

1 International Criminal Court
2 Trial Chamber I - Courtroom II
3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio Benito and
4 Judge René Blattmann
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/06
6 In the case of the Prosecutor versus Thomas Lubanga Dyilo
7 Trial hearing
8 Wednesday, 6 April 2011
9 The hearing starts at 9.31 a.m.
10 (Open session)
11 (The witness entered court)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session. Please be seated.
14 PRESIDING JUDGE FULFORD: Good morning.
15 Yes, Mr. Omofade.
16 MR. OMOFADE: Your Honours, to start with, more of a housekeeping
17 matter. Two documents were referred to by my colleague Ms. Struyven in
18 the course of her questioning of this witness, and EVD numbers haven't
19 been assigned to them. Might I respectfully ask that that be done. The
20 ERN number is DRC-OTP-0194-0328.
21 PRESIDING JUDGE FULFORD: Which tab, please?
22 MR. OMOFADE: Your Honour, I'll deal with this just before the
23 next break.
24 PRESIDING JUDGE FULFORD: Certainly, Mr. Omofade. Yes. Please
25 carry on.

- 1 WITNESS: WITNESS DRC-D01-WWWW-0019 (Resumed)
2 (Witness answered through interpreter)
3 Questioned by Mr. Omofade: (Continued)
4 Q. Good morning, Mr. Witness.
5 A. Good morning.
6 Q. We left off yesterday at the point where you were describing when
7 approximately 650 troops returned to Mamedì. Do you remember talking
8 about that?
9 A. Yes.
10 Q. And you remember also telling us that in addition to the 650 or
11 thereabouts troops of the FPLC, there were approximately 10.000 civilians
12 also in Mamedì?
13 A. Yes. Around 650 troops and roughly 10.000 civilians.
14 Q. And would it be fair to say that the 650 also troops converged in
15 one location in close proximity to each other and the 10.000 civilians
16 were all around Mamedì? Would it be fair to say that?
17 A. Well, in fact, we're talking about Mamedì. I don't know if we
18 have the same idea of this site, because I may very well start describing
19 how people found accommodation there, and if you don't have an idea of
20 the geographical surroundings, I don't know how you'd be able to assess
21 the accuracy of my answers. I'm certainly going to do my best. And as I
22 said earlier, all these people - I mean I'm talking about the
23 troops - were not all concentrated in one point. They were deployed
24 throughout the area. What I called a team occupied the advance position
25 in Baku. That team was in Baku and fought back an attempt by FAPC troops

1 to move into Baku. So from Baku to Mamedì you've got 8 kilometres.
2 Mamedì is not a town. I mean, as you generally understand that. You --
3 this is, in fact, a collection of huts on both sides of the road, and
4 this road is not used very often.

5 When we got there, the village was -- had been deserted, so you
6 had troops who settled down around the site of the general Chief of
7 Staff. Other troops couldn't find anywhere to stay, and they built in
8 the bush little hamlets. Other troops were sent further downwards,
9 because we had to have a wider security perimeter.

10 As for the civilians, they managed as they could apart from those
11 who were at closer links with the general Chief of Staff, and they came
12 and stayed close to him. There were some cases.

13 That's how I would describe the state of affairs. But not all of
14 them were in one place. You can't have 10.000 civilians in one place. I
15 mean, all the way from the very top to the end of this hamlet -- and this
16 is another point which might be new for you. From the point where we
17 were, you could go directly -- there's a road that goes to Aru, and
18 there's another road that goes all the way to Oicha, as I said yesterday,
19 in fact, yes.

20 Q. But as regards the Chief of Staff, General Kisémbó, he stayed
21 within Mamedì, and you stayed with him; is that correct?

22 A. He was in Mamedì. I don't know what "in Mamedì" means. I was
23 also in Mamedì.

24 Q. Now, you've also told us about some commanders, some of whom were
25 with General Kisémbó when you met up with him, and others that joined you

1 subsequently and also converged in Mamedì. Could you name some of those
2 commanders? I believe the only name you gave us in the course of your
3 testimony was Major Lobo. Could you name some of the others, please.

4 A. Well, first of all, let -- I'd like to say that we have to start
5 from where we left. First of all, in Soleniama, the person identified
6 among all these commanders, because I didn't know the military very well
7 when we were still in Bunia, but Major Lobo was someone with who I had
8 closer personal relations.

9 When we got to Iga-Barriere, I saw Eric Mbabazi. Eric Mbabazi,
10 G5. He was driving the vehicle that was requisitioned in Iga-Barriere.
11 I also saw Mugabo. Yes, I saw Mugabo. We had to move. Those were
12 people I knew. Of course, there were others whom I really met in Mamedì
13 since we were living all together in Mamedì, and there I can mention from
14 Stintslomgenina (* as interpreted), Papy. Another name would be
15 Karuakarua. That was a nickname. I don't know his real name.
16 K-a-r-u-a-k-a-r-u-a.

17 Also saw Eric Dhedonga, D-h-e-d-o-n-g-a. Also saw somebody
18 called Boga Zaringa (* phon), I believe. He was in artillery. Didier.
19 I knew them by their names because I was living with them. Kabandana,
20 K-a-b-a-n-d-a-n-a. So there are some of the names that spring to mind.
21 Yuda, somebody called Yuda. Yuda, that's the name I knew him by, Yuda.
22 Yuda. Y-u-d-a.

23 Q. (* Previous translation continues) ... in the FPLC; is that
24 correct?

25 A. Yes. At varying degrees, yeah. In terms of hierarchical order,

1 because the units were different in terms of their size and so forth.

2 Q. These commanders came along with their body-guards, didn't they?

3 A. Yes, some came with their body-guards, but other body-guards had
4 gone another way before we took the road from Mbidjo to Mamedì.

5 Q. And their body-guards, to a large extent, were young children
6 under the age of 15, weren't they?

7 A. That's what you say. I cannot state that, because I did not see
8 that in that way.

9 Q. And Floribert Kisembo himself also had body-guards with him who
10 were under the age of 15, didn't he?

11 A. No.

12 Q. You've already told us that you did see children or young
13 persons, and I believe you gave the figure of 19, in the course of your
14 stay in Mamedì. Do you remember telling us that?

15 A. Yes.

16 Q. I suggest to you that those children were certainly under the age
17 of 15. What do you say?

18 A. The other time I said they were under 18. That's what I said.
19 If you can prove the contrary, bring it here. I'm telling you they were
20 under 18, and they were not dressed in battle gear.

21 Q. Moving back slightly to the commanders, do you also say that
22 their body-guards might have been under the age of 18?

23 A. Well, I would say that quite possibly they were under 18, but
24 that doesn't mean that they were under 15. If you remember what I've
25 already said once, you did have commanders with small body-guards, but

1 being small in Ituri does not mean you're a child. I've known a
2 27-year-old in the prison in Makala who was very small, but he was
3 27 years old, from Ituri, a former soldier, and he had three wives. I
4 can't, therefore, assert that because you had some small people among the
5 body-guards that they were necessarily children. No, I can't say that.
6 They might have been under 18. I can't rule that out.

7 Q. But do you agree that the body-guards, and particularly this
8 group of 19 that you've referred to, that they stayed in close proximity
9 to Floribert Kisembo? Do you agree with that?

10 A. I believe I should start off by explaining what information I had
11 about those 19 people. It's worth it. They ended up there. The first
12 one to speak about these 19 people I talked about was Commander Papy from
13 G4. He said among these 19 children there were former soldiers who had
14 been cashiered out, but he could identify them. There were others he
15 could not identify. He believed they were people who were living in
16 military compounds and, therefore, must have been orphans, orphans who
17 had lost their parents and found safety in these military camps in that
18 area, in Pili and so forth.

19 Q. I'm going to go back to my question. Do you agree that these
20 19 persons, be they under 18 or under 15, were actually staying in close
21 proximity to General Floribert Kisembo?

22 A. Yes, they stayed there close to us.

23 Q. And because they were not staying with the 10.000 civilians that
24 were dispersed around the Mamedi area, you were concerned about that,
25 weren't you?

1 A. Yes. I mean, it's because I was concerned about them that I
2 tried to find out who they were. They were not at all linked to the
3 other civilians, and there were tough times where everybody was only
4 concerned by their own survival. When they managed to find something to
5 eat, they didn't feel like sharing it with anybody else. So who was
6 going to take care of those children? So those children believed that
7 they could find something to eat by staying near us, around us the
8 general Chief of Staff's site, and don't forget that the general Chief of
9 Staff had a bit of money that enabled to cover the needs of the people
10 close to him, as well as some other people, because he was a very humane
11 man.

12 There weren't only men who had been displaced. From Mongbwalu
13 there about 20 cattle heads belonging to the general Chief of Staff that
14 had been brought. We could shoot any of them at any time when we needed
15 meat. Other animals were taken to Watsa, to the market, because we
16 couldn't eat beef all the time. So there were resources to cover needs,
17 and these children or young people could find a way of subsiding by
18 staying close to Kisembo, not only in terms of their security but also in
19 terms of food. It's perfectly understandable.

20 Q. In fact, you were so concerned that you asked General Kisembo for
21 an explanation as to their presence there. That's true, isn't it?

22 A. I checked with Kisembo. I first asked for explanations with
23 Papy. And then to be sure, I asked Kisembo, and then I had no grounds
24 for concern anymore.

25 Q. I suggest to you that the only reason you first spoke to

1 two commanders and subsequently to the Chief of Staff was because these
2 children were, in fact, under the age of 15. That's true, isn't it?

3 A. No.

4 Q. What activities in the course of that one month that you were
5 there, what activities did these young persons or children engage in?

6 A. All the time we spent there in Mamedi, in fact, there was no
7 activity whatever that was organised for anybody, it has to be said. We
8 were just there to have -- get some rest after all the tough experiences
9 we had been subjected to. Everybody was just resting. The young people,
10 naturally -- well, most of them, of course, spent a lot of time
11 practising sport, soccer, playing with balls they had made up from leaves
12 they had picked together and they would play all day football together.
13 A young girl I could see was always next to the general Chief of Staff's
14 wife helping her clean up. That's what I could see.

15 Q. Is this the young girl named Francine?

16 A. No. No. That name don't ring a bell.

17 Q. Well, is it the young girl named Little Mavey?

18 A. Sorry?

19 Q. Is it the young girl named Little Mavey, M-a-v-e-y?

20 A. No, that name doesn't ring a bell. I mean I can't -- you have to
21 understand I didn't want to -- I couldn't learn all the names of all
22 these young people. I didn't even manage to get to name the names of
23 one-tenth of the commanders. I mean, there's no way I could have known
24 all their names.

25 Q. In any event, you agree that this young girl was close to the

1 general Chief of Staff?

2 A. I can't say that she was close to the general Chief of Staff.

3 All I'm simply saying is that although she was very young, she was
4 helping the general Chief of Staff's wife in sort of household work.

5 Q. And how young was this young girl?

6 A. In fact, do I have to guess her age? How old was she? I can't
7 really answer that question. I can't come up with an age, because to be
8 certain as to how old she was, I would have had to look at her birth
9 certificate, perhaps, or ask her parents. I mean, it's tough. If you're
10 asking me to guess her age, that's different, and I mean there's every
11 chance that I'll give you a wrong figure.

12 PRESIDING JUDGE FULFORD: Sir, you're certainly not being asked
13 to guess. Sometimes it's possible, because one sees a person, spends
14 time with them, to arrive at a -- at something that's better than a guess
15 in relation to a person's age. Did you form any view on what you saw of
16 her age at the time, or would it simply be expressing a guess now as to
17 her age?

18 THE WITNESS: (Interpretation) I'm saying they were under 18,
19 and you could say that they were under 18. That's -- I mean, I insist,
20 under 18. Fifteen, 16, 14. Could have been any such age.

21 MR. OMOFADE:

22 Q. Could she have been 14?

23 PRESIDING JUDGE FULFORD: He's just said that. He's just said
24 he's really not sure, but it could have been it's under 18, could have
25 been 15, could have been 16, could have been 14.

1 MR. OMOFADE: Your Honour, but my understanding was that he was
2 referring to the children he talked about generally when he said under 18
3 and --

4 PRESIDING JUDGE FULFORD: Right. You may be right. You may be
5 right.

6 MR. OMOFADE: -- with this particular girl.

7 PRESIDING JUDGE FULFORD: With this particular individual, you've
8 said generally that they may have been 15, may have been 16, may have
9 been 14. With her, what's the upper and lower possible limits for her
10 age?

11 THE WITNESS: (Interpretation) I'm trying to hear what's being
12 said, but I was getting the Swahili interpretation and not the French
13 one.

14 PRESIDING JUDGE FULFORD: I'll ask the question again, sir.
15 Focusing on this particular girl, in your view what were the upper and
16 lower possible limits for her age? So she came between what range?

17 THE WITNESS: (Interpretation) I would say between 14 and 16.
18 That would be the upper and lower bounds.

19 PRESIDING JUDGE FULFORD: Yes, Mr. Omofade.

20 MR. OMOFADE:

21 Q. Was she the only young girl that you saw where you were staying
22 close to General Kisembo?

23 A. Yes. She was the only one I saw.

24 Q. Leaving aside the young girl for the time being, I suggest to you
25 that the male young persons were engaged in singing military songs and

1 being trained while they were in Mamedì.

2 A. There was no military training at all in Mamedì.

3 Q. I suggest to you that there were not, in fact, 19, as you have
4 said, but there were close to 45 young children there.

5 A. That is not my opinion.

6 Q. Well, what caused you to count the number of children to be so
7 precise that there were 19?

8 A. Yes. Well, in fact, I was certain that the number of the
9 children there wasn't over 20. So that's why I established the number of
10 19 as the limit, as the maximum number. I spent quite some time there.

11 Q. If they were 45, that would make up a platoon, wouldn't it?

12 A. Not at all. There is no battalion of 45 men.

13 MR. OMOFADE: Your Honours, I understand that the French
14 translation might have translated it to read "battalion." The word was
15 "platoon."

16 PRESIDING JUDGE FULFORD: All right. Before you put the question
17 again, Mr. Biju-Duval, you were sort of on your feet and then you
18 returned to your seat. Was it an intervention or not?

19 MR. BIJU-DUVAL: (Interpretation) Yes, your Honour. I was
20 wondering about the form of the question. The witness is asked to
21 speculate whether there were 45 individuals. He has just said that there
22 were only 19 young people. The Prosecution can ask the witness what the
23 usual number of soldiers there is in a platoon. Perhaps the witness
24 knows that, but to get the witness to speculate, given that the witness
25 has already said how many people there were, young individuals there

1 were, I find this somewhat surprising.

2 PRESIDING JUDGE FULFORD: Yes. I think in fairness to

3 Mr. Omofade, he did say, "If there were 45, that would make up a

4 platoon." So he's not misleading the witness.

5 Sir, do you know the size of a platoon? It's being suggested to

6 you by Mr. Omofade that if there were 45, that would have made up a

7 platoon. Are you able to assist us in relation to that issue?

8 THE WITNESS: (Interpretation) Without being a soldier, what I

9 know in general is that a *peloton* consists of 35 men at the most, or

10 35 individuals at the most.

11 MR. OMOFADE:

12 Q. In fact, there were so many of them that General Kisembo decided

13 to create in Mamedì a kadogo unit. That's true, isn't it?

14 A. No. No.

15 Q. Well, what does the term "kadogo" mean?

16 A. "Kadogo" is a term that was used at the time of the FDL in 1996.

17 It's when they arrived that I heard about that term. I heard the term

18 "kadogo." "Kadogo" was a fairly flexible term. It could mean a man who

19 was small regardless of his age. As soon as such a person was small,

20 such a person was called a kadogo. "Kadogo" could also mean a child.

21 It's a Swahili word, kadogo, ndogo kadogo, but it was used as military

22 slang, if you like, far more frequently.

23 Q. I ask you this because you were adamant that General Kisembo did

24 not create a kadogo unit. Did you see these children at any point

25 marching?

1 A. In Mamedi?

2 Q. In Mamedi.

3 A. No.

4 Q. Did you see them at any point all gathered together in one
5 location such that counting them would be easy?

6 A. Well, gathered, no.

7 Q. Well, I suggest to you that these children, and the figure I
8 suggest is approximately 45, were taught to march and to sing military
9 songs.

10 A. I'll repeat what I have already said. After everything we had
11 been through, everyone was resting in Mamedi. On no occasion were there
12 such parades, such marches. That never happened. If we're talking about
13 military fields, about these old people, these old women and gentlemen
14 who learned how to sing songs from the AFDL period up until today, well,
15 was it because they were soldiers? No, they weren't. That was not the
16 case. These songs are sung everywhere. These songs are still alive.

17 Q. Who is Saba Saba?

18 A. Saba Saba. In Mamedi, the Saba Saba I knew was a soldier, a man
19 who had a rank, in fact.

20 Q. And how old was Saba Saba?

21 A. Well, Saba Saba was over 20. He had a beard. It's a young man I
22 know very well, but he is deceased. I can tell you that.

23 Q. He was a body-guard of Thomas Lubanga at some point, wasn't he?

24 A. I can't confirm that, because I don't know the movements around
25 the -- around President Lubanga's guard or the movements of his guards.

1 *But I knew him – I only knew him when we met in Mamedì.

2 Q. Well, had you met Saba Saba before, at any point in time before
3 you arrived in Mamedì?

4 A. No, not before arriving in Mamedì.

5 (Prosecution counsel confer)

6 MR. OMOFADE:

7 Q. Who was Loringa?

8 A. Sorry?

9 Q. Does the name Loringa ring a bell? L-o-r-i-n-g-a.

10 A. Loringa. That doesn't ring a bell.

11 PRESIDING JUDGE FULFORD: Yes, Mr. Biju-Duval?

12 MR. BIJU-DUVAL: (Interpretation) Yes. I apologise for
13 interrupting the proceedings, but I would like to solve a translation
14 problem that might give rise to confusion. It's line 20, page 13,
15 line 20 in the English. I think that this translation, perhaps the
16 interpreters can verify it immediately, but I don't think it corresponds
17 to what was said in French, and this might give rise to confusion. In
18 the French transcript it's page 14, line 19.

19 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Biju-Duval.
20 I'm going to ask the interpreters before the perfected version of the
21 transcript is issued to focus very carefully on the passage that
22 Mr. Biju-Duval has just read out to make sure the English translation is
23 accurate.

24 Mr. Biju-Duval, if any subsequent questions are dependent on that
25 particular part of the evidence, could you rise and let me know so that

1 we can ensure the questions are framed on a correct basis. Thank you
2 very much.

3 Please carry on, Mr. Omofade.

4 MR. OMOFADE: Your Honours, I pause slightly because my
5 transcript seems to have disappeared from the screen.

6 PRESIDING JUDGE FULFORD: That's very unfortunate, Mr. Omofade.
7 Gone completely?

8 MR. OMOFADE: Completely, your Honour.

9 PRESIDING JUDGE FULFORD: Right. Can a technician please come
10 into court quickly and try and retrieve Mr. Omofade's transcript.

11 Restored to life?

12 MR. OMOFADE: Yes, your Honour.

13 PRESIDING JUDGE FULFORD: Good. Please continue.

14 MR. OMOFADE:

15 Q. I suggest to you, Mr. Witness, that first Saba Saba, and later
16 Loringa, were engaged in teaching the kadogo unit at Mamedì how to march
17 and sing military songs.

18 A. Is that a question or is that a conclusion? Could you please
19 rephrase that.

20 Q. Well, I'm suggesting that's what really happened. What do you
21 say about that?

22 A. I don't know if we have the same idea of Saba Saba, because that
23 was a nickname too. The Saba Saba I know was an adult who was in Mamedì.
24 He was in the surroundings of the Chief of the General Staff, Kisembo.
25 He was part of his entourage.

1 Q. We are agreed that Saba Saba was an adult and that he was in
2 Mamedi, and he was in the surroundings of General Kisembo, but I'm
3 suggesting to you that he was responsible for teaching the kadogo unit,
4 the young persons in the kadogo unit, how to sing military songs and how
5 to march.

6 A. That was never done. Young people were never assembled. They
7 were never taught to sing and to march. No. No.

8 Q. And he was involved in punishing these young persons if they
9 behaved in a wayward manner. That's correct, isn't it?

10 A. But given that there was no such training, how can one infer that
11 he participated in punishing them? I'm losing my bearings now. This is
12 quite simply improbable.

13 Q. Now, a short while ago when I asked you about Saba Saba and asked
14 you to confirm whether he had been one of Thomas Lubanga's body-guards,
15 your response was that he -- that you were not aware of who
16 Thomas Lubanga's body-guards were. Is that correct?

17 A. No. I said that -- this is what I said at the beginning. I said
18 I didn't know whether at a certain point in his professional life
19 Saba Saba was Thomas's body-guards. That is what I said. That is what I
20 do not know. But what I have just said is that Saba Saba was Kisembo's
21 body-guard, because he this be positioned in front of the compound where
22 Kisembo was staying and where we were also staying. Well, we didn't
23 really have accommodation there, but we were staying in some sort of a
24 hut there. That's what I said.

25 Q. Mr. Witness, I have to be fair to you. This Court has already

1 heard evidence that --

2 PRESIDING JUDGE FULFORD: Be careful, Mr. Omofade. What's the
3 point that you're trying to make?

4 The witness -- you've asked the witness as to whether or not he
5 was Mr. Lubanga's body-guard, and he's given an answer, page 13,
6 line 18 -- or line 19, when he says, "I can't confirm that, because I
7 don't know the movements around President Lubanga's guard," and he's gone
8 on to deal with what may otherwise have been the position with Saba Saba.

9 Now, why are you seeking to tell the witness about other evidence
10 that we've heard in this case? What's the purpose of that?

11 MR. OMOFADE: Your Honours, the precise issue of Saba Saba I've
12 left aside for the time being, but I've put a number of assertions to the
13 witness to which he's responded in the course of my questioning, and what
14 I seek to do, to be fair to the witness, is to suggest to him that these
15 suggestions haven't been plucked out of thin air.

16 PRESIDING JUDGE FULFORD: The witness will know that you are
17 putting questions to him on a proper basis, Mr. Omofade, that you have a
18 reason for putting the questions and that you're not simply, during the
19 course of each evening, inventing wild speculations to put to the
20 witness. That's understood. You do not need to start rehearsing other
21 evidence that we've heard in this trial in order to introduce your next
22 question. So make the points you wish to make but without a rehearsal,
23 please, of other evidence we've heard in this case.

24 MR. OMOFADE: Certainly, your Honour.

25 Q. Mr. Witness, I'm suggesting to you that contrary to what you've

1 said in the course of your testimony, between September 2002 and
2 September 2003, Thomas Lubanga and other senior members of the UPC had a
3 policy of recruiting children, not only those under the age of 18, but
4 also under the age of 15, into the UPC. What do you say?

5 A. Well, could you repeat that, perhaps, because the question was a
6 very lengthy one, and I was not really able to understand it easily.

7 Q. I am suggesting to you that between September 2002 and
8 September 2003, there was a policy, an active policy, within the UPC to
9 recruit children under the age of 15 and that during that period,
10 Thomas Lubanga and other senior officials of the UPC were part of that
11 policy.

12 A. Your question concerns my reaction.

13 PRESIDING JUDGE FULFORD: You're being asked to comment,
14 basically to indicate whether you agree or disagree with the suggestion
15 that between September 2002 and September 2003, Thomas Lubanga and other
16 senior members of the UPC were deliberately recruiting children under the
17 age of 15. So do you agree with that, or do you disagree with that?

18 THE WITNESS: (Interpretation) Thank you for that clarification,
19 your Honour. Well, let's say that my reaction is a simple one. There
20 was never any such policy within the UPC pursued by Thomas Lubanga in
21 order to systematically recruit children into the FPLC. There was never
22 such a policy, but as far as the recruitment of able-bodied men into the
23 FPLC in September 2002 and up until the 6th of March -- you go as far as
24 September 2003 but that is too far. But up until the time that we were
25 driven out of the town, there were cases of recruitment, but the persons

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Omofade (Continued)

Page 19

1 concerned weren't persons under the age of 18, and they weren't persons
2 who were not able-bodied, healthy men.

3 PRESIDING JUDGE FULFORD: Mr. Omofade, if it's convenient with
4 you I would like to take the first short break now of the morning.

5 MR. OMOFADE: That would be fine, your Honour.

6 PRESIDING JUDGE FULFORD: Good. Excellent.

7 Sir, again thank you very much for your assistance. We're going
8 to rise now just for ten minutes, and we'll sit at 20 to 11.00. Thank
9 you very much.

10 COURT USHER: All rise.

11 Recess taken at 10.26 a.m.

12 On resuming at 10.42 a.m.

13 COURT USHER: All rise. Please be seated.

14 PRESIDING JUDGE FULFORD: Yes, Mr. Omofade.

15 MR. OMOFADE: Your Honours, the documents that I referred to
16 earlier that need to be assigned EVD numbers are the documents contained
17 at tabs 74 and 75. The one at tab 74 is DRC-OTP-0194-0328, and the
18 document contained at tab 75 is DRC-OTP-0037-0264.

19 PRESIDING JUDGE FULFORD: Any observations, Mr. Biju-Duval?

20 MR. BIJU-DUVAL: (Interpretation) No, your Honour.

21 PRESIDING JUDGE FULFORD: Thank you very much. Well, they'll
22 receive EVD numbers, but the usual rule applies, Mr. Omofade. We will
23 only consider them to the extent to which relevant questions were put to
24 the witness concerning those documents, and so I think certainly in
25 relation to 74, its evidential value is likely to be fairly low.

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Omofade (Continued)

Page 20

1 EVD numbers, please.

2 COURT OFFICER: Thank you, Mr. President. Document

3 DRC-OTP-0194-0328 will bear the following number: EVD-OTP-00673.

4 Document DRC-OTP-0037-0264 will bear the following number:

5 EVD-OTP-00674.

6 PRESIDING JUDGE FULFORD: Thank you very much.

7 Where are we going now, Mr. Omofade?

8 MR. OMOFADE: I have a number of other assertions to put to the
9 witness.

10 PRESIDING JUDGE FULFORD: Certainly.

11 MR. OMOFADE:

12 Q. Mr. Witness, I also suggest to you that these children under the
13 age of 15 that were recruited into the UPC in the period September 2002
14 to September 2003 were then subjected to various types of military
15 training in camps across Ituri. What do you say about that?

16 A. I do not share that viewpoint. It is true that there were men
17 who met the criteria set by the army staff and who had to undergo
18 training in centres which were officially recognised for that purpose.

19 Q. And I suggest to you also that following this military training,
20 these children under the age of 15 were then used by the UPC in various
21 battles that took place across Ituri between September 2002 and
22 September 2003.

23 A. I do not share that viewpoint as well.

24 Q. And I suggest to you that Mamedi was, in fact, one of the
25 training camps where these children under the age of 15 were trained.

1 That's true, isn't it?

2 A. That is not correct. I think you are mistaken, grossly mistaken.

3 Mamedì was a place of refuge, and there were movements from Mamedì to
4 Arombi for evident reasons which you are ignorant of, and if you want me
5 to share those reasons with you, I will be glad to do so, to tell you
6 about the various movements.

7 Q. And aside from Mamedì, there were a number of other training
8 camps scattered all over Ituri. They include Centrale. Have you heard
9 of Centrale training camp?

10 A. Centrale has never been a camp of the UPC. I have never heard
11 mention of Centrale.

12 Q. There was another camp that trained under-15 children at Mandro,
13 wasn't there?

14 A. First of all, let's make one thing clear. Since I do not agree
15 with the training of child soldiers, how can I therefore carry on
16 answering questions relating to children who were allegedly trained in
17 Mandro? I find that hard.

18 What I can tell you, anyway, is that from September up to a given
19 moment in October, Mandro was used as a training camp for the soldiers of
20 the FPLC, but later on it was closed. At the end of October it was
21 closed, because there were certain issues that were managed by Kahwa and
22 the hierarchy could not control his actions, and so the hierarchy
23 concluded that the camp had to be closed. The camp was therefore closed.

24 And the camp that remained open and operational was the old training
25 centre that dated back to the time of Mobutu, where civil guards were

1 trained, and that centre was the one in Rwampara. That's the one that
2 remained operational.

3 Q. Well, Irumu, I-r-u-m-u, that's another training camp where the
4 UPC trained children under the age of 15 for use in subsequent battles,
5 isn't it?

6 A. No.

7 Q. Bule, B-u-l-e. That's yet another training camp where the UPC
8 trained children under the age of 15, and those children were
9 subsequently used in battles across Ituri. That's true, isn't it?

10 A. No.

11 Q. There was a camp in Bunia that the UPC also used to train
12 children under the age of 15, and those children were subsequently used
13 in battles across Ituri. That's true, isn't it?

14 A. The camp in Bunia, I do not see that.

15 Q. Katoto, K-a-t-o-t-o. There was another camp there, wasn't there?

16 A. No.

17 Q. There was a camp in Largu, L-a-r-g-u. That camp, too, children
18 under the age of 15 were trained there, and from there deployed to take
19 part in battles on behalf of the UPC. That's true, isn't it?

20 A. First of all, I do not know where Largu is. In which territory
21 is it situated? In which administrative district is it located? I do
22 not know.

23 Q. Have you ever heard of a place called Largu, L-a-r-g-u?

24 A. Oh, yes, Largu. Yes. I have heard mention of Largu. It is
25 actually an administrative unit where I worked at a given point of time.

1 Largu for me didn't mean anything. Once again, may I inform you that
2 Largu never served as a training camp, a military training camp, for the
3 UPC.

4 Q. And you've mentioned Rwampara. There, also, children under the
5 age of 15 were trained by the UPC and subsequently deployed to battles
6 across Ituri. That's true, isn't it?

7 A. No.

8 Q. Of these camps that I've mentioned, and I realise that you
9 dispute the existence of some of them, but of the ones that you do agree
10 existed, which ones have you personally visited?

11 A. At least I went to Mandro in September. I arrived at Mandro in
12 September. Not to visit the camp, not to visit the centre, but, rather,
13 to attend a meeting of the UPC executive, and it was at that time that I
14 saw in passing a centre. I never went to Rwampara, but I heard mention
15 of Rwampara and Bule when, during an executive meeting, the minister of
16 defence explained to us that these two training centres were existing,
17 namely Rwampara and Bule.

18 However, all these other centres you mentioned here are, I
19 believe, centres which only exist in your -- well, I don't want to say
20 certain things, but I will simply limit myself to saying these are
21 centres that never existed.

22 Q. And as regards Mandro, you said you visited Mandro in September.
23 Could you give us a year. Was that September 2002 or September 2003?

24 A. It was in September 2002.

25 Q. But you agree there was a training camp in Rwampara, do you?

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Omofade (Continued)

Page 24

1 A. I just told you that the Rwampara camp was created after the camp
2 of Mandro was closed.

3 Q. When was that? When was Rwampara created?

4 A. I think it was in November. November, I believe. Well, if I'm
5 not mistaken.

6 Q. And again I'll have to ask you to help us with a year.

7 A. This was in 2002.

8 Q. Okay. I'm going to show what is a video-clip of the training
9 camp at Rwampara.

10 MR. OMOFADE: Your Honours, for the record, the ERN number is
11 DRC-OTP-0120-0293.

12 PRESIDING JUDGE FULFORD: Forgive me, Mr. Omofade. I don't want
13 to be difficult about this, but if you look at the English transcript,
14 page 23, line 9, the witness said, "I never went to Rwampara, but I heard
15 mention of Rwampara and Bule."

16 Now, what's the purpose in showing the witness a video-clip of a
17 training centre that he didn't visit?

18 MR. OMOFADE: Your Honour, purely to identify, if he can, persons
19 shown in that video-clip.

20 PRESIDING JUDGE FULFORD: Certainly. All right. So the
21 objective is to see whether he can recognise individuals subject to
22 anything that -- I see no objection from Mr. Biju-Duval.

23 Right. Can we set up the screens then, please. Can we make sure
24 that the witness's screen is appropriately set up.

25 COURT OFFICER: Could the Prosecution just say what is the level

1 of confidentiality of the video.

2 MR. OMOFADE: Your Honour, it's -- it's public, and ...

3 Your Honour, I've taken the liberty of circulating a transcribed
4 version of the -- of what was said on the video-clip. Certainly,
5 your Honour. And I should also mention that a version has been made
6 available to the interpreters, the translators.

7 PRESIDING JUDGE FULFORD: Well, I want to understand what we're
8 doing, Mr. Omofade. I can -- I can understand that you may wish the
9 witness to look at the video to see whether he can recognise certain
10 individuals. Now, subject to anything that Mr. Biju-Duval says, that,
11 without at all discussing this with my colleagues, seems as though it may
12 be a legitimate undertaking. However, using the video-clip to introduce
13 through this witness what was said during the event shown in the video is
14 an entirely different matter, because what was said, surely, is not
15 something that this witness can comment on at all, because you're not
16 suggesting he was present.

17 Now, if the video-clip, freestanding, is admissible as a
18 bar-table document, then surely an appropriate application should be made
19 to introduce it. What you shouldn't be doing is seeking, in fact, to
20 introduce what happened during whatever this meeting was at Rwampara
21 through this witness who can't possibly give evidence about it.

22 Now, how do you deal with that?

23 MR. OMOFADE: Two matters, your Honour. The first is that this
24 video-clip is already in evidence in any event. I believe it was dealt
25 with through the Prosecution Witness 0030 at some point.

1 PRESIDING JUDGE FULFORD: Well, that solves that problem, but
2 what's the point in having a transcript of what's being said?

3 MR. OMOFADE: As regards the transcript, I took the liberty, as I
4 mentioned earlier, of circulating the transcript before I posed the
5 question to the witness as to whether or not he had been to Rwampara.
6 The transcript might, therefore, become redundant, and indeed none has
7 been placed in front of the witness himself for that very purpose.

8 So the purpose now, bearing in mind his response to whether or
9 not he had been to Rwampara, the purpose now is to see if he can identify
10 any of the individuals that occur in -- in the video-clip.

11 PRESIDING JUDGE FULFORD: Right. I now understand. Thank you.
12 So the translation really serves no purpose for -- for this exercise, but
13 if I may say so, very sensible of you to have it prepared just in case
14 this witness had said that he had been to Rwampara and might have been
15 present during this -- during this event.

16 So, sir, your going to be shown a clip of video now. Can you
17 look at it carefully, because I suspect that Mr. Omofade in due course
18 will ask you whether you recognise various individuals who are to be seen
19 in the clip you are about to watch.

20 Anything else for the witness to bear in mind before we play the
21 clip, Mr. Omofade?

22 MR. OMOFADE: Nothing at this point, except that at some point I
23 might ask for it to be frozen for him to have a proper view of what's on
24 the screen.

25 PRESIDING JUDGE FULFORD: That's perfectly acceptable.

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Omofade (Continued)

Page 27

1 With those ground rules in place, Mr. Biju-Duval, are you
2 content?

3 MR. OMOFADE: Your Honour, I wonder if the video --

4 MR. BIJU-DUVAL: (Interpretation) No comment, your Honour.

5 MR. OMOFADE: I wonder, your Honours, if the video-clip can be
6 played from the time 00:09:55 through to 00:10:51.

7 PRESIDING JUDGE FULFORD: Now, who is running the machinery?

8 MR. OMOFADE: There is a gentleman behind me who's --

9 PRESIDING JUDGE FULFORD: Fine. I am sure he knows where to
10 start and finish.

11 (Video-clip played)

12 MR. OMOFADE: I wonder if it could be frozen now.

13 Q. Mr. Witness, do you recognise any of the individuals in the clip
14 frozen on the screen in front of you? And I believe the timer reference
15 is 00:10:49.

16 PRESIDING JUDGE FULFORD: Now, before the witness answers the
17 question, I want to make sure that for the purposes of the record
18 hereafter, we will know which frame it is that has been frozen on the
19 screen, and the Court Officer nods yes. Good. Right.

20 Sir, of those individuals shown on the screen now, working from
21 left to right as you view the screen, do you recognise any of them?

22 THE WITNESS: (Interpretation) I recognise two of them, the two
23 in the middle, Rafiki and there's also Bosco Ntaganda.

24 MR. OMOFADE: Your Honour, I wonder if the clip can continue
25 playing for now, please.

1 PRESIDING JUDGE FULFORD: Certainly.

2 (Video-clip played)

3 MR. OMOFADE: Your Honour, I wonder if the clip could be frozen
4 now.

5 (Video-clip played)

6 MR. OMOFADE: Your Honour, the clip has been frozen yet again.
7 The timer reference is 00:12:04.

8 Q. Mr. Witness, do you recognise the gentleman wearing a military
9 uniform and a cap to the right-hand side of the frame?

10 A. It's tough to say. This image isn't very clear, is it, this
11 view.

12 PRESIDING JUDGE FULFORD: (* Microphone not activated) ... you
13 can in all the circumstances.

14 THE WITNESS: (Interpretation) Unless I'm wrong -- I mean, the
15 image is not clear, but although it's hard to see, I'm wondering whether
16 if it's not John Tinanzabo. I'm wondering, but I can't say precisely
17 whether it's him or not because of the quality of the image.

18 MR. OMOFADE: Your Honour, to be fair to the witness, I'll allow
19 the clip to play for a few -- couple of minutes further and see if that
20 image comes up again.

21 Can we continue playing the clip for now, please.

22 (Video-clip played)

23 MR. OMOFADE: Your Honour, the clip has been frozen again at
24 timer reference 00:12 -- beg your pardon. 00:12:31.

25 Q. Mr. Witness, do you have a better view of the gentleman we

1 referred to earlier in this clip? Are you able to identify him?

2 A. It's not even Tinanzabo. Now I can't say at all who it might be.

3 I have no idea at all. It is not John Tinanzabo.

4 MR. OMOFADE: Could we continue the clip for a few minutes more,
5 please.

6 (Video-clip played)

7 MR. OMOFADE: And, your Honour, I've asked that the clip be
8 frozen again at timer reference 00:12:37.

9 Q. Now, Mr. Witness, the gentleman in the middle of the picture with
10 the hat on and the left arm raised, in military uniform, do you recognise
11 that individual?

12 A. Yes. That's Thomas Lubanga.

13 MR. OMOFADE: Your Honour, I now propose to move on to a second
14 excerpt from the video material. The timer reference starts at 00:13:57
15 through to 00:16:01.

16 (Video-clip played)

17 MR. OMOFADE: Your Honour -- and this clip has been frozen now at
18 timer reference 00:14:08.

19 Q. And the question, Mr. Witness, is: Do you recognise the
20 gentleman to the forefront of the clip in what appears to be a red beret?

21 A. No. No.

22 MR. OMOFADE: I wonder if we could continue with the clip,
23 please.

24 (Video-clip played)

25 MR. OMOFADE: Your Honour, that's all I propose to show as

1 regards the video-clips. I wonder if EVD numbers could be assigned if
2 they haven't already been done.

3 PRESIDING JUDGE FULFORD: Yes. To those excerpts that have been
4 shown, a collective EVD number, please.

5 COURT OFFICER: Thank you, Mr. President. The excerpts that have
6 just been shown will bear the following EVD number: EVD-OTP-00675.
7 Thank you.

8 MR. OMOFADE:

9 Q. Mr. Witness, you've -- you've already told us the camps -- the
10 training camps that you recall and the ones that you visited. Did you
11 yourself personally take part in any of the battles that the UPC and FPLC
12 took part in?

13 A. Well, I don't know if I can answer these two questions. As far
14 as I understand, you know, you're referring to a battle that I would have
15 been preparing for, and then you're also referring to a training camp I
16 visited. Can we dissociate those two questions, please, because I'm
17 afraid I might get lost here in the details.

18 Q. Leaving aside the training camps, I'm now asking you about
19 battles that the UPC/FPLC engaged in, and my question is: Did you
20 participate in any battle together with troops from the UPC/FPLC?

21 A. In fact, I believe at the outset we have to point out that as a
22 civilian, I could not take part in a battle fought by the FPLC. It's
23 unthinkable. However, while we were moving around Mamedi, Baku, to move
24 back to the Ituri District, I was involved in episodes where FPLC troops
25 fell into ambushes that had been set up. Yes, I personally witnessed

1 that. I witnessed that personally in V12, on the way back, ambushes that
2 had been set up, ambushes that were defeated very quickly. I could also
3 mention how at Okai -- Okaie (* as interpreted) very swiftly FPLC troops,
4 who were now a vanguard, also managed to drive back a utility that was
5 bringing re-enforcements to our enemy that were in full disarray. But a
6 fully fledged battle, no, I was never involved, because our opponents
7 were, in fact, in disarray, running away, really. So I cannot say that I
8 took part in or witnessed in any way a real battle.

9 Even in Bunia, on the 13th of May, when the Lendu Ngiti and the
10 AFP -- PCFA (* as interpreted) troops in their alliance attacked the
11 town, I was with the other commanders of the general staff and their
12 headquarters, but the fighting occurred about, let's say -- well, let's
13 say far away from where we were. So I could hardly say that I witnessed
14 or took part in a battle, and certainly fighting alongside the FPLC. I
15 mean, I'm not a soldier. That did not happen. No, not at all.

16 Q. The troops that you've referred to that were based in Mamedì with
17 General Kisembo, those troops participated in the takeover of Bunia in
18 May 2003 after they left Mamedì, didn't they?

19 A. Yes. Some of the troops took part in the liberation of the Bunia
20 on the 12th of May, driving off Lendu, FAC, Mai-Mai, all that lot.

21 Q. And you say some of them took part. Are you able to say what
22 percentage and what the others were doing?

23 A. Well, I wouldn't like to talk in terms of percentages, but the
24 noteworthy point is that some remained at Dhego. Some moved to join up
25 with other soldiers who during that time were still at Soleniama, and

1 there were troops from Soleniamia combined with those who had come from
2 Dhego, who had come with us from Dhego. When they joined up under the
3 leadership of G3 Mabaka, they organised themselves to prepare the attack
4 that had to be launched.

5 Q. (Previous translation continues) ... if General Kisémbó himself
6 took part in the takeover of Bunia in May 2003?

7 A. Kisémbó did not take part in the actual fighting. We came in the
8 same vehicle, myself and Kisémbó, around 2.00. The town had been
9 captured in the morning.

10 Q. But would you agree that a large percentage of the troops that
11 had been based in Mamedí for the period of a month or more in April 2003,
12 that those troops, a large percentage of them, did take part in the
13 battle to recover Bunia in May 2003?

14 A. I can't say that it was a high percentage. I did say some of
15 them, because we couldn't deplete Dhego, which was our base in the -- at
16 the rear of the line. Only some of them took part in the taking of
17 Bunia.

18 Q. You've confirmed that you yourself never took part in any of the
19 battles that were fought by troops of the UPC. Is it possible that
20 children under the age of 15 participated in these battles and you're not
21 aware of it?

22 PRESIDING JUDGE FULFORD: That -- that's hugely speculative,
23 Mr. Omofade. I mean, at events at which the witness wasn't present,
24 anything could have happened. There's got to be more of a foundation for
25 the question. Something about the position this witness was in or what

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Omofade (Continued)

Page 33

1 you suggest his level of knowledge was, not just "is it possible." All
2 things are possible.

3 MR. OMOFADE:

4 Q. Mr. Witness, between September 2003 -- beg your pardon,
5 September 2002 and March 2003, there were a number of NGOs and
6 international NGOs operational in Ituri, weren't there?

7 A. Yes, quite a few NGOs.

8 Q. Was the NGO Save the Children operational in the territory at
9 that time?

10 A. Yes.

11 Q. Caritas?

12 A. Yes.

13 Q. SOS?

14 A. SOS Great Lakes. I believe that's their name. Grand Lacs. Yes.

15 Q. Now, do you remember when you were testifying -- when you were
16 being asked questions by Mr. Biju-Duval and you told us about a woman
17 called Mélanie Lumbulumbu?

18 A. Yes, I do.

19 PRESIDING JUDGE FULFORD: Mr. Omofade, if you'd forgive me, I
20 think we'll deal with Ms. Lumbulumbu after the longer break. Thank you
21 very much.

22 Good. We will -- for the sake of the transcribers and the
23 interpreters and the witness, we will take the longer break now and sit
24 again at 12.00. Thank you all very much.

25 COURT USHER: All rise.

1 Recess taken at 11.28 a.m.

2 On resuming at 12.01 p.m.

3 (Open session)

4 COURT USHER: All rise. Please seated.

5 PRESIDING JUDGE FULFORD: Yes, Mr. Omofade.

6 MR. OMOFADE:

7 Q. Mr. Witness, before the adjournment, I was asking you if you
8 remember testifying about the woman called Mélanie Lumbulumbu, and you
9 said you recall speaking about that when you were giving your
10 evidence-in-chief. That's correct, isn't it?

11 A. Yes.

12 Q. Now, Madam Mélanie Lumbulumbu, although she was national
13 secretary for social affairs, she only held that position between
14 September 2002 and December 2002. That's correct, isn't it?

15 A. Yes.

16 Q. Because the question that was posed to you, to be fair to you,
17 was that you should speak about the period from September 2002 to
18 6th of March, 2003, and your response was that she held that position --
19 it appeared to be that she held that position throughout that period.
20 That wouldn't be correct, would it?

21 A. Well, in fact, she didn't hold that position throughout the
22 entire period. Nevertheless, even though she didn't hold that position,
23 she played the role that she played subsequently. The question wasn't
24 put to me as to whether the position Mélanie Lumbulumbu occupied in
25 September 2002 was held up until March 2006. It had to do with the

1 efforts that she made for demobilisation or to take charge of those who
2 had been demobilised. So the answer I gave was in respect of that
3 question.

4 Q. So is it your testimony that even after she had been moved onto
5 another position in December 2002, she continued efforts towards
6 demobilisation?

7 A. Yes. She remained active, because she had already started
8 working. She had already established certain contacts as well.

9 Q. So help us then, Mr. Witness. Do you know why she would have
10 been moved to another position just three months later if she was playing
11 such a significant role in demobilising children?

12 A. Well, in fact, I can't be familiar with the secrets, the
13 decisions that were made by those who had the power, but what is true is
14 that -- what is certain is she was allowed to play the role that she had
15 formally played in the social affairs domain. But there was another
16 formal position that was to be attributed to her when she left that
17 national secretariat and assumed a different position, if I'm not
18 mistaken.

19 Q. Well -- well, even if the role of national secretary for
20 social affairs had some bearing on dealing with children, why would she
21 be moved - if you can help us - to a portfolio of infrastructure and
22 reconstruction?

23 A. Well, I'm telling you here that the decrees taken were a matter
24 of the president's discretion. You can't look into his heart and see
25 what he is thinking. But nevertheless, although she was a national

1 secretary for infrastructure, this aspect of demobilisation, of taking
2 charge of children, is -- well, it's a task that she didn't drop, because
3 even though there was no partner ready to take care of these children,
4 given the territory she had organised, the domain she had established for
5 herself, she had to continue playing the role that she played.

6 Q. I'm suggesting to you that she played no role whatsoever in
7 demobilising children, and that's why there was no difficulty with her
8 being moved to another portfolio that was completely unrelated to social
9 affairs.

10 A. I have to allow you to make your own conclusions, but I don't
11 share your opinion. She worked within that domain.

12 Q. And do you recall telling us that she had a large number of
13 children in her compound and had nowhere -- and had nowhere to take them?
14 Do you recall telling us that?

15 A. I said on that day that as there was no framework for those who
16 had been demobilised, this lady had placed her compound at their disposal
17 for those who had already been demobilised, and she hoped that one of the
18 partners, an international NGO, for example, could at one point in time
19 offer its services and take charge of the demobilised.

20 PRESIDING JUDGE FULFORD: Yes, Mr. Biju-Duval.

21 MR. BIJU-DUVAL: (Interpretation) Yes. Having verified, I want
22 to comment on the last question put by the Prosecution, who claims that
23 the witness allegedly said in the course of his examination-in-chief, the
24 witness allegedly spoke about a large number of children. In fact, when
25 we have a look at the French transcript 341, page 8, on the

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Omofade (Continued)

Page 37

1 31st of March, the witness said:

2 "I said the few children of under 18 years of age that could be
3 found in the FPLC."

4 So I'm afraid that the Prosecution has somewhat amended the
5 witness's testimony when the examination-in-chief was being conducted.

6 PRESIDING JUDGE FULFORD: Mr. Omofade, you've heard the reference
7 that Mr. Biju-Duval has just set out as regards this witness's testimony.
8 Were you relying on that answer from the witness, or did you have a
9 different part of his evidence in mind when you summarised his earlier
10 evidence?

11 MR. OMOFADE: Your Honour, perhaps it's a side issue anyway.
12 I'll ask him how many children, if he knows, and that might clarify
13 matters.

14 PRESIDING JUDGE FULFORD: Certainly. I think -- forgive me for
15 saying this: I think it is helpful always when you are suggesting that a
16 witness has said something earlier, that at very least you give the
17 transcript reference so that counsel can catch up. It's very difficult
18 if you simply make a general reference to earlier evidence that's been
19 given by the witness without identifying the portion, because it's simply
20 impossible to check. But let's then approach it more neutrally, and can
21 you ask the question in line with the way that you've just indicated.

22 MR. OMOFADE:

23 Q. To your knowledge, Mr. Witness, between the period September 2002
24 and -- I believe your -- your testimony now is December 2002, how many
25 children did Madam Lumbulumbu have in her compound?

1 A. I don't know how I could give you an estimate of the number of
2 children. I'm from the internal department. She's from social affairs.
3 She spoke about her efforts, the efforts that she made. Given the
4 position that she held, I wasn't in the compound, I couldn't count the
5 children, I trusted what she said about the information. I trusted the
6 information she provided. I accepted her reports.

7 Q. In any event, she had a number of children in her compound, and
8 your evidence is she that had difficulty in finding an NGO to assist her
9 in demobilising them.

10 A. At that time, there were no NGOs that were ready to assume this
11 responsibility, because obviously all the NGOs raised the issue of
12 financing. There was no established programme for that.

13 Q. But you will agree with me, as you've confirmed just prior to the
14 luncheon adjournment, that between September 2002 and March 2003, there
15 were at least three NGOs, and I name them, Save the Children, Caritas,
16 and SOS. There were three NGOs operational in Ituri at the time. Do you
17 agree?

18 A. The NGOs -- well, there were a lot of NGOs at that time, but the
19 specific programme for demobilisation wasn't yet operational. I
20 remember, for example, on one other occasion when we met up with
21 Madam Mélanie at the airport, Thomas had returned from Aru. On that
22 occasion, this lady told me personally she had a lot of difficulties
23 because Save the Children weren't ready yet, and at that point in time
24 that organisation had as a priority assembling the children who had been
25 lost as a result of the war -- of reuniting them, rather, with their

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 39

1 families in other provinces or districts throughout the Congo. So I
2 heard the lady complain on that day at the airport.

3 As far as a programme, a specific programme to take charge of
4 those who had been demobilised is concerned, there was no such programme.

5 Q. Mr. Witness, is it your evidence that throughout the period
6 September 2002 to September 2003, there were no children under the age of
7 15 serving in the UPC/FPLC?

8 A. Well, in fact, one can't exclude that some might have got through
9 the net. When you go fishing, you can have a certain net and some fish
10 can get through, but to say that the policies of the UPC was to recruit
11 children, to train children, well, that is not exact, not true. The
12 recruitment of children, the training of children, engaging children in
13 warfare, no. No. Then I said that one can't exclude the possibility
14 that some got through the net and ended up in a centre and were
15 subsequently demobilised. That is something that we cannot exclude.

16 MR. OMOFADE: Thank you, Mr. Witness.

17 Your Honour, that's all that I ask. Mr. Sachdeva also has a
18 number of questions.

19 PRESIDING JUDGE FULFORD: Thank you, Mr. Omofade.

20 Yes, Mr. Sachdeva.

21 MR. SACHDEVA: Your Honour, may I seek the Court's indulgence to
22 move over to the end of the desk.

23 PRESIDING JUDGE FULFORD: Certainly. Take your time.

24 Questioned by Mr. Sachdeva:

25 Q. Good afternoon, sir. My name is Manoj Sachdeva, and I'm going to

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 40

1 be asking you a series of questions on behalf of the Office of the
2 Prosecutor.

3 Just in respect of your function, it's correct that on the
4 3rd of September, 2002, you were appointed the deputy national secretary
5 for interior.

6 A. That's correct.

7 Q. And also by a presidential decree on the 11th of December, 2002,
8 that portfolio was expanded to the deputy national secretary for interior
9 and customary affairs.

10 A. No, but I'd like to clear something up. The portfolio was not
11 extended. From the very beginning, it was the national secretariat of
12 the interior and for customary affairs.

13 Q. Let's stick to the official pronouncement in the decree. It's
14 right, is it not, that on the 3rd of September, 2002, your specific
15 function was noted as the deputy national secretary for interior affairs.

16 A. If I could have the reference perhaps to try and refresh my
17 memory with regard to that appointment, with regard to that title, that
18 would be a good thing.

19 PRESIDING JUDGE FULFORD: Right. Whilst Mr. Sachdeva is finding
20 the reference, Mr. Biju-Duval.

21 MR. BIJU-DUVAL: (Interpretation) I just wanted to point out
22 that it would be fair to show the witness the decree itself so that he
23 can see the precise terms used in that decree.

24 PRESIDING JUDGE FULFORD: Thank you.

25 Where are we going, Mr. Sachdeva, by way of reference?

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 41

1 MR. SACHDEVA: Certainly, I understand it's in tab 2 of the
2 Defence binder, and the ERN is DRC-00113.055.

3 THE WITNESS: (Interpretation) Yes, I've found that.

4 MR. SACHDEVA:

5 Q. Sir, if you look at the second page, on the back of the page you
6 will see under Article 3 that your function is stipulated as the interior
7 affairs deputy secretary. Would you agree?

8 A. Yes. That's what is stipulated in the decree.

9 Q. And would you agree that on the 11th of December, and of course I
10 can show that decree as well, on the 11th of December, 2002, your
11 function, as stipulated, was expanded to include interior affairs and
12 customary affairs? I understand that that decree is under tab 6 of the
13 Defence binder.

14 A. Yes, but one should point out that this issue of the title is not
15 that important because when we speak about the national secretariat of
16 the interior, well, customary affairs are also involved. But no matter.
17 Let's move on.

18 Q. Well, you say it's not important, but important enough for it to
19 be officially expanded in a presidential decree, was it not?

20 A. That's why I said let's -- let's move on, and I accepted that.

21 Q. The reason why I asked you, I wanted to get that clarification,
22 is because on Wednesday last week when you were asked by Mr. Biju-Duval,
23 and I will give the French transcript, T-340, page 61, the question in
24 French was the following:

25 "(Interpretation) Did you hold a position in the UPC as of

1 September 2002?"

2 (In English) And you answered: "Yes."

3 The question was:

4 "Which one?"

5 And you answered:

6 "(Interpretation) Deputy national secretary for internal and
7 customary affairs."

8 (In English) So that's not right, is it?

9 A. Well, this is like looking for a needle in a haystack. What I'm
10 saying here is well known by all the world. Internal affairs -- well,
11 perhaps this is how it works in our country, but internal affairs goes
12 together with customary affairs. It's the same thing. The terms used in
13 the first decree has omissions. I agree with that. But in a substantial
14 sense, this is what we are dealing with.

15 Q. Are you saying that providing answers about your own function is
16 like looking for a needle in a haystack? Is that your evidence?

17 A. Well, not exactly. Not exactly. I just wanted to say that that
18 is not where the problem lies. To say that I lied -- well, that's what
19 you're trying to say. You're trying to say that I lied on the other
20 occasion, but that is not the case. I did not lie. I did not lie.

21 Q. I don't want to argue with you. I didn't say you lied. I said
22 you were mistaken, and it seems that you were. That's it. Is that
23 right?

24 A. I apologise if I misinterpreted something you said or if I
25 responded in an inappropriate manner.

1 Q. You said that -- you told us today that you had gone to Mandro in
2 September 2002. Do you remember the date?

3 A. I don't know the exact date, but it was at the beginning, when
4 there was a meeting, contact with -- it was before the 10th of September,
5 I believe. There was a meeting in order to establish contact with the
6 president.

7 Q. And how long were you in Mandro? Did you go to Mandro on the
8 10th and return to Bunia on the 10th, or was it for longer?

9 A. I didn't say that I left on the 10th. It was before the 10th,
10 and it was a trip there and back.

11 Q. One can make that trip quite easily, can't they, from Bunia to
12 Mandro, within a day?

13 A. Even on foot. You can run and return immediately, and if you go
14 by car, it's even easier.

15 Q. And is my understanding right that once you returned to Bunia in
16 September 2002, up until you left, March 6th, 2003, you remained -- you
17 discharged your function in Bunia?

18 A. Yes.

19 Q. The national secretary, in other words your boss, in that period,
20 was -- I think you've mentioned him already, but Mr. Djalum? Is that
21 right?

22 A. Yes.

23 Q. And did he remain your boss up until the time you were promoted
24 to the national secretary, I think in June 2003?

25 A. That is correct.

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 44

1 Q. You have spoken about these executive meetings. Could we call
2 them cabinet meetings? Would that be a fair description?

3 A. I'd say government meetings.

4 Q. And Thomas Lubanga would typically preside over these meetings;
5 is that right?

6 A. Usually he presided over the meetings.

7 Q. Was your boss, Mr. Djalum, was he -- did he also play a role as
8 the coordinator of the executive?

9 A. He was also a coordinator of the executive, yes.

10 Q. I take it, then, that as coordinator of the executive he would be
11 privy to items that were to be discussed. He would be privy to documents
12 that were sent to the executive. Is that right?

13 A. In principle, yes.

14 Q. If your boss, Mr. Djalum, was away or on other occasions, it's
15 right that you yourself took the role of coordinator of the executive on
16 occasion?

17 A. Not at all, because there was an assistant coordinator called
18 Denis Akobi.

19 Q. So let me be clear about one thing. From the period of
20 September 2002 up until March 2003, you never once took on the role as
21 coordinator of the executive. Is that your evidence?

22 A. That is correct. Not even once.

23 Q. These meetings at the executive, how often would they occur?

24 A. Once a week.

25 Q. Was it on one particular day or did that day change?

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 45

1 A. Generally, it was held every Thursday, and if we did not exhaust
2 the agenda, the meeting could carry on into Friday.

3 Q. So, in fact, it could be held more than once a week; is that
4 right?

5 A. I told you that, in general, the meetings were held once a week,
6 but it could happen that we could carry on into the next day if the
7 agenda was a long one.

8 Q. What time of the day would these meetings occur?

9 A. Well, the practice was for us to meet at 10.00. That was the
10 practice. That was what was laid down.

11 PRESIDING JUDGE FULFORD: Mr. Biju-Duval.

12 MR. BIJU-DUVAL: (Interpretation) Your Honour, the Defence is
13 worried about relevance of this question, especially as this subject
14 matter has already been broached. Furthermore, we do not see the purpose
15 of these questions, and it bothers us about the time-frame, the future
16 time-frame that we're going to follow.

17 PRESIDING JUDGE FULFORD: Thank you. I'm sure you'll bear that
18 in mind, Mr. Sachdeva.

19 MR. SACHDEVA: Mr. President, if I may, in fact, it was raised by
20 my learned friend in examination-in-chief, not by any one of the members
21 of the Prosecution in cross-examination, and I'm happy to explain the
22 relevance but in the absence of the witness.

23 PRESIDING JUDGE FULFORD: I haven't asked you to. I've simply
24 asked you to bear it mind. So please continue.

25 MR. SACHDEVA:

1 Q. I take it that at these meetings where Mr. Lubanga would
2 preside -- over which Mr. Lubanga would preside, typically the national
3 secretaries and, as yourself, the deputy national secretaries would be
4 present.

5 A. In general, yes. Whenever Thomas was in Bunia, he presided over
6 the meeting; and if he was not there, it was the coordinator of the
7 executive or his assistant who would preside over the meetings.

8 Q. What was -- what's the name of the assistant of the coordinator?

9 A. Denis Akobi. Spelled A-k-o-b-i.

10 Q. Where did these meetings occur?

11 A. The meetings were held at the Presidency, at the headquarters of
12 the Presidency.

13 Q. And would it be Mr. Lubanga who would initiate the meeting, who
14 would set out the agenda?

15 A. Well, he was the one who was supposed to convene the meeting by
16 virtue of the Statute. He proposed the items on the agenda, and he gave
17 the opportunity to the other national secretaries to make additions to
18 the agenda. And when they discussed the items on the agenda, the agenda
19 was adopted, and then they'd start the proceedings and later on amend the
20 entirety of the document.

21 Q. Right. So it would be where, for example, the national secretary
22 for foreign affairs, the national secretary for justice, the national
23 secretary for youth and sport would present their brief to Mr. Lubanga
24 and the other national secretaries; is that right?

25 A. Could you be clearer?

1 Q. Certainly. I think you've mentioned before Mr. Dhetchuvi, he was
2 the secretary for foreign affairs?

3 A. Yes, he was the secretary for foreign affairs.

4 Q. And, therefore, at these meetings, he may be asked to -- to speak
5 about what his functions had been during the week. That would typically
6 happen.

7 A. Well, according to the normal routine that was followed, each
8 ministry or national secretary had to briefly, briefly I say, report on
9 certain important points, report on their management of certain important
10 points and make this known to the rest of the participants. That could
11 happen.

12 Q. And I a moment ago mentioned the national secretary for youth and
13 sport. That was Mr. Adubango Biri; is that right?

14 A. No, it was not him. It was Mana, Mana Fundi (* phon).

15 Q. You can take a look at the decree. I'm actually reading from the
16 decree.

17 "(Interpretation) Education, youth and sports, Mr. Adubango
18 Biri."

19 I'm reading from the decree.

20 A. Yes. I can see that. I was confused. Mana was the assistant.
21 The person in charge was indeed Adubango, Adubango Biri.

22 Q. (In English) He was one of the cofounders, wasn't he, of the UPC?

23 A. Yes.

24 Q. Did members of the FPLC, members of the military, attend these
25 executive committee meetings?

1 A. No. They did not have -- they were not empowered to attend.

2 Q. During your time in the UPC, did members of the FPLC or the
3 military ever attend? Leaving aside whether it was in their power or
4 not, did they ever attend executive committee meetings?

5 A. No.

6 MR. SACHDEVA: Mr. President, I do apologise, but I've come to a
7 stage where I, with your leave, need to make a submission in the absence
8 of the witness.

9 PRESIDING JUDGE FULFORD: How long is that submission likely to
10 take, Mr. Sachdeva?

11 MR. SACHDEVA: Not more than three minutes.

12 PRESIDING JUDGE FULFORD: Right.

13 Very sorry, sir. Could you very briefly step outside court. I
14 don't anticipate you're going to be outside for long, just a moment.
15 Thank you very much.

16 THE WITNESS: (Interpretation) Thank you.

17 (The witness stands down)

18 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

19 MR. SACHDEVA: Thank you for the indulgence.

20 I had informed the Defence that there was a document I wanted to
21 use with this witness. I understand the Defence have objected because of
22 the tardiness of the provision. In fact, it's a document that has been
23 disclosed a long time before. I had not anticipated that I would need to
24 use it, but given the witness's last answer, in my submission the
25 document is precisely on point, and I would, with your leave, like to

1 show it to him. I can elaborate on the relevance of the document should
2 your Chambers wish me to do so, should your Honours wish me to do so.

3 PRESIDING JUDGE FULFORD: Right. Well, let's take it in stages.
4 Was the document put on our desk this morning or not?

5 MR. SACHDEVA: It has indeed been put -- given to the Chamber I
6 believe yesterday or this morning. It's the Prosecution's fourth binder
7 and it's under tab 77.

8 PRESIDING JUDGE FULFORD: Right. Now, this, then, is a list of
9 names. My French is so bad I'm not going to attempt to read out the
10 title, but we can all see it. And it bears a date, I think, of the
11 20th of June, 2003, with some signatures.

12 Just in a sentence or two, Mr. Sachdeva, you submit this is
13 relevant for which reasons?

14 MR. SACHDEVA: The witness has just answered that during his time
15 in the UPC, at no point were members of the military present at executive
16 committee meetings. This document, in my submission, purports to be a
17 list of attendees at an executive committee meeting. The witness himself
18 is mentioned, and indeed Mr. Floribert Kisembo is also mentioned as
19 present, with a signature, and I would like to put that to the witness.

20 PRESIDING JUDGE FULFORD: So it's -- it's that one person who you
21 say needs to be identified because an FPLC link.

22 MR. SACHDEVA: Indeed. I believe there maybe two persons from
23 the military, but -- but certainly the Chief of Staff,
24 Mr. Floribert Kisembo, in my submission, is indicated on this list.

25 PRESIDING JUDGE FULFORD: Fine. Thank you very much.

1 Now, Mr. Biju-Duval, obviously in a perfect world you would have
2 had a longer period of time to consider this document which the
3 Prosecution now wishes to use, but given that we live in an imperfect
4 world, on the basis that Mr. Sachdeva has indicated as regards relevance,
5 do you object to him asking him, as I understand it, in reality, whether
6 this reveals that Floribert Kisembo was present on the 20th of June,
7 2003, at one of these meetings?

8 MR. BIJU-DUVAL: (Interpretation) No, your Honour. The
9 objection of the Defence relates to the poor practice of the Prosecution
10 team with respect to disclosure time-lines.

11 (Trial Chamber confers)

12 PRESIDING JUDGE FULFORD: You have leave to introduce the
13 document.

14 Witness, please.

15 MR. SACHDEVA: Thank you, Mr. President.

16 (The witness takes the stand)

17 PRESIDING JUDGE FULFORD: Thank you for your patience, sir.

18 Yes, Mr. Sachdeva, and you better identify the document first of
19 all.

20 Good. I think Mr. Sachdeva's about to show you a document.

21 Usher, can you --

22 MR. SACHDEVA: Perhaps I can read out the ERN number.

23 PRESIDING JUDGE FULFORD: Yes. And have you got a copy for the
24 witness?

25 MR. SACHDEVA: I believe it was provided to the Court Officer.

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 51

1 It's under tab 77, and the ERN is DRC-00014.183.

2 Q. Sir, what I'm showing you is what purports to be a list of
3 attendees at an executive committee meeting of the UPC on the
4 11th of June, 2003. Do you see that?

5 A. Yes, I do.

6 Q. And the second name on that list is yours, is it not?

7 A. That is correct.

8 Q. And that's your signature next to it.

9 A. Yes.

10 Q. If you go down the list to the third name from the bottom, you
11 will see General Major Floribert Kisembo, *Chef d'état major*, FPLC, and
12 his signature. Is that right?

13 A. I see the name General Major Floribert Kisembo, yes. And I see
14 General de Brigade, Sapa -- I think it's Saba-Aimable. This one is the
15 general administrator in charge of security. Yes.

16 Q. (* Previous translation continues) ... this document a list of
17 attendees for an executive committee meeting, do you want to amend your
18 evidence that at no point were members of the military present at these
19 meetings?

20 A. I would tell you that this was a meeting that was held on the
21 11th of June, 2003. This is important, because I refer to the
22 non-participation of soldiers during the time when the administrative
23 opinion of the UPC at the time was very ordinary. I think we should make
24 things clear here. I do not want us to use this document to generalise.
25 This meeting took place in the month of June 2003, and you should bear in

1 mind -- you should bear in mind that since the problem of the -- the
2 period of the 12th of May, from the time the UPC returned and the
3 deployment of Artemis in June, right up to the 11th of June, there were
4 security problems within the town, specific security problems in the
5 town. At any time of the day there could be strife breaking out.

6 You see, that was the situation at the time. And I would like to
7 repeat here that this meeting took place on the 11th of June.

8 You will notice here that all members of the executive were not
9 present at this meeting. That's the first point.

10 Secondly, if Floribert Kisembo attended this meeting, it was
11 because of the problems that prevailed at the time, the demilitarisation
12 of the town of Bunia, the demilitarisation of the town of Bunia. So this
13 is an exceptional case. Of course, like they say, every rule has an
14 exception. So you should not use this document to generalise, no.

15 Q. Thank you for that clarification, but, in fact, I will just take
16 you back to my initial question. It was very simple. During your time
17 in the UPC, did members of the FPLC or the military ever attend --
18 leaving aside whether it was in their power or not, did they ever attend
19 executive committee meetings? And I take it now that this is an
20 exception. Your answer is -- well, what is your answer? You said no?
21 Do you want to amend that answer?

22 A. Well, let me make this clarification: In general, no, but the
23 case we have here, which occurred in June, was an exceptional one because
24 of an exceptional situation, and I would like to say that during
25 executive meetings -- well, executive meetings were not generally held

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 53

1 around the month of June and even later on.

2 MR. SACHDEVA: Mr. President, could this document be given an
3 EVD number.

4 PRESIDING JUDGE FULFORD: Certainly. Thank you.

5 THE WITNESS: (Interpretation) Just one more clarification, with
6 your leave.

7 PRESIDING JUDGE FULFORD: (* Microphone not activated)

8 THE WITNESS: (Interpretation) Thank you. This was a
9 broad-based meeting. I would like to give you this additional
10 information. Because here you see the secretary-general in attendance as
11 well, so it was a broad-based meeting. It was not a meeting of the
12 executive, strictly speaking. The secretary-general is present and he is
13 not a member of the executive. This is just one little addition I wished
14 to give.

15 MR. SACHDEVA:

16 Q. Could I just ask you to read the title of this document, please.

17 A. Yes, I have read it.

18 Q. What does it say?

19 A. A meeting of the executive of UPC/RP.

20 Q. Do you know somebody by the name of Mafuta?

21 A. Mafuta? Can you give me his full name, please?

22 Q. Perhaps I can in just a moment.

23 MR. SACHDEVA: Mr. President, with your indulgence.

24 Q. Thank you. Mafuta Savo.

25 A. I do not know anyone by the name Mafuta Savo.

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 54

1 Q. Perhaps if I spell it, it might jog your memory. M-a-f-u-t-a,
2 Mafuta; S-a-v-o, Savo.

3 A. I just told you that I do not know anyone by the name
4 Mafuta Savo.

5 Q. Were there occasions at the executive meetings where important
6 persons from the territories, the villages, influential persons, would
7 also be present?

8 A. Well, I have no recollection of any prominent persons from the
9 village attending.

10 MR. SACHDEVA: Mr. President, I am about to move on to another
11 subject. Perhaps -- actually, I --

12 PRESIDING JUDGE FULFORD: Would you like some lunch,
13 Mr. Sachdeva?

14 MR. SACHDEVA: I would, but perhaps may I ask him one last
15 question.

16 PRESIDING JUDGE FULFORD: Certainly.

17 MR. SACHDEVA:

18 Q. Witness, sorry, how about E-l-o-y, Eloy Mafuta? Have you heard
19 of him?

20 A. Oh, yes. Eloy Mafuta, yes.

21 MR. SACHDEVA: Mr. President, if I may continue after lunch.

22 PRESIDING JUDGE FULFORD: Absolutely. How are we doing
23 time-wise, Mr. Sachdeva? How long do you expect this afternoon?

24 MR. SACHDEVA: Mr. President, I believe the rest of the
25 afternoon.

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 55

1 PRESIDING JUDGE FULFORD: Thank you very much.

2 Thank you, sir. Lunchtime. We'll see you again at half past

3 2.00. Thank you very much.

4 THE WITNESS: (Interpretation) Thank you.

5 Luncheon recess taken at 1.00 p.m.

6 On resuming at 2.31 p.m.

7 (Open session)

8 COURT USHER: All rise. Please be seated.

9 PRESIDING JUDGE FULFORD: Good afternoon.

10 Mr. Sachdeva, the last document that we looked at I'm told by the

11 Court Officer already has a trial EVD number which we'll now be reminded

12 of.

13 COURT OFFICER: Yes, your Honour. The document was part of a bar

14 table submitted to the Chamber on 17 February 2009, and admitted by

15 decision ICC-01/04-01/06-1981, dated from 24 June 2009. The EVD number

16 that was attributed then was EVD-OTP-00496, and the document is marked as

17 confidential.

18 PRESIDING JUDGE FULFORD: Thank you. Please continue.

19 MR. SACHDEVA: Thank you, Mr. President.

20 Q. Sir, with respect to these executive committee meetings, I take

21 it that someone would be drafting the minutes of these meetings.

22 A. Yes.

23 Q. Was that -- who was the person that drafted the minutes?

24 A. The national secretary in charge of communication and press

25 relations.

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 56

1 Q. The name of that person, please.

2 A. Amboko Bebetu.

3 Q. And apart from him was there anybody else who would take on the
4 administrative role of drafting minutes of these meetings?

5 A. This was an executive committee meeting. No member of
6 administrative staff was accepted. He was the only one who could do
7 that, and he used to do it.

8 Q. And at every meeting minutes were drafted; is that right?

9 A. Yes.

10 Q. Last Wednesday, you -- possibly Thursday, you spoke about the --
11 the instruction, the demobilisation and instruction in October 2002. Do
12 you remember that?

13 A. Yes.

14 Q. Just tell us the trajectory. Was the issue of demobilisation
15 discussed at an executive committee meeting?

16 A. Yes.

17 Q. When was that?

18 A. Well, in fact, that issue was tackled at the very beginning of
19 October.

20 Q. I appreciate it's some time ago, but are you able to give us a
21 precise date as to when that issue was discussed at an executive meeting?

22 A. No, I wouldn't be able to give you a precise date. And, in fact,
23 it wasn't the only time we discussed that. That issue came back from
24 time to time because it was a ground for concern.

25 Q. Well, at the time that this issue was discussed, how many other

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 57

1 issues were also discussed?

2 A. Several issues were discussed: Security in general, the issue
3 of -- well, the issue related to setting up the territorial organisation,
4 because we had to set up some sort of civil service that would have to
5 also convey the objectives of the UPC. There were also issues related to
6 ensuring that the displaced population could move back into their
7 original areas where the UPC managed to restore order as to ensure that
8 the population was able to return to its homeland. I mean, all these
9 issues were debated several times, as well as financial issues.
10 Financial issues, of course, were discussed.

11 Q. Before that meeting, was there an agenda that was sent round to
12 the national secretaries identifying the specific issues that were to be
13 discussed?

14 A. As I've already said, at the beginning of each meeting we -- the
15 points to be discussed were read out, and if amendments were to be made,
16 these amendments were inserted, and then we moved on to debating various
17 points.

18 Q. I understand what you're saying in general, but what I want to
19 know is did you see an agenda before this meeting where the
20 demobilisation issue was discussed, and was that issue on the agenda?

21 A. Well, I can't quite understand what you're expecting from me.
22 Could you explain somewhat better what you mean?

23 Q. Perhaps my question is not clear enough, but I just want to know
24 whether before you went into that meeting where demobilisation was
25 discussed for the first time, did you see an agenda where demobilisation

1 was identified as an issue to be discussed?

2 A. Well, as I said earlier, we had a programme of weekly meetings.

3 The programme was known beforehand by all the national secretaries, but
4 every time, on the day before the meeting, you could receive a written
5 invitation reminding you, of course, that the meeting was going to be
6 held.

7 Now, as for the points included in the agenda, the president or
8 the coordinator, if he was chairing the meeting, started off by reading
9 out the points that had been included in the agenda, and every national
10 secretary knew that an executive committee meeting -- the report from his
11 secretariat would be read out. That's when on these occasions that a
12 debate would then be held on all the issues concerning national
13 secretaries.

14 Q. So this programme of weekly meetings, that simply was a
15 notification that a meeting was going to be held. The programme didn't
16 specify what was to be discussed; is that right?

17 A. Right. When you receive an invitation, there were just a few
18 general points. For instance, reports: First point, president's report;
19 second point, report from each national secretariat; third,
20 miscellaneous. That was, generally speaking, what we would see in that
21 invitation we would receive. And it's only in the reports themselves, in
22 the reports from the various national secretariats that -- when these
23 issues were raised, when these reports were being debated.

24 Q. Understood. So at this meeting where demobilisation was
25 discussed, who introduced the topic?

1 A. That issue was under the scope of the president himself, since he
2 was also the national defence secretary, but at times, the social affairs
3 national secretary sometimes also would talk about the initiatives she'd
4 launched herself. That would appear in her assessment report.

5 Q. Let's leave the other times to one side for the moment. I want
6 to know at this meeting, the first meeting, who introduce the topic of
7 demobilisation.

8 A. President Thomas Lubanga himself.

9 Q. Which national secretaries were present at this meeting?

10 A. Right. I don't know if -- if I am supposed to remember the name
11 of everybody who attended that meeting. That would be rather fastidious,
12 in my opinion, but all the national secretaries were there. All were
13 meant to be at the meeting.

14 Q. Was your supervisor, your boss, Mr. Djalum, was he present?

15 A. Yes.

16 Q. And I take it that the secretary for press and communication
17 drafted the minutes during the meeting?

18 A. Yes.

19 Q. And do you know where those minutes are, or where would they be
20 kept?

21 A. (* No interpretation). Since - sorry - our offices were
22 ransacked to pick up all our papers, I can hardly know where the minutes
23 would be.

24 PRESIDING JUDGE FULFORD: Right. I'm going to ask the
25 interpreters if they could just now check what has come up in the

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 60

1 transcript of the last answer to make sure that everything has been
2 translated into English, please.

3 THE INTERPRETER: Sorry. There's the MONUC is the -- when he
4 talks about the offices being -- and houses being ransacked, he said
5 MONUC ransacked them.

6 PRESIDING JUDGE FULFORD: Please continue, Mr. Sachdeva.

7 MR. SACHDEVA:

8 Q. This instruction, this order, from October 2002, did you see or
9 have you seen the order?

10 A. That order was published, was read out on Candip radio station.
11 This was not reserved exclusively for the internal affairs national
12 secretariat. The order was published and read out on Candip radio
13 station, this very decree.

14 Q. So you didn't see the order?

15 A. I said that the order was published, but the minutes at the
16 following meeting *regarding the assessment were... the assessment was done.

17 PRESIDING JUDGE FULFORD: Mr. Biju-Duval.

18 MR. BIJU-DUVAL: (Interpretation) I apologise to interrupt once
19 more, but I believe there might be a confusion here in terms of the
20 interpreting between the French transcript on line 12, and the English
21 transcript on line 16 of page 59. The first words.

22 PRESIDING JUDGE FULFORD: Could you please intervene,
23 Mr. Biju-Duval. Yes.

24 THE INTERPRETER: The interpreter would like to point out that,
25 in fact, the witness said the -- saying were rather fragmented.

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 61

1 PRESIDING JUDGE FULFORD: Please continue, Mr. Sachdeva.

2 MR. SACHDEVA:

3 Q. What was the content of that order?

4 A. Well, in this decree, a request was made to ensure that
5 demobilisation was to be carried out within FPLC but also within any
6 group of people who were bearing arms and did not have the required age.
7 So it was stipulated that all these people were to be demobilised. That
8 was the general idea.

9 Q. Do you remember if there was a reference to other organisations,
10 non-governmental organisations, in the order?

11 A. I believe the decree mentioned Save the Children. I believe so.

12 Q. We spoke about Mr. Dhetchuvi, the secretary for foreign affairs.
13 Did one of his duties involve dealing with representatives of the
14 international community?

15 A. Yes.

16 Q. Are you aware of somebody called General Diallo from the
17 United Nations?

18 A. I've heard about him, but I never met him, especially as he was
19 not doing anything related to my ministry.

20 Q. And how about at that time somebody called Amos Ngongi from the
21 UN mission, a representative of the UN mission in the Congo?

22 A. Yes. Amos Namanga Ngongi.

23 Q. It's right, isn't it, that during this period these two persons,
24 and generally the international community, were complaining to
25 Mr. Lubanga and to the UPC about the recruitment of children under the

1 age of 15?

2 A. Well, in fact, I really can't remember what was going on. That
3 was dealt with by my colleague in foreign affairs. I know, of course,
4 that Amos Namanga Ngongi arrived in Bunia with a humanitarian mission, I
5 believe. Then he left very quickly. But from what I heard, his problem
6 had more to do with the leeway that he claimed was necessary for the
7 humanitarian organisations to be able to work, and the problem wasn't
8 likely since -- I mean, wasn't credible since he -- plausible. He had
9 not been well informed by his people, and this misunderstanding was soon
10 dispelled. We swiftly found a favourable solution.

11 Q. Well, I'm not asking you to comment on the credibility or not of
12 the complaints, but simply that there were in this period complaints from
13 the international community that were even discussed in executive
14 committee meetings. What do you say to that? About the recruitment of
15 children.

16 A. With respect to Diallo or Amos Namanga Ngongi, I don't know what
17 you mean. And I can't dare speculate.

18 Q. During that period, did the issue of the United Nations and the
19 international community in general complain -- complaining about the
20 presence and recruitment of children in the UPC Army, was it ever raised
21 at executive committee meetings?

22 A. I did not -- I can't remember that.

23 Q. Well, it's an issue that relates directly to demobilisation.
24 Wouldn't you agree?

25 A. If you want, you could ask your question again.

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 63

1 Q. It is an issue that relates directly to the demobilisation of
2 children. Wouldn't you agree?

3 A. Well, in fact, the issue of demobilisation, when it was raised by
4 the president, that happened after he had carried out a mission in the --
5 the training centre of -- well, at least after he received -- after he'd
6 received complaints, and he decided a decision had to be taken to protect
7 the FPLC from any accusation of such misdemeanors. Moreover, maybe I
8 should add something here. I would not like to start speculating.

9 PRESIDING JUDGE FULFORD: Sir, I'm going to put the question very
10 clearly just so that we make sure that we -- we understand what your
11 position is on this.

12 At the executive committee meetings, was it ever a subject for
13 discussion that there had been complaints either by the United Nations or
14 the international community generally about the presence of children in
15 the UPC Army and the suggested recruitment of children in the UPC Army?
16 In other words, do you remember that subject ever coming up during any of
17 the executive committee meetings?

18 THE WITNESS: (Interpretation) Yes. As I have already said, the
19 complaints from MONUC or from other members of the international
20 community -- well, there were such complaints at the time. These
21 complaints were of a general kind at the time, and in view of that, the
22 UPC president thought that it was also necessary to try and take action
23 in order to protect the FPLC from such accusations.

24 PRESIDING JUDGE FULFORD: Thank you very much.

25 Yes, Mr. Sachdeva.

1 MR. SACHDEVA: Thank you, Mr. President.

2 Q. Sir, I'm going to put to you that this attempt and others like it
3 to demobilise children from the FPLC/UPC were, in fact, never intended to
4 be carried out and were sham orders. What do you say to that?

5 A. I don't agree with your conclusion.

6 Q. You said that the October order was read out over the radio; is
7 that right?

8 A. Exactly.

9 Q. And you said that it was read out during the news of the RNTC,
10 the National Radio and Television of Congo; is that right?

11 A. That's quite right.

12 Q. What was the date of that broadcast?

13 A. It was on the date of the publication, because all the
14 decrees - one has to bear this in mind - all the decrees, all the
15 ministerial decisions, all the administrative documents were published.
16 We don't have an official journal, but the UPC would publish these
17 documents by having recourse to the national press, and there were
18 30-minute programmes on the RNTC that were used. So it's when these
19 decrees were published that they were read out.

20 Q. Well, I'm simply trying to follow your lead here with the
21 evidence that you've given. You said beforehand that you heard the
22 announcement over the radio. Now, do you remember the date when that
23 announcement was made?

24 A. Well, obviously it's a little difficult, because I should try and
25 remember the exact date, but I gave you a rough estimate of the time. If

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 65

1 I'm not mistaken, it was around the 13th of October, if I'm not mistaken.
2 Because ten years have passed since then, and if I'm now to try and
3 remember the precise dates, I don't think it's as easy as one might
4 believe. It's not as easy as one might believe. But if you are of the
5 contrary opinion, it would be a good thing if I knew about it.

6 Q. I'm trying to find out from you, sir. You told us that you heard
7 it on the radio. Now, I understand it's been some time. So if I were to
8 say to you that your evidence is that it was broadcast sometime in the
9 beginning, towards the middle of October, would that be a fair statement?
10 2002.

11 A. Well, I have said that I followed the reading of this decree, as
12 well as the reading of all decrees and decisions over the radio. I would
13 follow that. But if you're asking me to provide you with the precise
14 dates, well, it's somewhat difficult for me to remember it.

15 Q. I understand, and that's why I'm not asking you the precise date.
16 I'm asking you if you would agree that it was read out, according to your
17 memory, sometime in the beginning -- towards the beginning of October,
18 towards the middle of October. Is that right?

19 A. Well, it was in October, in any event. It was in the month of
20 October. I think we agree on that. I don't want to speculate about the
21 matter, but it was read out in the month of October.

22 PRESIDING JUDGE FULFORD: I think we've exhausted that.

23 MR. SACHDEVA:

24 Q. The RNTC, the national radio of Congo, what times would they
25 broadcast?

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 66

1 A. I'm trying to understand that you don't have a precise image of
2 the radio. It's not the RNTC radio. It was Radio Candip. The RNTC only
3 has 30-minute programmes. It only has 30-minute programmes, and it's
4 oral news, 30 minutes in the evening, 30 minutes in the morning, and
5 that's it. As far as everything else is concerned, it's Radio Candip.
6 It's a private radio station.

7 PRESIDING JUDGE FULFORD: Mr. Sachdeva, what I'd like to do is
8 give the witness a 10-minute break. I think the intervention was by you,
9 sir, were you about to say something else, or was it you, Mr. Sachdeva,
10 who spoke? I didn't see whose lips moved.

11 MR. SACHDEVA: All right. Mr. President, I just wanted to follow
12 up one question.

13 PRESIDING JUDGE FULFORD: All right. Certainly do, and then
14 we'll have a break after that. Absolutely.

15 MR. SACHDEVA:

16 Q. But in answer to my colleague Ms. Struyven yesterday, you said,
17 and I quote:

18 "We don't get national radio in Bunia."

19 And this was in relation to August 2002. So is that a mistake,
20 or what's the situation?

21 A. Yes. Well, in fact, I don't want to express what I'm feeling
22 right now, because I've been called to come here and try -- so we can
23 understand how things unfolded. It's in Kinshasa that the RNTC has a
24 station. There's the television, and there's the radio. They have an
25 office there, so the range wasn't very long. So it was difficult to

1 capture the radio in Bunia, but the television could be followed.

2 At the time, as Candip had a radio transmitter, RNTC had
3 practically found an arrangement with Radio Candip only to have a small
4 amount of time that they could use for the news, the local news.

5 As far as television is concerned, there were certain
6 transmitters that had been set up at the time of the campaign of
7 President Mobutu, and you could just put a tape in -- in a device so that
8 people could follow things on a local level. So those were the
9 possibilities.

10 When I told your colleague that RNTC radio could not be listened
11 to in Bunia, well, that was true. It's true.

12 Q. Well, to be clear, sir, you did not say that RNTC radio could not
13 be listened to in Bunia. You said, "We did not get national radio in
14 Bunia." And from what you've just said, albeit for a small time, you can
15 get national radio in Bunia. Isn't that right?

16 A. The transmission did not reach Bunia. We didn't receive the
17 radio in Bunia, but in Bunia, on a local level, there is a programme of
18 the national radio, just one programme, a news programme. That does
19 exist.

20 Q. What times would those broadcasts be conducted for the RNTC in
21 Bunia?

22 A. It varied. At one point in time it was from 18.00 hours to
23 18.30 hours, and from 6.00 to 6.30. And when there was this issue of the
24 insecurity, it was from 17.00 to 17.30 hours, and in the morning it was
25 from 6.30 to 7.00.

1 MR. SACHDEVA: Mr. President, I'm sorry, we can break now.

2 PRESIDING JUDGE FULFORD: I was waiting for you to finish the
3 point, Mr. Sachdeva. Thank you very much.

4 Thank you. We'll sit again at 25 past.

5 Recess taken at 3.14 p.m.

6 On resuming at 3.25 p.m.

7 (Open session)

8 COURT USHER: All rise. Please be seated.

9 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

10 MR. SACHDEVA: Thank you, Mr. President.

11 Q. Sir, I'm sorry, I just want to persist with a few more questions
12 about the RNTC. Just tell me if my understanding is right. There was a
13 local radio, Radio Candip. And I'm talking about October -- August to
14 October, or at that period in 2002. But for a small amount of time every
15 day, perhaps half an hour, the national radio of the Congo was broadcast
16 in Bunia, whereby the people of Bunia could hear about news and
17 information that was going on in the rest of the country; is that right?

18 A. No. I'll go over what I have already said. Take the
19 infrastructure itself first of all, the houses, the antenna. All these
20 things belonged to a station called Candip. It was a means of
21 communication affiliated to the ISP, the teacher training institute. It
22 was a centre for teacher training. That's it.

23 Candip had its programmes, and now for the -- Candip had
24 30 minutes for the national radio, so that they could broadcast RNTC
25 news. This is public news from the state. So for 30 minutes the news

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 69

1 from the evening would be broadcast in the morning, and during those
2 30 minutes, as I have said, the news was state news, public news. The
3 state at the time was the UPC. So we had subsidiary bodies, the
4 provinces, the governorships with town halls, with communities, other
5 territorial units and communities. It was information from these bodies
6 that was given priority during that slot. Thank you.

7 Q. Right. So at what time was the October decree read out over the
8 RNTC?

9 A. The time is what you're interested in now. It was during this
10 30-minute slot. Do I have to give you the precise hour, 17.30 or
11 17.20 hours, or 17.10 hours. In what way can I be of service to you?
12 That's the problem.

13 PRESIDING JUDGE FULFORD: Do be careful, Mr. Sachdeva, not to
14 repeat areas you've already dealt with. Page 66, lines 20 to 22. Unless
15 I'm mistaken.

16 MR. SACHDEVA:

17 Q. Mr. -- I do not want to repeat my question, but perhaps my
18 earlier question was somewhat general. I'd like to know precisely in
19 relation to this October decree what time was the decree read out, and
20 you've already said that the RNTC would be broadcast for a very specific
21 period of time during the day. You should remember that time. What time
22 was it?

23 A. 5.30 p.m. to 6.00 p.m.

24 Q. A couple of times now in your evidence you've spoken about
25 Mr. Mbabazi, the G5 of the FPLC. Remember?

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 70

1 A. Eric Mbabazi, yes.

2 Q. You said that he also made announcements over the radio regarding
3 demobilisation. You remember?

4 A. Yes.

5 Q. And if I'm not mistaken, you saw him as well in Iga-Barriere
6 after you had left Bunia; is that right?

7 A. Yes.

8 Q. And you said that his -- his duties as a G5 were related to the
9 relationship between the civilian -- civilian population and the
10 military. Is that a fair description?

11 A. I said that, first of all, as G5 within the army staff, he was
12 responsible for civic training as well as political guidance for the
13 soldiers. Beyond that, he was also responsible for establishing
14 relations between the civilian population and the soldiers.

15 Q. He was also -- or within his remit was also the relationship
16 between infantry soldiers, troops, and officers. Is that right?

17 A. Relations between infantry troops and officers?

18 Q. In terms of discipline in the military.

19 A. In terms of discipline? Could you please be more explicit?

20 Q. He was responsible for discipline and morale within the FPLC,
21 wasn't he?

22 A. He was responsible for morale. He had to boost the morale of the
23 troops. And I have said here that he dealt with troop morale. In other
24 words, he could teach the troops their civic responsibility, and he could
25 also act through his aides who were on the field. He was at the level of

1 the army headquarters, but he had representatives on the ground. And I
2 also said that he was responsible for relations between the civilian
3 population and the army.

4 Now, with respect to discipline, I do not see how he was
5 responsible for discipline. I wonder if you're talking about discipline
6 in terms of meting out punishment. No. There was the intelligence
7 service which was supposed to play that role.

8 Q. That's fine, sir. Now, you said that he went on the radio and
9 raised awareness so that children would not join the army; is that right?

10 A. That is correct. He did not go to the radio once. He went to
11 the radio several times.

12 Q. I suggest to you that, to the contrary, Mr. Eric Mbabazi was keen
13 to make sure that children were recruited into the FPLC. What do you say
14 to that?

15 A. I do not share your viewpoint.

16 Q. If I suggest to you that perhaps he may have been on the radio
17 asking for children not to join the army, but, in fact, he was reporting
18 within the ranks of the FPLC that there were not enough children joining
19 the army, what do you say to that?

20 A. Well, could you please try to make things clearer, because things
21 are a bit mixed up, and I think I can't make the distinction between one
22 thing from the other.

23 Q. We'll try again. On the one hand, you say that he was on the
24 radio raising awareness so that children would not join the UPC. What
25 I'm suggesting to you, on the other hand, he was actively working within

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 72

1 the FPLC to recruit more children and, in fact, sent documents up the
2 chain of command. What do you say to that?

3 A. That is false. Your conclusion is incorrect.

4 Q. So is your evidence that at no point, at no time, did
5 Eric Mbabazi send documents complaining about the lack of children and
6 the difficulty in recruiting children into the FPLC?

7 A. Please, I would like you to rephrase that question.

8 PRESIDING JUDGE FULFORD: Allow me, Mr. Sachdeva. What is being
9 asked of you, sir, is whether you ever became aware of documents from the
10 individual that Mr. Sachdeva has just referred to, documents in which he
11 was complaining that too few children were being recruited into the FPLC,
12 indicating, therefore, in those documents that the FPLC needed more
13 children.

14 Now, the question is: Did you ever see documents of that kind?

15 THE WITNESS: (Interpretation) No.

16 PRESIDING JUDGE FULFORD: There you are, Mr. Sachdeva.

17 MR. SACHDEVA:

18 Q. I'd like to show you a document, if I may.

19 MR. SACHDEVA: It is tab 51 of the Prosecution's first binder.
20 It is EVD-OTP-00457, DRC-OTP-0109-0136, and for the benefit of the
21 witness, I have an original which is a better copy, so it would be easier
22 for the witness. Perhaps I can give that to the Court Usher.

23 Q. Sir, I'm going to give you some time to read it in a moment, but
24 I just want to ask you one or two preliminary questions.

25 A. All right.

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 73

1 Q. If you could just turn to the last page, please. You'll see that
2 it says: (Interpretation) "Done in Bunia on the 6th of November, 2002."

3 A. Yes.

4 Q. (In English) Signed by Mr. Eric Mbabazi, commander, *chef*
5 *d'état-major*, G5. Do you see that?

6 A. Yes, I do.

7 Q. And although it is faint you can still see, I take it, the
8 remnants of a stamp at that place, can't you?

9 A. Yes. Yes.

10 Q. Perhaps the interpreter could not hear you. Did you say yes, you
11 could see that?

12 A. There is a line there. There's a round shape that looked like a
13 stamp. It's an incomplete circle on the photocopied document. Looks
14 like a stamp.

15 Q. Very well. Now, if you move to the front of the document. If
16 you go back to the beginning. You see at the top left that the FPLC
17 *état-major generale* G5 is -- is stipulated there?

18 A. Yes.

19 Q. Just stay with the front page for the moment, sir. And on the
20 right-hand side you see again the date, the place, and you see --
21 underneath the date and place you see a reference number?

22 A. Yes.

23 Q. And if we concentrate on that reference number, EMG means
24 *état-major*, Chief of Staff, doesn't it?

25 A. Yes.

Witness: Witness DRC-D01-WWWW-0019 (Resumed) (Open Session)
Questioned by Mr. Sachdeva

Page 74

1 Q. FPLC is the UPC's army, and G5 is the function of Mr. Mbabazi.

2 Is that right?

3 A. That is correct.

4 Q. And again, sir, as I said, I will give you a moment to read the
5 document. If you just keep the first page. Thank you. And you will see
6 that this document is sent to the *chef état-major* FPLC, and that at that
7 point in time, on the 6th of November, 2002, was Mr. Floribert Kisembo;
8 is that right?

9 A. Yes.

10 Q. And, in fact, Mr. Kisembo as the Chief of Staff was the direct or
11 the supervisor of Mr. Mbabazi, wasn't he?

12 A. Yes.

13 Q. And the -- before we get to the text of the document, you'll see
14 on the right-hand side -- excuse me, on the left-hand side
15 (Interpretation) "Monthly report of bureau number 5."

16 A. Yes, I can see that.

17 Q. (In English) Now, what I intend to do is this: I want to take
18 you to a portion of the document and I want you to read out a portion.
19 Now I can do that after you've read through the document or I can do that
20 now. It's as you wish, sir. Would you like time to read the document?

21 PRESIDING JUDGE FULFORD: Well, let's just see where we are with
22 this, if we can, Mr. Sachdeva. Is this a document which you suggest the
23 witness has seen before? Are you intending to ask him whether he's
24 familiar with it? I just want to understand what the basis is for
25 suggesting that he can deal with the contents of a document that bears

1 someone else's signature. Now, it may be he can, but I'd just like to
2 know how you're approaching this, please.

3 MR. SACHDEVA: Mr. President, with your leave, I would like to
4 provide an explanation in the absence of the witness.

5 PRESIDING JUDGE FULFORD: Certainly, and I think we need to take
6 this course, because Mr. Bijou-Duval was rising to his feet at the moment
7 when I intervened. This is probably going to take five minutes or so,
8 isn't it?

9 MR. SACHDEVA: Perhaps, Mr. President.

10 PRESIDING JUDGE FULFORD: Sir, thank you very much for your
11 assistance today. I'm sorry your evidence hasn't concluded. I'd hoped
12 you would have left the witness box this afternoon, but we're not quite
13 there yet. We therefore look forward to seeing you what I really hope
14 will be, for your sake, not ours, one last time at 9.30 tomorrow morning.
15 Could you go now, please, with the two gentlemen in court.

16 THE WITNESS: (Interpretation) Thank you.

17 (The witness stands down)

18 PRESIDING JUDGE FULFORD: Mr. Sachdeva, I don't want to be
19 awkward. I just want to make sure that we're going to be asking the
20 witness to give detailed attention to a document that he, in reality, is
21 going properly to be able to answer questions about. So how do you put
22 it?

23 MR. SACHDEVA: Mr. President, firstly the witness is clearly
24 aware of this individual that drafted this report. In my submission,
25 he's aware of the function that he performed, and he's given evidence

1 about what this person has allegedly said in relation to children and
2 demobilisation.

3 Secondly, he's confirmed, or at least he's agreed with my
4 assertions that this appears to be a document from the -- well, I didn't
5 assert that, but I did ask him to confirm that. It's signed, it's dated.
6 There's a hint of a stamp there. The logo at the top left does not
7 appear to be anything out of the ordinary for him, and it has a reference
8 number, and it's -- it's being relayed to the -- to his chief, the Chief
9 of Staff of the FPLC, and in that sense, he hasn't queried the
10 authenticity of this document.

11 The third point is that this document is already in evidence from
12 the bar table. Additionally, I showed it to Witness 0055 and also to
13 Witness 0016.

14 Now, I have made a suggestion to the witness based upon
15 information in this document, and the suggestion is contained the -- the
16 import of the suggestion is contained in this document; namely, that
17 Mr. Mbabazi was concerned that there were not enough children being
18 recruited into the FPLC, which clearly is directly contrary to what this
19 witness has told the Court. And it is for that purpose that I want him
20 to comment upon what's contained in this document of which its
21 authenticity is not -- is not contested.

22 Additionally, the Defence have been aware that this document had
23 been intended to be shown to this witness. At no point did they object
24 to the use of this document. I accept, of course, that they weren't
25 aware of the questions that I would ask, but unlike other materials, they

1 have not objected.

2 Further still, my colleague Mr. Omofade has shown this witness
3 other UPC documents where he was taken to the stamp, taken to the
4 signature, taken to the letterhead, and he was allowed to comment on
5 their contents, because this witness has told the Court he has been in
6 the UPC for one year, he is giving evidence on military matters, and for
7 those reasons I would like to attempt to use this document to --

8 PRESIDING JUDGE FULFORD: Can I see if I can summarise it this
9 way, Mr. Sachdeva: In reality, you -- you want to have the opportunity
10 of asking the witness whether or not he wishes to reconsider his evidence
11 that Eric Mbabazi was not attempting to get additional child soldiers in
12 light of this apparently official document from Mbabazi which seems to
13 give a somewhat different impression. I mean, that's the heart of it,
14 isn't it? You're not -- you're not suggesting that the witness has
15 necessarily seen this document before or was involved in its compilation.
16 It's really that this is what I'm going to describe as an official
17 document and that, therefore, having seen it, the witness might like to
18 reflect on the unequivocal evidence he's given so far on that subject.
19 Is that it?

20 MR. SACHDEVA: I wish I could have put it that way myself,
21 Mr. President, but yes, that's it.

22 PRESIDING JUDGE FULFORD: I'm sure I haven't done justice to your
23 argument, Mr. Sachdeva. Thank you.

24 Now, Mr. Biju-Duval, on that basis, so not -- not in any way
25 suggesting, as I understand it, that the witness was responsible for its

1 compilation or that he's necessarily seen it before, but as a way of
2 testing the very clear-cut assertion that the witness has made on what
3 undoubtedly is an important issue in the case, do you object to him
4 looking at the relevant parts of this document in that context and for
5 those purposes?

6 MR. BIJU-DUVAL: (Interpretation) Your Honour, first of all,
7 this document has just been circulated now, that is the original thereof,
8 and we find that what they term an original is actually a copy.

9 PRESIDING JUDGE FULFORD: (* Previous translation continues) ...
10 copy, I think.

11 MR. BIJU-DUVAL: (Interpretation) That's right, it is a better
12 copy.

13 PRESIDING JUDGE FULFORD: This trial has been bedeviled with
14 better copies, Mr. Biju-Duval.

15 MR. BIJU-DUVAL: (Interpretation) I would like to inform the
16 Chamber that at the end of the day the Judges will have to be cautious
17 with respect to reliability of this document, especially as the witness
18 cannot vouch for its authenticity. That said, the Defence does not
19 object to this document being submitted to the consideration of the
20 witness on condition, one, that he has sufficient time to read and
21 understand the document. Two, that the Prosecutor should indicate to the
22 witness before he starts reading the document the passages, the excerpts,
23 on which he is going to rely in putting his questions so that the witness
24 can very attentively and carefully read the said excerpts and provide a
25 reliable answer.

1 PRESIDING JUDGE FULFORD: Mr. Sachdeva, can I make the suggestion
2 that without marking what is your best copy, we get another copy made
3 that's as near to that as possible. You mark those passages that you
4 most particularly wish the witness to read, and half an hour before we
5 sit tomorrow, about 9.00, that is given to him by the court associate
6 with a request that he reads the entire document before we start sitting,
7 but that he concentrates in particular on those paragraphs which you have
8 highlighted. Would that be convenient?

9 MR. SACHDEVA: Certainly.

10 PRESIDING JUDGE FULFORD: Good. Happy with that, Mr. Biju-Duval?

11 MR. BIJU-DUVAL: (Interpretation) Yes, your Honour.

12 MR. SACHDEVA: And, Mr. President, I see that it's 4.00, but
13 perhaps to save time --

14 PRESIDING JUDGE FULFORD: Certainly.

15 MR. SACHDEVA: -- there might be a similar situation that arises
16 as I complete my cross-examination in relation to another document. The
17 witness may have seen this document, I don't know, but it's possible that
18 I will try to embark on the same process with this document, and for the
19 purposes of the Court and the Defence, it's tab 23 of the Prosecution's
20 first binder.

21 PRESIDING JUDGE FULFORD: Mr. Biju-Duval has indicated that he is
22 happy with that course, Mr. Sachdeva. Identical procedure then. Court
23 associate to show this to the witness at 9.00, and any particular parts
24 that you want him to really focus on, could you highlight with a
25 Magic Marker.

1 MR. SACHDEVA: Not in any way wanting to ambush the witness, of
2 course not, but I would rather that -- that, with your leave, of course,
3 that we deal with the second document as it arises.

4 PRESIDING JUDGE FULFORD: Certainly. If you want to preserve the
5 element of surprise, Mr. Sachdeva, we won't deprive of you that.

6 MR. SACHDEVA: Thank you, Mr. President.

7 PRESIDING JUDGE FULFORD: Good. But you're happen with the first
8 document being shown to him first thing tomorrow morning.

9 MR. SACHDEVA: Certainly.

10 PRESIDING JUDGE FULFORD: Good. Right.

11 The hearing ends at 4.01 p.m.

12 CORRECTIONS REPORT

13 The Court Interpretation and Translation Section has made the following
14 corrections in the transcript:

15 *Page 60 line 16

16 "...but the minutes at the following meeting in which there was an assessment ..."

17 Is corrected by "...but the minutes at the following meeting regarding the
18 assessment were... the assessment was done."

19 *Page 14 line 1

20 "I was aware of that only when we arrived in Mamedì." Is replaced by "But I knew
21 him – I only knew him when we met in Mamedì."

21

22

23

24

25