longer be used. And we visited the  
21 hospital. It was the same case - desolation, destruction, pillaging. And even if it  
22 was after -- or 25 or 30 kilometres from Bunia, it took a long time. The road wasn't  
23 good to get there.  
24 The chef de mission started having doubts as to whether we should continue. We  
25 knew that the UPC wasn't far away. I spoke to the Lendu because he was saying,

1 "Five minutes, five minutes," and he was saying that it couldn't continue like that,  
2 that we have got to return, and he started to cry. And he said that we didn't want  
3 to deal with the Lendu and I said that we were going to continue. And we went  
4 from Bambu to Kobu and it was the same thing. On the road the situation was  
5 desolate. And when we arrived in Kobu, we met people who were in a very bad  
6 situation with skin diseases, with ripped clothing. And people came to see us and  
7 they reported on what they had seen.

8 On the 24th, the UPC commander, after an operation which had taken place on the  
9 village, he sent a letter to the administrative and military responsible person for the  
10 Lendu to organise a pacification meeting, and some of the people were not in  
11 agreement with that. Others said that they had to go. And around 50 people  
12 were in Bule, they had been caught in Bule and they had been taken to Kobu, and in  
13 the evening they were killed with machetes. And we were there where the UPC  
14 were staying and they showed us behind the offices the holes where they had  
15 buried 47 bodies. And they said that there were approximately 50 that had been  
16 killed in the forest. We told them that we didn't have a lot of time to speak to  
17 everybody, that the next day that we had to be in Lipri and that people had to come  
18 and speak to us in Lipri. And the next day we went to Lipri in order to speak to  
19 the victims and witnesses. And they also said that the UPC had attacked -- when  
20 they spoke -- when they attacked, they spoke Swahili and Rwandan.

21 I can go into details of the investigation if you would like me to. I don't know.

22 Q. [11:57:18] Before you do, I wanted to just double-check exactly what you said.  
23 Before the break, when you talked about the destruction you had seen in Bambu and  
24 at the hospital there, you stated, and I quote, "It was as if they did not want the  
25 population to have access to health." First of all, could you explain who

1 "they" -- who is "they" that you were referring to?

2 A. [11:57:48] That was the armed groups -- the armed group, the UPC.

3 Q. [11:57:55] And can you explain what you mean when you said it was as if  
4 they had not wanted the population to have access to health.

5 A. [11:58:08] Well, they had destroyed a health centre in Kobu and everywhere  
6 where we went, when we carried out an investigation, it was the same thing. The  
7 hospitals had been destroyed. It was like a war had become a war -- an ethnic war  
8 and what they wanted -- in our opinion, according to our analysis, they didn't want  
9 the Lendu to have access to health care so that more Lendu would die, in fact.

10 Q. [11:58:45] And before I ask you more questions about the information that  
11 you were provided by the individuals that you met, can you clarify from amongst  
12 the team who were the people who were actually carrying out the interviews? If  
13 you want me to go back in private session, I can do so.

14 A. [11:59:10] Yes.

15 MS LUPING: [11:59:11] If we could briefly go back into private session,  
16 Mr President.

17 PRESIDING JUDGE FREMR: [11:59:18] All right.

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

19 (Private session at 11.59 a.m.)

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- 16 (Open session at 12.03 p.m.)
- 17 THE COURT OFFICER: [12:03:24] We are in open session, Mr President.
- 18 PRESIDING JUDGE FREMR: [12:03:26] Thank you.
- 19 Ms Luping, please.
- 20 MS LUPING: [12:03:31] Thank you.
- 21 Q. [12:03:31] Now, you described a letter. Can you clarify whether you ever
- 22 saw this letter.
- 23 A. [12:03:43] I saw the letter. I took the letter myself.
- 24 Q. [12:03:50] And can you recall who you received it from?
- 25 A. [12:03:55] The Kilo-Moto director. But there are a number of signatories.

1 Q. [12:04:05] I just want to clarify which letter we are referring to. I was -- I  
2 referred to a letter that you mentioned that had been provided by the UPC  
3 commander in relation to a pacification meeting. This is what you just previously  
4 mentioned on the 24th. Now you are referring to a separate letter. Is it from the  
5 Kilo-Moto director?

6 A. [12:04:29] Yes, yes, that's right. There's a -- yes, we are at cross-purposes.  
7 Yes, there were two letters. The 24th, the letter of the 24th, was the Mulenda  
8 commander who was responsible for that particular region, military and  
9 administrative director for the Lendus.

10 Q. [12:04:53] Can you clarify what name you are stating for the commander,  
11 because I am not sure it is being captured correctly.

12 A. [12:05:02] Mulenda, I think, or Salenda, one of the two.

13 Q. [12:05:14] And just starting first with the letter that you mentioned about  
14 a -- some form of a meeting, sent by this UPC commander. Did you ever see that  
15 letter?

16 A. [12:05:36] Yes, I saw that letter. Yes, I saw that letter. Yes.

17 Q. [12:05:40] And can you recall from whom you received that letter? I am  
18 talking about the letter about the meeting and relating to that UPC commander  
19 Mulenda.

20 A. [12:05:55] Well, who I can't remember. Maybe somebody in Lipri but I can't  
21 remember who gave me the letter.

22 Q. [12:06:03] And it was somebody who was locally based; is that what you  
23 mean?

24 A. [12:06:08] Yes. Exactly so, yes.

25 Q. [12:06:12] Now, when you received the letter from somebody from Lipri, was

1 it the first day or the second day, if you can recall?

2 PRESIDING JUDGE FREMR: [12:06:39] Hold on, Madam Witness.

3 Mr Gosnell.

4 MR GOSNELL: [12:06:44] Objection, Mr President, as to the issue of there only  
5 being two days of investigation. I don't think that's been established yet, so the  
6 notion of there being only one of two possible days is a fact not yet in evidence.

7 PRESIDING JUDGE FREMR: [12:07:01] Ms Luping.

8 MS LUPING: [12:07:02] Thank you. I can ask the witness to clarify this.

9 Q. [12:07:09] Ms Bakar, when did you receive the letter? Was it during this first  
10 mission to Lipri, Kobu, Bambu, or was it another period of time during the course of  
11 your investigations into this incident?

12 A. [12:07:29] I received the letter the second day at Lipri, but I can't quite  
13 remember. It is either the first or the second day. In any case, when we were in  
14 that particular region I received the letter.

15 Q. [12:07:44] And is this still the period early April 2003 or is it a later period?

16 A. [12:07:51] Yes. Yes, beginning of April 2003.

17 Q. [12:08:01] First, returning to your first day of your mission - and you have  
18 mentioned you travelled through from Lipri to Bambu and onwards to Kobu - could  
19 you explain what you saw and who you met when you reached Kobu that first day?

20 A. [12:08:19] Well, we met a person who had been able to run away. In fact, two  
21 people had been able to flee from the group that had been killed behind the UPC  
22 military camp, and had seen how the people had been killed.

23 Q. [12:08:51] And these two people who had been able to flee from the group  
24 who had been killed, did you meet them personally or were there other members of  
25 your team who met them?



1 A. [12:09:07] No, I met them. We were -- we were together with the team, in  
2 fact.

3 Q. [12:09:19] And can you recall what information was provided by these  
4 witnesses who had -- who you said had been able to flee from the group that had  
5 been killed and behind the UPC military camp?

6 A. [12:09:34] Well, they told us that the UPC had run operations in the area from  
7 January, but particularly after 13 February, and that they had sent the letter on the  
8 24th and that the meeting had been held on 25 February. Now, did that meeting  
9 take place or people went to see them, but they were all arrested in any case and  
10 they said that they were arrested in Bule and then taken to Kobu. And during the  
11 night they had been killed and the UPC continued its killing in the forest. It killed  
12 other people in the forest and that was it.

13 Q. [12:10:31] Now, you said also in this first day, in Kobu, that you had been  
14 shown holes where people had been allegedly buried, people who had been killed.  
15 Can you recall who showed you these gravesides?

16 A. [12:10:54] I think two people who had escaped. They had been with  
17 a number of people from the village and that was the group that showed me the two  
18 mass graves.

19 Q. [12:11:08] And can you describe this -- this mass grave, what it looked like.

20 A. [12:11:21] Well, the only thing I can tell you is that the earth had been freshly  
21 turned over. Apart from that, it was all sealed -- it was sealed but there was a heap  
22 of fresh earth on it. It hadn't yet hardened.

23 Q. [12:11:34] And do you recall roughly where that grave site was located?

24 A. [12:11:43] Well, there was a building and they had said that the UPC had used  
25 that building as its headquarters. It was on the right, on the right of the road, and it

1 was behind the UPC offices. And opposite there was a chapel.

2 Q. [12:12:11] And after the visit to Kobu, where did you return to?

3 A. [12:12:18] We went back to Bunia.

4 (Redacted)

5 (Redacted)

6 (Redacted)

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13 THE WITNESS: [12:13:13] (No interpretation).

14 MS LUPING: [12:13:15]

15 Q. [12:13:15] And in the interviews that were conducted in Lipri on the second  
16 day, can you recall from the interviews you conducted or the information you  
17 assessed what information these people provided about events in this area?

18 A. [12:13:41] Yes. We spoke with about 75 or so people who provided names of  
19 24 destroyed villages and 250 victims. So we had the list. The list anyway, it was  
20 250 names long. We were told the UPC had entered the area in January, that there  
21 had been an be initial attack on 13 February, at Nyangarai, where 15 or so people  
22 had been killed with machetes in a church. And then there was an attack on the  
23 16th, on Lipri, that was driven back by the Lendus. Then they came back on the  
24 17th in greater numbers. And we were told that the UPC, or part of the UPC was  
25 coming from Mongbwalu, and on the 17th they were able to take Lipri and then they

1 once again attacked the villages. And then they set up in Kobu, and then on the  
2 24th and the 25th -- and up to the 25th, they went back into the forest where there  
3 were a number of people who had sought refuge and they killed a number of people  
4 in the forest.

5 Q. [12:15:02] And when you say that they went into the forest, who are you  
6 referring to?

7 A. [12:15:09] The UPC combatants.

8 Q. [12:15:25] And in addition to information about killings, did the witnesses  
9 that you met give you information about any other types of victims of other types of  
10 crimes?

11 A. [12:15:36] There were some people who had disappeared and were reported  
12 as such. For each case, there had been kidnappings of women or young boys, or  
13 again people had to carry looted goods, or women could be used as -- as war wives,  
14 if I can put it that way. But I can't remember how many people had been  
15 kidnapped, according to them.

16 Q. [12:16:25] And the information about the women kidnapped and then used as  
17 war wives, as you described them, can you recall from whom your team received  
18 that information?

19 A. [12:16:41] No, I don't remember.

20 Q. [12:17:01] And other than the specific mission to Lipri, Kobu, Bambu in early  
21 April, did your team conduct any additional investigations into events in this area  
22 subsequently?

23 A. [12:17:20] We were at Beni and Eringeti, I believe, in November 2003 and we  
24 spoke with a large number of displaced people, the objective of which was basically  
25 to get more information about Nyakunde because we didn't have enough

1 information about that particular attack. There we met all types of people and no  
2 doubt we also retrieved information through that. And then after I learned  
3 that -- that the -- that the Ituri human rights office had met one or two witnesses.  
4 But those that we met hadn't changed their version of what they had seen.

5 Q. [12:18:06] And you have mentioned that colleagues from the human rights  
6 office also met with witnesses. Do you know where they met with the witnesses  
7 relating to this incident?

8 A. [12:18:20] No, I don't know.

9 Q. [12:18:29] Now, you have previously explained in general in relation to the  
10 nine investigations that you conducted in Ituri with your team that the information  
11 would be recorded in an Excel spreadsheet. Just to clarify, this incident, Lipri,  
12 Kobu -- related to Lipri, Kobu and Bambu, was this -- the information relating to this  
13 incident also inputted into the Excel spreadsheet?

14 A. [12:19:02] Yes, but sometimes also in the database, because this latter was up  
15 and running from July - I can't remember the finer details - but, in any case, to allow  
16 for perhaps more people being involved in the process.

17 Q. [12:19:17] And you have also previously explained that you were compiling  
18 a list of victims based on names of persons you had received. Who within your  
19 team was compiling that list?

20 A. [12:19:31] Well, every -- each person compiled the list based on the interviews  
21 that he or she had personally conducted.

22 Q. [12:19:55] And at any point did you then put together the list to get an overall  
23 number of victims?

24 A. [12:20:08] Yes. With the Excel spreadsheet, you could do that. We dealt  
25 with the victim side of things and we compared everybody's lists.

1 Q. [12:20:24] And the Excel spreadsheet that you inputted in and the database,  
2 where were they located? Where did you store this information?

3 A. [12:20:43] In MONUC's computer. But I would like to provide a clarification  
4 here. The cases that feature in the Excel spreadsheet weren't recorded in the  
5 database. The information in the database stems from the data from which the  
6 database was itself created. And all that, all the documents, all the tables and what  
7 have you, that was protected by a password.

8 Q. [12:21:17] I will be asking you many more questions about the Excel  
9 spreadsheet and the database, but I will do so after lunch, at which point in time I  
10 will be seeking to show you a number of documents and ask you to explain in a little  
11 bit more detail how that worked and the data you recorded in that. Before I move  
12 on to my next topic, I wanted to just clarify with you, the letter relating to the UPC  
13 commander Mulenda that you described which referred to a meeting, can you recall  
14 the language or languages that were in the document that you saw?

15 A. [12:22:05] No, I don't remember. It was -- it was in French, I believe, but I am  
16 not quite sure of that.

17 Q. [12:22:12] And the language of the letter from the Kilo-Moto director, do you  
18 recall that, what language that was written?

19 A. [12:22:22] Yes, it was in French.

20 Q. [12:22:37] So at this point in time I would like to ask you to turn to a particular  
21 document, and it is at tab 30 and it is DRC-OTP-0065-0006.

22 A. [12:22:59] Which file? (Speaks English) Which file?

23 Q. [12:23:02] Tab 30, so it would be in your second trial binder.

24 A. [12:23:12] (Interpretation) Yes.

25 Q. [12:23:15] Do you recognise this document? Have you seen it before?

1 A. [12:23:23] Yes.

2 Q. [12:23:24] And can you please explain what it is?

3 A. [12:23:29] Well, this is a letter addressed to the MONUC in Ituri. There is an  
4 inspection of the Kilo-Moto headquarters of 2 April, and this is entitled "Complaints  
5 of workers stemming from the consequences of events in February 2003 in Bambu  
6 and in surrounding vicinity." This was drafted because they knew basically that we  
7 were going to come.

8 So here he details the attack. They provide details of everything that had been  
9 destroyed, the medical unit, the laboratories, medication, infrastructure, equipment,  
10 everything going to work camps, because there were workers from every country,  
11 basically. That was destroyed, fields destroyed, tools carried off. No Bambu  
12 market; in other words, there had been no food for the local people. Shops looted  
13 in the area -- sorry, in the teaching area. Primary, secondary school looted, so there  
14 is no teaching available, no education.

15 With regard to the infrastructure of the head office, offices -- office furniture, other  
16 things destroyed, documents in archives destroyed. Machines and office  
17 equipment destroyed.

18 And then the religious section, chapel looted, equipment destroyed. The convent,  
19 the orphanage, lots of destruction. The neighbourhood where our officers lived  
20 wasn't spared. Looting certain houses, certain -- where certain company property,  
21 items of the company's property was stored.

22 It also details the fact that it is Bambu in its entirety that had material damage done  
23 to it, like Nyakunde. Almost the entirety of the infrastructure had been affected  
24 and a huge amount of the equipment looted and destroyed.

25 The existence and even the lives of the local population was annihilated, and he

1 says there will be no life in Bambu unless the outside steps in with financial  
2 resources.

3 And then the letter finishes with a request made to MONUC to save them, in  
4 substance, and they say, "This is our cry for help."

5 And then through MONUC they are also talking -- asking the province governor to  
6 hear the voice of this population who is on its knees, both psychologically and  
7 materially, and that the governor of the province should come and dry their tears.

8 They also say that MONUC's visit is, for the people working at the HQ, a salvatory  
9 gesture and for which they present their sincere thanks.

10 And then we have got the installations that were destroyed, the remaining items  
11 going to that. And they also say that people had no clothes. A number of  
12 children were suffering from malnutrition. Adults were suffering from  
13 tuberculosis and urgent help had to be provided.

14 Q. [12:27:58] Returning to this letter, I would ask you to look to the very end  
15 with the signatures, the signatures on this document, at page 0010 of this document,  
16 and if you look at amongst the signatures, does this include the director of  
17 Kilo-Moto that you referred to earlier?

18 A. [12:28:18] Well, I can see Mr H Lobo Hippolyte, but I can't remember the  
19 name of the Kilo-Moto director.

20 Q. [12:28:35] And do you recognise this as the letter from the Kilo-Moto director  
21 that you mentioned previously that had you received?

22 A. [12:28:45] Yes, yes, of course.

23 Q. [12:28:48] And you described the areas around Bambu that had you -- sorry,  
24 not Bambu, the Kilo-Moto area. Were you able to see any of these areas yourself?  
25 Had you been -- starting first with the Bambu market, had you been to the Bambu

1 market area?

2 A. [12:29:11] We had seen the Kilo-Moto headquarters and we had seen the  
3 hospital. We hadn't seen the market. But Bambu, well, the houses were there, but  
4 they are made out of solid materials. They were well built, I think probably harking  
5 back to the colonial period. But the rest we saw was -- was totally desolate.

6 Q. [12:29:36] And what do you mean by "totally desolate"?

7 A. [12:29:47] Property either had been looted or it was destroyed. The houses  
8 that were built with solid materials, those were standing but they were missing their  
9 roofs. All the other houses and buildings were razed to the ground. Basically,  
10 they looted the roofs off the solid houses. And people -- it was quite obvious that  
11 people hadn't had a change of clothing and they had skin diseases.

12 MS LUPING: [12:30:16] Mr President, your Honours, I would at this stage seek to  
13 admit this document.

14 PRESIDING JUDGE FREMR: [12:30:23] Defence, any objection?

15 MR GOSNELL: [12:30:24] Yes, Mr President. We object to its admission.

16 The Prosecution is presumably seeking to tender this document for the truth of its  
17 content and presumably also wishes your Honours to rely on the content of this  
18 document independent and separate from the testimony of Ms Bakar herself. Of  
19 course, I can cross-examine Ms Bakar on the content of her testimony. I cannot  
20 cross-examine on elements of this letter that she does not have direct knowledge of,  
21 and on that basis we suggest it is not sufficiently reliable to be admitted, particularly,  
22 Mr President, where there has been no showing that any of the individuals who  
23 signed this document or may have been involved in creating this document are not  
24 available themselves to provide testimony.

25 So, Mr President, we object to its admission on those grounds.



1 PRESIDING JUDGE FREMR: [12:31:18] Ms Luping.

2 MS LUPING: [12:31:19] Mr President, your Honours, this particular document, the  
3 witness has confirmed that she received it in her capacity as the head of the special  
4 investigation unit and team. It is a contemporaneously created document. She  
5 confirmed she spoke to the individual concerned who had written the letter. She  
6 clarifies, actually explains further that she herself indeed saw a number of the  
7 areas -- affected areas herself with her own eyes. At this stage we are seeking to  
8 admit it. It is for your Honours to decide what weight you place on this. The  
9 arguments being raised by Defence counsel, with respect, are all in relation to the  
10 weight that might be attributed to the document and are not proper arguments  
11 regarding the admissibility.

12 But before I conclude, your Honours, I realise that there is one further question  
13 relating to this document I need to put to the witness that will be also relevant to  
14 your assessment.

15 PRESIDING JUDGE FREMR: [12:32:18] Please go ahead.

16 MS LUPING: [12:32:20]

17 Q. Madam Witness, Ms Bakar, could you please turn to the first page of this  
18 document and look at the very bottom. And if you can have a look at what is  
19 written here, there is a reference to "DHSIT0026" and is written here as  
20 (Interpretation) "Memo of the inspection of Kobu." (Speaks English) Does this mean  
21 anything to you? Can you please explain what these codes mean?

22 A. [12:32:57] Okay. This code is a case number in our -- in the database. It  
23 was -- this letter was given to me. At that time we didn't have a database for the  
24 documents, but later on it was entered into the database. The writing here is not  
25 my writing but it is the writing of someone whom I know very well who worked

1 with me.

2 Q. [12:33:25] And so just to clarify this serial DHSIT0026, is it related to the work  
3 of your special investigation team?

4 A. [12:33:38] Yes.

5 Q. [12:33:42] So was this document kept in your files or your records?

6 A. [12:33:46] (Speaks English) Yes. Yes. (Interpretation) Yes.

7 MS LUPING: [12:33:50] Mr President, your Honours, I mean, this document  
8 formed part of the witness's investigation records. We would seek to have it  
9 admitted also on this basis.

10 PRESIDING JUDGE FREMR: [12:34:02] Mr Gosnell, any additional argument?

11 MR GOSNELL: [12:34:06] Yes, Mr President. First, the document is not  
12 contemporaneous with the events described, at least not strictly speaking. It  
13 appears to have been produced on 2 April 2003, whereas the events described  
14 occurred in February. That's point one.

15 Point two, this document was created clearly, as the witness has said, for the  
16 purpose of consumption as a report about what had previously happened and  
17 therefore it certainly is not contemporaneous in the sense of being kept in the  
18 ordinary course.

19 And third, the fact that there is a notation at the bottom indicating that the  
20 information was received into a database which still has not yet been admitted by  
21 your Honours does not make this document admissible.

22 In any event, the witness has now provided all the information that your Honours  
23 need to understand the connection between this document and the database. It is  
24 quite a different issue, I submit, Mr President, to admit this document for the truth  
25 of its content and ascribe it separate probative value, which I believe is what

1 the Prosecution is asking you to do. And that submission is not premature. It  
2 does not go only to weight; it goes to the issue of whether or not it is appropriate to  
3 accord this document any independent weight as evidence, and we suggest that it  
4 cannot be so accorded.

5 Thank you, Mr President.

6 PRESIDING JUDGE FREMR: Ms Luping, please, just briefly.

7 MS LUPING: [12:35:28] Yes, very briefly, Mr President.

8 It is contemporaneous to this witness's investigations that she herself conducted in  
9 the field. It is dated 2 April 2003 when the witness herself confirms that her team  
10 was in the field conducting investigations. It is relevant to supporting the witness's  
11 account also as to information provided to her personally as an investigator into the  
12 violations that took place in this area.

13 The arguments being raised by Defence counsel, I will repeat, relate to any weight  
14 that your Honours may decide to attribute or not to this document subsequently but  
15 it should not be used as a valid basis to reject admission.

16 PRESIDING JUDGE FREMR: [12:36:10] All right. So the objection is overruled,  
17 but I have to add that as to the content extent, we will be very much reserved. So it  
18 is mainly for us -- for our evaluation of the method used by Madam Witness for the  
19 source that served to make some conclusions and make reports rather than the  
20 content itself. As concerns this, in fact, I fully share the main arguments presented  
21 by Mr Gosnell.

22 Now please proceed.

23 MS LUPING: [12:36:52]

24 Q. Ms Bakar, could I ask you now to turn to document 13 in your binder. It is  
25 the first trial binder. And for the record, that is DRC-OTP-0065-0003.

1 Once you have had a chance to look at it, if you can clarify whether you recognise  
2 the document.

3 A. [12:38:27] I'm sorry. No, I don't recognise this document, or maybe it is just  
4 that I have forgotten.

5 Q. [12:38:39] Ms Bakar, before the break you described in detail the types of  
6 reports that you yourself and the special investigation team produced, and you  
7 confirmed that there was also a specific report relating to the incident in Kobu, Lipri  
8 and Bambu. Can you recall specific reports that were written in relation to this  
9 specific investigation?

10 A. [12:39:19] No. What was drafted is included in the report on everything,  
11 Bambu, Bogoro, Mandro, Lipri and Kobu. I think there is another report as well for  
12 Lipri and Kobu which wasn't made public. The reports that you have were those  
13 which were made public.

14 Q. [12:39:42] And I would ask that you turn to tab 5.  
15 It is document DRC-OTP-0152-0286. And I would ask you to look at page 3, 0288  
16 as well. And there is the name stated there, "Sonia Bakar." Do you recognise this  
17 document?

18 A. [12:40:33] I am sorry, did you say tab 5? That would be the Ituri report 2000  
19 to 2003; correct?

20 Q. [12:40:54] Yes, indeed. It is tab 4. I am referring to the document at tab 4,  
21 the code cable 20 June 2003.

22 A. [12:41:15] Yes.

23 Q. [12:41:17] And can you explain what this report is.

24 A. [12:41:23] Very well. This is the final report on Bogoro, Mandro, Lipri, Kobu,  
25 which as usual was sent to New York. The first three pages are a summary of the

1 investigations we conducted. Prior to making the report public, we generally, that  
2 is the SRSG, special representative of the secretary-general, will send to the chief of  
3 the DPKO, that is the peacekeeping operations, department for peacekeeping  
4 operations, we would send such a summary and I would be the one who would  
5 have drafted what was referred to as the code cable, which is the name of this  
6 document, to which would be appended the report covering the Lipri, Kobu  
7 investigations.

8 Q. [12:42:35] And the annex to the summary titled at page 0289, "Final Report of  
9 the MONUC Special Investigation Team on the Abuses Committed in Ituri from  
10 January to March 2003, Lipri, Bambu, Kobu, Bogoro, Mandro," can you clarify who  
11 drafted this report?

12 PRESIDING JUDGE FREMR: [12:43:02] Madam Witness, when you are leaving  
13 through the document, please mind the fact that if you are too close to the  
14 microphone, it is almost painful to those who have -- yes, who have headphones.  
15 Thank you very much.

16 THE WITNESS: [12:43:33] (Interpretation) All right. I am the one who drafted this  
17 report, except the one section dealing with the recruitment of children, which was  
18 drafted by Kristine Peduto.

19 MS LUPING: [12:43:50]

20 Q. [12:43:50] And so other than the section written by your colleague relating to  
21 child soldiers, was the rest of the report written by you, then?

22 A. [12:44:02] Yes.

23 Q. [12:44:06] And what was the basis of the information that went into the  
24 report? What did you use for the purposes of the information?

25 A. [12:44:17] I relied on the information that was gathered during the mission,

1 during the mission to Bunia, from end of March to early April, as well as on  
2 interviews we conducted on the ground when we were in Lipri, in Bogoro and in  
3 Mandro. We met a number of people in Bunia, people who had been injured and  
4 who were at the hospital. We also quite quickly dealt with the issues in Drodoro,  
5 where there had also been an attack. Yes, when we were there -- well, when we  
6 were not there -- well, in any event we got information on what had happened in  
7 Bunia in March. We also had information relating to events that took place in Bunia  
8 in the month of March.

9 Q. [12:45:20] Now, you have had an opportunity to read this document in more  
10 detail during your witness preparation. Are the facts as set out here an accurate  
11 reflection of the information you received in the course of your investigations, in  
12 particular in the sections related to events in Lipri, Bambu and Kobu?

13 A. [12:45:41] Yes.

14 Q. [12:45:50] And the annex at the very end of this document, 0316, who drafted  
15 that particular annex? It is a list of alleged mine incidents in different areas.

16 A. [12:46:08] The information in the annex was provided by the MILOBS. That's  
17 all they did at the time.

18 Q. [12:46:27] It lists, for example, a number of victims, including in the area of  
19 Zumbe. Did you receive information from the military observers as to by which  
20 armed group these landmines had been laid?

21 A. [12:46:51] No, we did not receive it.

22 Q. [12:46:56] And now I would like to ask to you turn to the report contained at  
23 tab 5. That is DRC-OTP-0074-0422.

24 And if you could please -- if you could briefly look at the document and let us  
25 know, first of all, if you recognise it and, if you do, if you know who drafted it.

1 A. [12:47:34] Okay. I recognise that document which deals with human rights  
2 violations in the Ituri in 2002/2003. Most of the report was drafted by myself, except  
3 the part on political analysis, political background, and the part on child soldiers.  
4 This report, however, was also seen by a number of people before it was published,  
5 including by some colleagues in New York.

6 Q. [12:48:13] And the substantive information that is contained in the report,  
7 I am not talking at the moment about the political analysis or child soldiers section,  
8 but the substantive information, when your other colleagues reviewed the report,  
9 what, if any, changes were made to substance that had you written?

10 A. [12:48:34] No, there were no substantive changes. They didn't deal with  
11 the cases as such. They, rather, edited the English and a few little things here and  
12 there in the political segment. But when it comes to the substance of the enquiries  
13 and the substance of the investigations, there were no changes.

14 Q. [12:49:06] And the information that is reflected in this report, what was the  
15 basis of your information for the report?

16 A. [12:49:21] Well, the information came from 1,600 interviews with victims,  
17 witnesses, NGOs, administrators, village chiefs, workers in the medical field, some  
18 medical NGOs which had received some of the victims and some international  
19 organisations as well. Some of the cases were investigated by international NGOs  
20 and not by us, because we were not yet on the ground so we had to cross-check these  
21 cases with them.

22 Q. [12:50:18] And just going back to the drafting, you explain that you wrote all  
23 of it, other than the political section and the child soldiers section. Who actually put  
24 the report together as one document, one report?

25 A. [12:50:37] I did.

1 Q. [12:50:40] And the other sections, including the political analysis and child  
2 protection sections, did you discuss those other sections written by the other drafters  
3 with them?

4 A. [12:50:55] Yes, we did.

5 Q. [12:51:02] And before the document was sent to others outside the human  
6 rights section, who was responsible for the final product?

7 A. [12:51:19] I was.

8 Q. [12:51:27] I am now going to turn to specific parts of the report and I would  
9 like -- I would ask that you turn to paragraph 70, first of all. Page 0444, you will see  
10 paragraph 68 through to 70. And I would like to ask you about the -- first of all, the  
11 numbers of victims that are listed here. And just to read from this passage, it says:  
12 "The interviewees gave the team the names of 250 victims, but more victims were  
13 identified by another investigation team in May 2003 and still more during the  
14 investigations in the Beni area in November 2003."

15 The first question I wanted to ask you, Ms Bakar, is who was this other -- or what  
16 was this other investigation team that carried out investigations into this incident in  
17 May 2003?

18 A. [12:53:01] Well, 2003, I was already the one in place and Peduto was no longer  
19 there. She was already in Bunia. I think there were two of us. I don't remember.  
20 But in May, yes, two of us.

21 At that time, in the month of May, there was no hotel and so we had to sleep in the  
22 office. That's why the team was not in great numbers.

23 Q. [12:53:38] And in the next sentence it states:

24 "Operation shika na mukono resulted in the killing of at least 350 persons and the  
25 complete destruction of 26 localities." What is that operation that is referred to



1 there?

2 A. [12:53:57] That was the UPC operation in February, throughout the month of  
3 February, in Lipri, Nyangarai, Kobu and Bambu, the UPC operation.

4 Q. [12:54:11] And the figure of 350 persons, what is that based on?

5 A. [12:54:21] It is based on a number of investigations which we conducted and  
6 the number rose from 250 to 350. So in Beni we also had people from the same area  
7 and there were two of us in Beni.

8 Q. [12:54:37] And when you say a number of investigations, investigations  
9 carried out by whom?

10 A. [12:54:50] In Kobu, Lipri we have already stated that it was myself, the police,  
11 some soldiers, and then in Beni it was myself and another colleague who started to  
12 work with the special investigations unit. But in Bunia it was Kristine and myself.

13 Q. [12:55:11] Just to clarify, do these figures come from your special investigation  
14 team's investigations?

15 A. [12:55:19] Yes.

16 Q. [12:55:21] It is also stated in this paragraph that around 60,000 civilians from  
17 forced to flee to the relative safety of the surrounding bush and the number of those  
18 who died of hunger and sickness remains unknown. The figure of 60,000 civilians  
19 forced to flee, where does that figure come from?

20 A. [12:55:43] From the humanitarian agencies that were in Bunia or were  
21 operating in Bunia, OCHA.

22 Q. [12:55:56] And do you know how they collected this information about the  
23 numbers who had to flee, OCHA?

24 A. [12:56:11] Honestly, I don't know what methodology OCHA used, but I know  
25 that they were in contact with the chiefs of villages and the chiefs of collectivities.

1 They are the ones who provided the figure and so I really don't know. However,  
2 they knew how many people were living there before and maybe they proceeded to  
3 compare the figures.

4 Q. [12:56:40] I would now ask that you turn to paragraphs 68 and 69 from the  
5 report that you drafted. I would ask you first to briefly read them and clarify  
6 whether this accurately reflects the information from your investigations.

7 A. [12:57:06] Do you want me to read the first paragraph aloud?

8 Q. [12:57:14] If you could just look at paragraph 68 and 69 for yourself. There is  
9 no need to read them. I just want to ask you if these sections -- first of all, did you  
10 draft paragraphs 68 and 69?

11 A. [12:57:29] Yes.

12 Q. [12:57:30] And what was the basis of the information contained in these two  
13 paragraphs? What did you -- what information did you draw upon to draft these  
14 two paragraphs?

15 A. [12:57:48] We used information gathered from witnesses we met in Lipri,  
16 Bunia and Beni.

17 Q. [12:57:59] And does this accurately reflect the -- what is written here, does that  
18 accurately reflect the information as you received it?

19 A. [12:58:14] Yes, it does.

20 Q. [12:58:17] I would like to refer you to footnote 31 of this -- from paragraph 69,  
21 where it states that "15 villages were destroyed and most of their inhabitants killed."  
22 This is again in the same area. The list of the villages here, can you clarify from  
23 where you got the names of these villages that were destroyed?

24 A. [12:58:48] From the witnesses, but I cannot tell you specifically which  
25 individual provided that information.

1 Q. [12:58:55] So this was obtained during the course of your team's  
2 investigations?

3 A. [12:59:05] Yes.

4 Q. [12:59:07] Again, at footnote 32 there is a reference to eight villages - this is  
5 again drawn from paragraph 69 - eight villages that were attacked by the UPC.  
6 What was the basis of your information for that?

7 A. [12:59:23] The witnesses we saw.

8 Q. [12:59:33] Now, turning to paragraph 69 in particular, there is a reference to:  
9 "According to the persons who buried the bodies, there were 47 victims. They  
10 reportedly found another 53 corpses in the bush around Kobu and buried them in  
11 two other mass graves."

12 First, just focusing on that information, does that accurately reflect the information  
13 you received from witnesses?

14 A. [13:00:07] Yes.

15 Q. [13:00:09] Moving on, it states:

16 "In the following days, the UPC continued its manhunt in the Jitsu forest. Another  
17 92 persons were reportedly killed in the forest, most of them dismembered with  
18 machetes."

19 Just focusing on this, from where did you get this information about the killing of  
20 people in Jitsu forest?

21 A. [13:00:42] Through witnesses.

22 PRESIDING JUDGE FREMR: [13:00:43] Ms Luping, you are going through the  
23 fourth paragraph. Is there any presumption that the source could be different or  
24 the content should be inaccurate? Because otherwise I don't see the rationale of this  
25 exercise.

1 MS LUPING: [13:01:00] I am just wanting to clarify for the very important  
2 passages, your Honours, what are the specific sources, if there is any differentiation  
3 or any specific details relating to individuals, groups who may have provided this  
4 information. I understand your point. Indeed, the generic response from the  
5 witness that it is all accurate reflects everything, covers it all, but I wanted to  
6 highlight specific points to see whether we are able to get any additional details.

7 PRESIDING JUDGE FREMR: [13:01:29] But so far it brought no effect because it is  
8 just repetition of the first answer.

9 By the way, it is 1 o'clock or 1.03 so how much time will you need to wrap up?

10 MS LUPING: [13:01:45] We can stop at this point, your Honours. I do have  
11 a number of questions relating to the special report and the 20 June 2003 code cable,  
12 but I can continue after the break.

13 PRESIDING JUDGE FREMR: [13:01:55] All right, then.

14 So we can excuse witness for the moment because I would like to utilise the  
15 remainder for delivery of an oral ruling.

16 So, court usher, please assist Madam Witness to leave the courtroom.

17 (The witness stands down)

18 PRESIDING JUDGE FREMR: [13:02:23] And now I will briefly render  
19 the Chamber's oral ruling. It is oral ruling on the Prosecution's request to hear  
20 Witness P-0116's testimony via video link. This request was made by way of email  
21 on 26 January 2017. After having received, also by way of email, the Defence  
22 submissions on 31 January 2017, the Chamber communicated the disposition to the  
23 parties and participants by email in order to facilitate timely logistical preparations.  
24 By way of this ruling, the Chamber is putting the matter on the record and providing  
25 the reasoning for its decision. The Prosecution indicates that the Victims and

1 Witness Unit has recommended that this witness testify via video link in light of his  
2 medical condition. The Prosecution further submits that the Witness P-0116 has  
3 confirmed his willingness and availability to testify via video link.

4 On 30 January 2017, in line with the time limit set by the Chamber, the Defence filed  
5 its submissions via email. The Defence opposes the Prosecution's request, arguing  
6 that the Prosecution, by failing to provide the factual basis for its request, has not  
7 discharged its burden. The Defence claims that it is not in a position to assess the  
8 justification for the Prosecution's request as it hasn't been notified of any VWU  
9 assessment and does not know, first, the basis of the medical opinion that the  
10 witness has the reported illness, second, whether the witness has been diagnosed by  
11 any medical professional, third, when the witness became ill, or, fourth, what  
12 symptoms make travelling inadvisable.

13 The Defence submits that the only appropriate consequence in the absence of an  
14 order requiring the Prosecution or VWU to provide the information is denial of the  
15 motion.

16 The Chamber recalls its previous finding that the Statute and the Rules give  
17 the Chamber a broad discretion to permit evidence to be given viva voce by means  
18 of video or audio technology, provided, inter alia, that such measures are not  
19 prejudicial to or inconsistent with the rights of the accused.

20 In the present case, the Chamber notes that Witness P-0116's testimony had already  
21 been rescheduled due to his health and the VWU's recommendation as conveyed by  
22 the Prosecution that the witness testify via video link due to his medical condition  
23 and to avoid lengthy and tiring travel.

24 The Chamber recalls in this regard that it does not consider the use of video link to  
25 require exceptional justification and that it has not, in such circumstances,

1 previously found, if necessary, to obtain further information concerning a witness's  
2 medical condition or inability to travel.

3 The Chamber notes that the Defence made no concrete submissions as to prejudice  
4 specifically arising from hearing this witness testimony via video link and  
5 the Chamber does not consider that it would be prejudicial to or inconsistent with  
6 the rights of the accused for the testimony of this witness to be heard by way of  
7 video link.

8 In so deciding, the Chamber has had regard to the nature of the witness's  
9 anticipated testimony, the fact that the Chamber, parties, and participants will be  
10 able to see and hear the witness testifying in realtime. The testimony is anticipated  
11 to be elicited viva voce and both the Chamber and the parties will have the  
12 opportunity to examine the witness. In the circumstances and for the reasons  
13 given above, the Chamber finds it appropriate to hear the testimony of  
14 Witness P-0116 by way of video link and orders the Prosecution and the Registry to  
15 make the necessary arrangements.

16 The Chamber also notes the Prosecution's indication that had witness is expected to  
17 be ready to start his testimony on 9 February 2017.

18 This concludes the Chamber's ruling.

19 And I will immediately continue with delivery of the Chamber's preliminary ruling  
20 on the Prosecution's request for the admission of this same witness's prior recorded  
21 testimony under Rule 68(3). This was filing number 1606; the Defence responded  
22 in filing number 1633. The Chamber incorporates by reference the applicable law  
23 as recently set out in its decision bearing filing number 1640.

24 The Chamber hereby issues a preliminary ruling on the request. Consistent with  
25 its usual practice, a formal decision on admission will be rendered when

1 Witness P-0116 appears before the Chamber and if the relevant requirements are  
2 satisfied.

3 Now we will go into private session for the next part of the ruling.

4 Court officer, please

5 (Private session at 1.09 p.m.)

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10 (Open session at 1.12 p.m.)

11 THE COURT OFFICER: [13:12:10] We are in open session, Mr President.

12 PRESIDING JUDGE FREMR: [13:12:11] Thank you, court officer.

13 The Prosecution also seeks admission of a six-page document contained in annex I  
14 of the request which was created by the witness at the time he was interviewed by  
15 the Prosecution. The Prosecution submits that the document is admissible either as  
16 a prior-recorded testimony or as an associated document. The Defence does not  
17 oppose admission of the document but submits it cannot be admitted as an  
18 associated document and should instead fulfil the requirements for admission as  
19 a prior-recorded testimony under Rule 68(3).

20 Based on the content, level of detail and the witness explanation of the nature of the  
21 document as provided in the witness statement, the Chamber considers that the  
22 document constitutes prior-recorded testimony. The Chamber notes that although  
23 the document is not signed, the witness explains in his statement which is signed  
24 and attested to that he prepared the document himself and gives the reasons for  
25 doing so. Most of the information is contextual in nature which the Chamber



1 considers to be of limited relevance to the testimony of this witness. However, the  
2 document also contains specific information related to alleged child soldiers,  
3 including names of alleged recruits, yet while the witness statement indicates that  
4 the witness saw and experienced the events since August 1997 himself, the basis of  
5 knowledge is unclear in respect of many of the events described.  
6 Therefore, the Chamber rejects admission of this document pursuant to Rule 68(3).  
7 Should the Prosecution wish to examine the witness on the last sections of the  
8 document, it is free to do so as part of its supplementary examination.  
9 Finally, in terms of timing, the Chamber authorises the Prosecution to conduct  
10 a supplementary examination of a maximum of one and a half hour with the  
11 witness as requested. In terms of the appropriate scope of such examination,  
12 the Chamber observes that there is nothing in the conduct of proceedings decision  
13 that would limit the scope of supplementary examination in the manner proposed  
14 by the Defence as long as the witness preparation protocol and the related  
15 disclosure obligations are adhered to.  
16 Having considered the scope and nature of the evidence presented by  
17 the Prosecution through this witness, the Chamber authorises three hours for  
18 the Defence cross-examination which equals the Prosecution's estimate for  
19 examination without the use of Rule 68(3).  
20 Finally, the Defence is directed to file a public redacted version of its response  
21 within two weeks of today.  
22 This concludes the Chamber's ruling.  
23 Before we break, a minor point. Ms Luping, so far you have used two and a half  
24 hours, roughly, which should mean that you are in the half of your examination. Is  
25 it the case or how do you see the perspective of the rest of your -- you should still

1 have two and a half hours. So according your estimation, how you will be doing?

2 MS LUPING: [13:16:05] I have to admit, Your Honours, I do have quite an amount  
3 of material still to cover with this witness. She is an important documentary  
4 witness. I will certainly endeavour to do my best to complete everything within  
5 those two and a half hours.

6 PRESIDING JUDGE FREMR: [13:16:19] I would encourage, and in case we will get  
7 into time pressure, you have simply to opt for the most relevant documents because  
8 at the moment I think the Chamber doesn't see any reason to extend your time. So  
9 have it in mind.

10 Now we break and we will reconvene, since we will have to preserve the 90-minute  
11 break, so we will then reconvene at a quarter to three, if my counting is right.

12 THE COURT USHER: [13:16:56] All rise.

13 (Recess taken at 1.16 p.m.)

14 (Upon resuming in open session at 2.45 p.m.)

15 THE COURT USHER: [14:45:50] All rise.

16 Please be seated.

17 PRESIDING JUDGE FREMR: [14:46:17] Good afternoon, everybody. We will  
18 directly proceed with the next part of direct examination of our witness, conducted  
19 by the Prosecution, namely, by Ms Luping.

20 Ms Luping, you have the floor.

21 MS LUPING: [14:46:33] Thank you, Mr President.

22 Q. [14:46:36] Ms Bakar, could I ask that you turn to tab 4 of your trial binder  
23 again and pull out the -- it is the code cable of 20 June 2003. That is  
24 DRC-OTP-0152-0286.

25 And if you could please turn, first of all, to paragraph 53.

1 And it has page 13 written at the bottom and the ERN, that's page 0301. And I  
2 want to refer to the first line where it states:  
3 "The team listed 250 victims killed as well as around 30 women abducted by UPC  
4 forces in the military operations carried out in Lipri, Bambu, Nyangarai, Kobu and  
5 in the bushes surrounding these localities. 50 of the victims were underage."  
6 Now, first, focusing on the passage about the 30 women abducted by UPC forces,  
7 you had previously stated before lunch that from information provided by  
8 witnesses, there were a number who stated that women had been abducted and  
9 taken as war wives. Are these the women to whom you were referring when -- in  
10 the report, there is a reference to 30 women abducted?

11 A. [14:48:14] Yes.

12 Q. [14:48:23] And again, if you could remain with the same report, in fact it is  
13 just the next page, at paragraph 57. It is the penultimate sentence and I will read it  
14 out: "The Lendu recuperated some of their guns, mortars and one Motorola."  
15 My question is, Ms Bakar: Could you explain from whom your team received this  
16 information that the Lendu had recuperated some UPC guns, mortars and a UPC  
17 Motorola?

18 A. [14:49:15] The witnesses with whom we had some discussions in Lipri, but  
19 I don't remember which ones specifically.

20 Q. [14:49:25] And can you recall if you your personally -- whether you personally  
21 spoke to witnesses who explained that the Lendu had recuperated UPC weapons  
22 and a Motorola?

23 A. [14:49:44] Yes, I do remember.

24 Q. [14:49:47] Now, remaining on the same page, this time at paragraph 58, and it  
25 states:

1 "The Lendu combatants escaped and the population was hunted in the forest.

2 A lot of children were reportedly killed in the forest of Ngoto."

3 Can you recall from whom you received this specific information about the killing  
4 of children in particular in Ngoto and other civilians?

5 A. [14:50:23] Yes, from the witnesses we interviewed.

6 PRESIDING JUDGE FREMR: [14:50:35] Ms Luping, sorry, but I have to comment  
7 on the way -- how you are focusing your examination. Again, I would like to  
8 highlight that I can hardly imagine that this Chamber will build its conclusions on  
9 the fact that anonymous witnesses said something, for example, about recuperation  
10 of guns. You brought as the Prosecution several witnesses directly testifying about  
11 that. It, I would say, would be the source for our conclusions. But I can really  
12 discourage you to go this way because it will be of very lower relevance to rely on  
13 this type of testimony saying that, okay, we get from some witnesses this  
14 information.

15 MS LUPING: [14:51:24] Understood, Mr President. Obviously, it is for  
16 your Honours to decide ultimately at the end of the day once you have assessed all  
17 the evidence how much weight you want to attribute to the evidence. Obviously,  
18 this is an individual who met with -- who headed a team that met with a large  
19 number of witnesses. She may not recall the precise persons that she spoke to, but  
20 the Prosecution will be arguing that nevertheless this is important information that  
21 was obtained not very long after the events so that to that extent it should also be  
22 considered in that light. But I take on board your comments, Mr President.

23 Q. [14:52:04] Now, Ms Bakar, you had also before lunch explained that the  
24 witnesses that you met in Lipri, Kobu and Bambu had spoken about a letter, a letter  
25 from a UPC commander that you named as Mulenda, and you said that you had

1 seen the letter. Just a follow-up question in relation to this: Did you receive any  
2 information as to whether there was any kind of response to the UPC invitation to  
3 a meeting?

4 A. [14:52:47] Yes. The witnesses told us that there was talk about whether to  
5 accept that invitation or not. They finally decided to attend, but put forth some  
6 conditions, including a request for the UPC to withdraw from the area.

7 Q. [14:53:09] And to clarify, is that information reflected at paragraph 60 of this  
8 report at page 0302? You don't need to read it out. If you could just briefly look at  
9 that information set out at page 0302 or page 14 of the June 2003 report, paragraph  
10 60.

11 A. [14:53:48] Yes.

12 Q. [14:53:54] Now, I would like to ask you to turn to page 0303 and this is  
13 paragraph 61:

14 "They also saw one pregnant woman whose body had been mutilated, the embryo  
15 taken out and put on the chest of a male victim."

16 Can you recall any details about this particular victim, whether this individual was  
17 named at all, and if so, whether it was recorded amongst your database.

18 A. [14:54:35] The information must be in the database but I don't remember the  
19 details and I don't remember the name.

20 MS LUPING: [14:54:47] Now, Mr President, with your leave, the Prosecution  
21 would ask to have the floor so that we can show very briefly to a witness a short  
22 excerpt from a video clip which has actually already previously been admitted as  
23 evidence, but we would seek the witness's comments on this excerpt. It's  
24 found -- the reference is found at tab 25 of the list. It is DRC-OTP-1033-0221. And  
25 the witness has previously had the entire excerpt from minute 00.34 to 00.45.22

1 played to her during witness preparation.

2 Q. [14:55:26] Ms Bakar, I will only be asking to play the first minute and 15  
3 seconds.

4 PRESIDING JUDGE FREMR: [14:55:33] Defence, any objection?

5 MR GOSNELL: [14:55:36] May I just seek one clarification and that is whether the  
6 portion that is proposed to be played has already been shown to witness during the  
7 witness preparation session? I am not sure I understand.

8 MS LUPING: [14:55:52] This previous excerpt has, in fact, been shown to the  
9 witness before when she was interviewed. It is referred to in her 2015 witness  
10 statement, her comments regarding this particular excerpt. In addition, she was  
11 shown this excerpt again during the witness preparation, but she has been shown it  
12 twice. She has seen it twice.

13 MR GOSNELL: [14:56:14] There is no objection, then, Mr President.

14 PRESIDING JUDGE FREMR: [14:56:16] All right, then. So let's proceed as  
15 proposed.

16 THE COURT OFFICER: [14:56:19] Excuse me, just to interrupt. Before it is  
17 published, is it a public video?

18 MS LUPING: [14:56:23] Actually, we would -- simply because of the nature of my  
19 questions, if we could have it published as confidential, and if we could move into  
20 private session for the showing of this video and the questions, because they are of  
21 an identifying nature.

22 PRESIDING JUDGE FREMR: [14:56:36] So in order to inform the public, since there  
23 is a risk that some witnesses or some persons who are protected and in fact were  
24 given a guarantee that their identity will not be revealed to the public, we now for  
25 some -- for a few minutes have to move into private session.

- 1 Court officer, let's move into private session.
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12 (Open session at 3.06 p.m.)

13 THE COURT OFFICER: [15:07:11] We are in open session.

14 PRESIDING JUDGE FREMR: [15:07:13] Thank you, court officer.

15 Ms Luping, please proceed.

16 MS LUPING: [15:07:20] Thank you.

17 Q. [15:07:21] Ms Bakar, again, before the lunch break when we talked about the

18 June 2003 report that you wrote and the special report on Ituri for the events in

19 2002/2003, you had explained that a colleague of yours, Ms Peduto, had written the

20 sections on child soldiers and children in particular. The question I had is: Do you

21 yourself recall seeing child soldiers of the UPC and, if so, where and roughly when?

22 A. [15:07:59] When we went to Bunia for the first time, late March, early April,

23 the UPC had been driven out of Bunia. But when we returned in May, June, they

24 had come back. And at that time in Bunia - and I'm not able to tell you in which

25 neighbourhood - I saw small human beings bearing weapons who appeared to be

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(Private Session)

ICC-01/04-02/06

1 less than 18 years old, to my eyes.

1 Q. [15:08:45] And these individuals, these small human beings bearing weapons  
2 who appeared to be less than 18 years old, could you clarify more precisely the age  
3 range of these people that you saw who appeared to be below 18.

4 A. [15:09:11] I would say between 14 and 17 years.

5 Q. [15:09:18] And you explained that Kristine Peduto wrote the parts of the  
6 reports that you co-authored on child soldiers. Who conducted the interviews with  
7 the child soldiers, you know, the information that we see in those reports?

8 A. [15:09:39] It's Kristine who conducted them, because when we went there,  
9 there were areas such as Rwampara, for example, where the UPDF was facilitating  
10 the interaction with child soldiers. So I do not remember myself having seen a child  
11 soldier, although I interviewed child victims.

12 Q. [15:10:18] Now, you have mentioned again before lunch that you met with  
13 certain leaders of the armed groups. You mentioned Jean-Pierre Bemba. Do you  
14 recall a meeting that you had with Chef Kahwa?

15 A. [15:10:38] Yes. I saw or met with Chef Kahwa several times, once in  
16 Kinshasa with the chief of the section for child protection, then we also had  
17 a mission to Mahagi together towards the end of the year.

18 Q. [15:11:00] And do you recall any discussions that you had with Chef Kahwa  
19 specifically in relation to child soldiers and his views in relation to child soldiers?

20 A. [15:11:16] Yes, I do recall that he tried to justify the use of child soldiers in  
21 the defence of the Hema people. He said that if he had been forced to, he would  
22 have even used children of two years old.

23 Q. [15:11:46] And the information about the interview that you had with  
24 Chef Kahwa, do you recall that -- whether it was included in any report at all and, if  
25 so, in what form did that report appear?

1 A. [15:12:07] Well, the interview notes were drafted and sent by code cable to  
2 New York with the attendant information.

3 Q. [15:12:21] And do you know who drafted that code cable?

4 A. [15:12:28] Myself, of course, with the participation of the child protection unit  
5 chief.

6 Q. [15:12:39] I would now like to ask that you turn to tab 50 of your trial binder.  
7 That is the second trial binder. For the record, that is DRC-OTP-0065-0019. It is  
8 a confidential report so if it could please not be shown on the screen.

9 PRESIDING JUDGE FREMR: [15:12:58] But before going to that one, a question  
10 from my part: Madam Witness, what is -- Madam Witness, what is your  
11 understanding of the term "child soldier" that you also applied to your reports?

12 THE WITNESS: [15:13:23] (Interpretation) The definition of the child, according to  
13 the convention on the rights of children, is less than 18 years. So when I talk about  
14 a child soldier, I am referring to a young person who is carrying a weapon.

15 PRESIDING JUDGE FREMR: [15:13:42] Thank you.

16 MS LUPING: [15:13:56]

17 Q. [15:13:56] So, Ms Bakar, do you have this document before you?

18 A. [15:13:58] Yes.

19 Q. [15:13:58] And can you -- I don't need you to read it out or any passages from  
20 it, but could you just look at it and let me know whether you recognise it.

21 A. [15:14:08] Yes, I recognise it.

22 Q. [15:14:12] And what is it?

23 A. [15:14:16] It is a code cable sent by the special representative of the  
24 secretary-general who at the time was Mr Swing to the director of DPKO  
25 peacekeeping department which dealt with the meeting with Chef Kahwa on human

1 rights and child soldier issues.

2 Shall I say anything more? There is also information that we had confirmed that  
3 there was a camp receiving children from Ituri during the time we were in Uganda  
4 and then you have got the details of our discussion with Chef Kahwa.

5 Q. [15:15:17] Sorry, I just lost my transcript before. That's why I was pausing.  
6 And can you confirm who wrote this code cable?

7 A. [15:15:27] It was me and the child protection chief.

8 Q. [15:15:36] And at paragraph 7 of this document, so that's 0020, and I refer to  
9 the line, "He said that he would give a weapon even to a two-year-old child if the  
10 need arose again," is this the discussion with Chef Kahwa that you mentioned before  
11 we looked at this document?

12 A. [15:16:00] Yes.

13 MS LUPING: [15:16:04] Mr President, your Honours, I would seek to have this  
14 document admitted as a further Prosecution exhibit.

15 PRESIDING JUDGE FREMR: [15:16:12] Defence?

16 MR GOSNELL: [15:16:14] No objection, Mr President.

17 PRESIDING JUDGE FREMR: [15:16:16] So the document specified by Ms Luping is  
18 admitted into evidence as a further Prosecution exhibit.

19 Ms Luping, please proceed.

20 MS LUPING: [15:16:29]

21 Q. [15:16:29] Now, Ms Bakar, again, before lunch you spoke about a database  
22 that was used, including after June/July 2003, and you also explained that in relation  
23 to the incident at Lipri, Kobu and Bambu, that some of the information was also  
24 inputted into that database. Can you recall yourself inputting information about  
25 this investigation in that database?

1 A. [15:17:07] I don't really recall that information. In November, in Beni, that  
2 information was fed into the database.

3 Q. [15:17:23] I would ask that you look at a document at tab 40. This is  
4 DRC-OTP-2082-2013.

5 A. [15:17:35] Which tab, please?

6 Q. [15:17:37] Tab 40 of the second trial binder, that is 4-0, 40. I would ask that  
7 you simply look at the document and then let us know if you recognise it.

8 A. [15:18:09] I recognise it.

9 Q. [15:18:11] Could you explain what this is.

10 A. [15:18:16] It is a page taken from the database which deals with one particular  
11 case. And the number, SIT, it means that it was part of the remit of the special  
12 investigation unit. And it deals with the UPC attack on Kobu, Bambu and Lipri.

13 Q. [15:18:48] And if we look at the top of the page, and it is dated DHSIT0026,  
14 what does that case number relate to?

15 A. [15:19:06] It refers to human rights, that's DH; SIT is the special investigation  
16 team; and the case number is 26.

17 MS LUPING: [15:19:22] Mr President, I just have one question that might give an  
18 identifying nature if we could briefly move into private session.

19 PRESIDING JUDGE FREMR: [15:19:30] Certainly.

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

21 (Private session at 3.19 p.m.)

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18 (*Open session at 3.41 p.m.*)

19 THE COURT OFFICER: [15:41:49] We are in open session.

20 PRESIDING JUDGE FREMR: [15:41:54] Thank you, court officer.

21 Ms Luping, please proceed.

22 MS LUPING: [15:41:58] Thank you, Mr President, your Honours.

23 Now, Mr President, your Honours, the next document that I would like to show to  
24 the witness, I would like to first explain to the Chamber the context of showing this  
25 to the witness. The witness has referred to an Excel spreadsheet that was used by



1 the special investigation unit and team. Now, just to explain the precise document  
2 that will be shown to her, originally a document - this is at tab 17,  
3 DRC-OTP-0195-2366 - this has been previously used with another witness and it has  
4 in fact been partially admitted.  
5 Now, it was during the course of the witness preparation with this witness - and  
6 indeed it was identified also by the Defence who requested the original version of  
7 the Excel spreadsheet, they also identified the same problem at almost the identical  
8 time as the Prosecution was identifying and meeting and discussing it with this  
9 witness Ms Bakar - we discovered that there was a formatting problem with the  
10 Excel spreadsheet. It had been PDF-ed essentially incorrectly and uploaded into  
11 Ringtail. It had been split in half and half of the document, if you like, if you have  
12 a large A3, had been literally cut in half and half of it tacked at the end, making it  
13 quite difficult to read. And it was only via discussions with the witness and  
14 actually put it alongside that we discovered the problem.  
15 What we were able to do with the kind assistance of Mr Lavigne, with the  
16 United Nations, was to gain the approval for the original Excel spreadsheet to be  
17 provided to the Defence and it has now been uploaded into Ringtail. We would  
18 propose that the correctly formatted document be the version that is used and  
19 shown to this witness; otherwise, it is a bit of mental gymnastics trying to follow the  
20 columns and the information. Just to be absolutely transparent and upfront.  
21 The second problem that was encountered with the formatting of this spreadsheet is  
22 that for certain cells what we discovered is that when it was PDF-ed, it was -- again,  
23 it was not saved correctly when it was transported into Ringtail, that some of the  
24 information contained in the cells had been cut off.  
25 So in the newly disclosed version of this same document, we now find certain

1 additional information of the facts coming from witnesses. We have done our own  
2 assessment of the document, and the large majority of the information where there  
3 is additional information that had been cut that now appears in fact relates to the  
4 incidents in Bunia. There are some cases that relate -- or individuals that have been  
5 spoken to in relation to Lipri, but, as I say most, of it comes from Bunia.

6 In our submission, your Honours, it would be more time-efficient, and in the  
7 interests of justice and simply to make the Chamber's life and everybody's life easier  
8 subsequently, if the correctly formatted spreadsheet is used instead of a basically  
9 very difficult document to use because it has been cut in half and then simply  
10 tacked on.

11 PRESIDING JUDGE FREMR: [15:45:25] Defence, do you have any problem with the  
12 proposal made by Ms Luping?

13 MR GOSNELL: [15:45:31] I do have one commentary to make, Mr President, if you  
14 will allow me very briefly, but I believe it is very important in respect of the  
15 information that may be adduced. Your Honours will recall -- and perhaps we  
16 could just -- I could ask your indulgence to call up the document as it was previously  
17 used before your Honours so that you can see what I am referring to. It is  
18 DRC-OTP-0195-2366. I'm sorry I have to do this, Mr President, but it is helpful to  
19 explain.

20 PRESIDING JUDGE FREMR: [15:46:05] No problem with that.  
21 Court officer, please assist.

22 MR GOSNELL: [15:46:18] Mr President, this is the front page of the document as it  
23 was used with Ms Peduto and at the time that this document was used I objected to  
24 its admission. And I objected on two grounds; first, that there were many entries  
25 that did not relate to Ms Peduto, but, secondly, because if you look at the document

1 in front of you, you will see that in terms of the entries that seem to be related to her,  
2 there is very little information about each entry.

3 Now, as it turns out, Mr President, if you look at the second half of this PDF  
4 document, you will see the lines which should be following from the lines on this  
5 front page. The Defence was not aware of that connection at the time of  
6 Ms Peduto's testimony and the Prosecution apparently was also not aware of that  
7 connection because they did not raise it at the time. The document was  
8 nevertheless admitted and that means that there are entries on this document on the  
9 screen in front of you that have been admitted by your Honours during her  
10 testimony, during Ms Peduto's testimony, which of course now we are not in  
11 a position to cross-examine her in relation to the lines, the details that we now  
12 understand are correlated to certain entries on this document.

13 So, your Honours, that poses a problem in terms of our ability to cross-examine in  
14 respect of the lines that your Honours have now already admitted, because it is not  
15 even clear that the -- the sort of extended line, whether that is actually now in  
16 evidence, because, Mr President, you were very specific that only the lines that were  
17 specifically related to Ms Peduto should be admitted. That does leave us in  
18 something of a quandary as to, first of all, what is in evidence and, secondly, how  
19 we would cross-examine on that material.

20 Now, having said all that, we don't want to be obstructive and the information in  
21 this document, when properly formatted, is useful to exploring certain matters.

22 So I just wish to put that explanation on the record. I wish to indicate that we -- we  
23 object to the fact that we were not able to cross-examine Ms Peduto in relation to the  
24 entries that now relate to her lines and we will nonetheless proceed to  
25 cross-examine Ms Bakar on the lines that are now clearly related to her entries.

1 Thank you, Mr President.

2 PRESIDING JUDGE FREMR: [15:48:50] Ms Luping, any additional comment on  
3 this? Otherwise, I think it is very well noted so we will take it into account --

4 MS LUPING: [15:48:56] Yes, just two brief comments.

5 PRESIDING JUDGE FREMR: [15:48:58] -- as concerns Ms Peduto testimony.  
6 Now, Ms Luping.

7 MS LUPING: [15:49:00] Yes, just two comments in relation to Ms Peduto's  
8 testimony. Your Honours' ruling was that it was the partial admission at that stage  
9 of entries that related to Ms Peduto. Now, the fact is that the entire document was  
10 before the Chamber, before the parties, and now we know that there are certain  
11 additional entries that in fact do relate to Ms Peduto. It would be an artificial  
12 exercise also not to be able to take those into account; that is number one.

13 Secondly, if the Defence are concerned, they can make an application to recall  
14 Ms Peduto, should they wish to do so. That, in our submission, should not be a  
15 basis for not seeking to use a workable document with the current witness before  
16 us.

17 PRESIDING JUDGE FREMR: [15:49:46] I totally agree. Please proceed.

18 MS LUPING: [15:49:52] So just to indicate to the Chamber and the parties and  
19 participants, the Prosecution has printed out a hard copy of the correctly formatted  
20 Excel spreadsheet. It still bears the ERN DRC-OTP-0195-2366, but to aid  
21 the Chamber's assessment subsequently of the two witnesses' testimony in relation  
22 to the same spreadsheet, this correctly formatted spreadsheet also has 001 at the end  
23 of it. It is a second version of the same document, essentially. That is simply for  
24 the record.

25 Q. [15:50:29] So, Ms Bakar, do you have the --

1 PRESIDING JUDGE FREMR: [15:50:37] Before proceeding, is this document public?

2 MS LUPING: [15:50:40] No, it should remain confidential. At this stage my  
3 questions can be asked in public session. I will be asking some identifying  
4 questions which I will then seek to move into private session.

5 PRESIDING JUDGE FREMR: [15:50:50] All right. Please be vigilant.

6 MS LUPING: [15:50:56]

7 Q. [15:50:58] So, Ms Bakar, the first thing I am going to do is simply ask you to  
8 look at the headings -- it is the hard copy document, not the old version of the  
9 document in front of you.

10 And if the court officer, to avoid confusion, could take the old, incorrectly formatted  
11 document away from the screen.

12 Thank you.

13 And if we look simply at the hard copy document, then, in front of you, could you  
14 please take us through, column by column, the headings only, without giving us  
15 any details about the substance, just to explain to the Chamber what do the  
16 headings mean, starting from "Rapport d'incident" and onwards, just one by one,  
17 just explain what do these fields relate to.

18 A. [15:51:50] Okay. You have the incident report relating to an incident, Kobu,  
19 Lipri. There will be a number for such an operation. Then Bunia in March will  
20 have another number; then the Nyakunde attack will have another number.

21 Investigation in the sector or commune or town relates to the place where the  
22 investigation was conducted. "Date of report," the date on which the case was  
23 recorded. "Case number," that is the victims' number. I was mistaken the first  
24 time when I said that it referred to the interview number. No, it is number of -- the  
25 victim number. Even if it is the same case, like in Bogoro, if we had five victims,

1 then we would have five lines with five different numbers for each victim. "Date of  
2 incident" is the date on which the incident occurred. "Nature of violation" could be  
3 massacre or what have you. "Type of violation" could be the human rights  
4 nomenclature for the type of violation. Has there been no incident and the type of  
5 incident is also another entry. "Place of incident," region, town, commune, where  
6 the address is available, that is also provided. This is followed by a number of  
7 questions on the victim, such as identity, name, gender, sex, age, ethnicity, place of  
8 residence, civil status, and contact.

9 Quite often the victim doesn't have a contact because they are in the forest and they  
10 are displaced, so quite often under "Contact" it is usually somebody else who is  
11 known and who has a telephone number or an NGO.

12 Then you have details of the investigation which would be a summary of what  
13 people provided by way of information. Then there is a host of information on the  
14 attackers: identity, sex, ethnicity, spoken language, because quite often the  
15 Ugandans were accused or the Rwandans were accused and so the language they  
16 spoke mattered in matters of identifying the source of the various groups.  
17 "Occupation and military rank," "physical description," because people would often  
18 or always wear military attire. "Clothing, types of weapon used, hierarchical  
19 superior," and the last entry is "additional information".

20 Q. [15:54:47] And just to be clear, because you have obviously given the full  
21 explanation of the headings, is this the Excel spreadsheet to which you referred  
22 previously before lunch as being the one that was used by your special investigation  
23 team?

24 A. [15:55:08] Yes, it is.

25 Q. [15:55:08] And you also stated that you, together with Kristine Peduto,

1 compiled all the information together in the spreadsheet; is that correct?

2 A. [15:55:18] Yes, that is correct.

3 Q. [15:55:22] Including information from other investigators who were seconded  
4 to the team.

5 A. [15:55:29] Yes, that's correct.

6 MS LUPING: [15:55:33] Mr President, your Honours, I just have a couple of  
7 questions of an identifying nature. If we could move into private session.

8 PRESIDING JUDGE FREMR: [15:55:40] All right.

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

10 (Private session at 3.55 p.m.)

11 (Redacted)

12 (Redacted)

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- 19 (Open session at 4.10 p.m.)
- 20 THE COURT OFFICER: [16:10:55] We are in open session.
- 21 PRESIDING JUDGE FREMR: [16:10:56] Now please proceed, Ms Luping.
- 22 MS LUPING: [16:11:00] Thank you.
- 23 Q. [16:11:01] Ms Bakar, you also have referred to the database that was used and
- 24 you have in fact already identified one document where information was drawn
- 25 from the database. I would like to refer to tab 18, and that's DRC-OTP-2066-0475.

1 Now that you have had a chance to look at this document, can you confirm whether  
2 you recognise it?

3 A. [16:12:11] Yes, it is a document, a list of cases in the database which was  
4 printed out in this format.

5 Q. [16:12:23] And can you confirm who compiled this information in the  
6 database that is contained in this document?

7 A. [16:12:38] Each one of us handled our cases. If you see my name, I am the  
8 one who handled the case. But if you see an entry with several names, it is several  
9 persons. And every now and then I also used the questionnaire from other persons  
10 and then entered the information. There were cases involving people who went  
11 with me to Uganda and also cases from Beni.

12 Q. [16:13:07] And just to clarify, because you have already explained that in your  
13 role as head of the special investigation team that you were the person who was  
14 supervising the individuals who inputted data in the Excel spreadsheet, the  
15 database, did the same thing apply? Were you responsible for the individuals  
16 inputting in the database?

17 MR GOSNELL: [16:13:31] Objection, Mr President.

18 PRESIDING JUDGE FREMR: [16:13:31] On what ground?

19 MR GOSNELL: [16:13:33] It is a vague question, Mr President. In light of the issue  
20 that is now before your Honours and that you will hear future submissions on,  
21 I think we ought to be quite precise about responsible for what and when and in  
22 respect of what task.

23 PRESIDING JUDGE FREMR: [16:13:46] Ms Luping.

24 MS LUPING: [16:13:47] I am happy to rephrase my question.

25 Q. [16:13:49] The information that was inputted by individuals in the database,

1 what was your supervisory role, if any, in relation to the information being collected  
2 and the information being inputted?

3 PRESIDING JUDGE FREMR: [16:14:08] Mr Gosnell.

4 MR GOSNELL: [16:14:10] Objection, Mr President. I'm sorry, but it is leading.  
5 The question could simply be asked: What was your role in relation to the  
6 inputting?

7 PRESIDING JUDGE FREMR: [16:14:16] Yes, I agree with you. Formally, it was  
8 leading, but the fact that our witness was in charge of supervision was several times  
9 mentioned in the previous part of her testimony. So please proceed.

10 MS LUPING: [16:14:29] Thank you, Mr President. And I was responding to an  
11 objection for being insufficiently clear, so I was trying to be more specific and  
12 directed and, indeed, as opposed to be leading it was a directed question.

13 Q. [16:14:36] So, Ms Bakar, could you answer my question: In relation to the  
14 information inputted into the database, what was your supervisory role, if any, in  
15 relation to the collation of that information and the inputting of that information?

16 A. [16:14:59] With regard to the collating of information, special  
17 investigate -- you have the coordinator of those -- of that investigation was  
18 responsible for the data that was inputted in the database. And on the basis of  
19 information recorded in the database, I could draft the report.

20 Q. [16:15:28] And I have a specific question now in relation to this particular  
21 document drawn from the database, which heads "Credibility of Source." Could  
22 you explain what explanation is made about the credibility of sources that is  
23 reflected here in the database?

24 A. [16:15:52] There wasn't really any tangible things. One source came across as  
25 more credible based on the account that was given, more credible if the person had



1 seen something, more credible if the person had been themselves a victim. But we  
2 didn't have any way to properly evaluate things, given that in each case we didn't  
3 have very much time to run our investigations.

4 PRESIDING JUDGE FREMR: [16:16:27] Sorry, Ms Luping.

5 So, Madam Witness, have you ever evaluated one of the sources as incredible?

6 THE WITNESS: [16:16:41] (Interpretation) Yes. Let's take an example. We knew  
7 that the Catholic Church in Bunia had been partisan, if you will. In some periods  
8 they had even hidden weapons. We knew that some businessmen, some Hema  
9 businessmen, had funded the Ugandans to shell the Lendu villages. We knew who  
10 they were and -- and we had to check things. And if the information came from  
11 a -- the leader of an armed group, then we had to check things out. But when we  
12 went to particular places in Uganda, it wasn't very straightforward to check things,  
13 anything at all for that matter. So we had to speak with the greatest number of  
14 people possible and we retained the information that had been corroborated by more  
15 people.

16 PRESIDING JUDGE FREMR: [16:17:43] Thank you.

17 Ms Luping, please proceed.

18 MS LUPING: [16:17:48] Thank you.

19 Q. [16:17:49] Ms Bakar, can you clarify whether this excerpt that we see, or,  
20 sorry, this document that we see, is this a complete version of the database?

21 A. [16:18:02] No. It is not an exhaustive version. We don't have the events in  
22 question or the facts of the case. No, it is much more detail, the database.

23 MS LUPING: [16:18:16] Mr President, your Honours, at this stage the Prosecution  
24 would also seek to have this document admitted as a further Prosecution exhibit.

25 Ms Bakar has confirmed her role in supervising the individuals who inputted

1 information into the database, both in terms of the collation and the inputting of the  
2 information, her role in the compilation of this information, her reliance on this  
3 information for the purposes of preparation of her reports. So in our submission,  
4 your Honours, this information is important also for the Chamber's assessment as to  
5 the source raw data, as it were, that was used by this witness for the preparation of  
6 her reports that we shall also be seeking to have admitted.

7 PRESIDING JUDGE FREMR: [16:18:58] Defence?

8 MR GOSNELL: [16:18:59] We object, Mr President. The document is, by the  
9 witness's own account, severely incomplete. Looking at it on its face, it provides  
10 very little substantive information. It does not assist your Honours in the manner  
11 suggested by the Prosecution.

12 There is also the problem that your Honours don't know the criteria that were  
13 applied to exclude information from this document. For all that your Honours are  
14 aware there could be Article 68(3) information, that is, exculpatory information that  
15 has been removed from this document. There is no way to know one way or the  
16 other in at that respect.

17 And thirdly, the witness has just stated in French at page 127, line 3, "We were each  
18 responsible for our case. When you see my name, it is me, and when you see  
19 a number of names, sometimes I took the questionnaires of others. I inputted them  
20 and sometimes it was people with me in Uganda." (Speaks English)

21 The witness herself has not entered the information in respect of each line indicated  
22 here but that she would have entered her own information and possibly she would  
23 have entered information where there were multiple investigators.

24 That's the information before your Honours and we suggest that's not a sufficient  
25 basis for admission.

1 Thank you, Mr President.

2 PRESIDING JUDGE FREMR: [16:20:35] Ms Luping.

3 MS LUPING: [16:20:35] Mr President, your Honours, I would refer to page 139 of  
4 today's transcript, at lines 12 to 15, where the witness also said, "With regard to the  
5 collating as the coordinator of that investigation responsible for the data that was  
6 inputted into the database and on the basis of information recorded in the database, I  
7 could draft the report."

8 So I would simply repeat my submissions, your Honours, that the witness did  
9 not -- similar to the Excel spreadsheet, indeed individual investigators would input  
10 their own data but subsequent to that the individual witness here was responsible,  
11 as the coordinator for the team, for collating that information and confirms that she  
12 used this information for drafting of the reports that we will be seeking to admit.  
13 Secondly, this is very similar to the objection raised by Defence counsel in relation  
14 to the other database excerpt. This was the MONUC incident relating to the Lipri,  
15 Kobu, Bambu incident. In our submission, your Honours, yes, it may be  
16 incomplete - apologies to the transcribers and interpreters - it may incomplete, but  
17 the Chamber is able to assess the information as is available in this - and I would  
18 add this is the form in which the Prosecution received it so there has been no  
19 withholding of information; this is the excerpt as provided by the United Nations to  
20 us - is able to assess for itself also what weight to attribute to the information  
21 contained in this report. The objections go to weight and not to admissible.

22 Thank you, your Honours.

23 PRESIDING JUDGE FREMR: [16:22:12] All right. So this document is admitted  
24 into evidence but in fact, even in accordance with, Ms Luping, your own position,  
25 with very, very strong reservation, including the fact highlighted by Mr Gosnell

1 that -- and you even confirmed that it is pretty possible that the document is  
2 incomplete. So, frankly saying, the probative value of this evidence, at the moment  
3 I see really very low.

4 Please proceed, Ms Luping. But do you have -- are you able to finish in five  
5 minutes, the next issue? Maybe it would be better to finish -- it is up to you, but we  
6 still have just seven minutes.

7 MS LUPING: [16:23:01] Understood. Well, in fact --

8 THE WITNESS: [16:23:06] (No interpretation)

9 MS LUPING: [16:23:07] -- we have seven minutes. I have a new topic to move to,  
10 Mr President, your Honours. Perhaps it would be better to break now and to  
11 resume on Monday.

12 PRESIDING JUDGE FREMR: [16:23:18] It was my concern, whether it will be  
13 reasonable to open -- if the topic is rather broad, to open a new topic and then break  
14 after five minutes, so I think it is better to break.

15 All right. So we will break now. We will continue on Monday, 9.30.

16 Madam Witness, it is my duty -- you are again attacking me through microphone.  
17 It is my duty to remind you that you must not discuss your testimony with  
18 anybody else in the meantime till Monday. Do you understand?

19 THE WITNESS: [16:24:01] (Interpretation) Yes, I understand that.

20 PRESIDING JUDGE FREMR: [16:24:03] All right. And the last issue.

21 Court officer, may I be provided with the update on timing, what time Ms Luping  
22 has used so far?

23 THE COURT OFFICER: [16:24:17] Three hours, 28 minutes.

24 PRESIDING JUDGE FREMR: [16:24:24] So it means, if I am counting well,

25 Ms Luping, you still have one hour, 31 minutes. And, as I said, please be ready that

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WITNESS: DRC-OTP-P-0317

(Open Session)

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- 1 we will be strict because, as I said, at the moment we don't see any reason even
- 2 potentially to give you additional time. So please have it in mind.
- 3 Now we break and we will reconvene on Monday.
- 4 THE COURT USHER: [16:24:52] All rise.
- 5 (The hearing ends in open session at 4.24 p.m.)