

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 Thursday, 7 April 2011
9 The hearing starts at 9.31 a.m.
10 (Open session)
11 COURT USHER: All rise. The International Criminal Court is now
12 in session. Please seated.
13 PRESIDING JUDGE FULFORD: Maitre Mabilie, I understand that our
14 old friend Article 54(3)(e) has returned. Yes. Who's dealing with this?
15 MS. MABILLE: Jean-Marie Biju-Duval, your Honour.
16 MR. BIJU-DUVAL: (Interpretation) Yes, your Honour. Yesterday
17 evening, Defence received news for the first time or it was given for the
18 first time three documents. These three documents come from the
19 Presidency of the UPC, and the name of Mr. Djokaba, Witness 0019, appears
20 in these documents. The chain of possession shows that the Office of the
21 Prosecutor had these documents since 2004 or 2005.
22 The last point I'd like to make: All three documents had been
23 handed in by the MONUC to the offices of the Prosecutor under Article
24 54(3)(e), and we have been told that confidentiality has been raised
25 since the day before yesterday.

1 So these are the crucial points the Chamber needs to bear in mind
2 to understand the points I'm now going to make.

3 This situation poses two questions, raises two points. First
4 point: These documents held by the Prosecutor are from the Presidency of
5 the UPC. Therefore, come from the archives of the UPC that have been
6 held by the Office of the Prosecutor, and they are being disclosed now
7 only, apparently, because the name of Witness 0019 appears in them. This
8 raises a fundamental issue in terms of the way in which the Prosecutor
9 understand his obligation to disclose evidence and the need to comply
10 with that obligation. This raises the issue whether the Office of the
11 Prosecutor today has other documents from the archives of the UPC,
12 documents he would not have deemed useful to disclose in this case.

13 The stance of the Defence in this respect has always been
14 straightforward and appears, in particular, in various e-mails sent to
15 the Office of the Prosecutor, including one sent on the 26th of April,
16 2010, which is included in the little file we have just handed to the
17 Judge and all the other parties in which the Defence states that it would
18 like all documents from the UPC to be disclosed should the Office of the
19 Prosecutor hold them. Last night's disclosure seems to demonstrate that
20 the Prosecutor might very well still have archives from the UPC that is
21 not yet disclosed, and we need to have a clear answer to this question
22 from the Office of the Prosecutor.

23 We heard yesterday the witness answer questions about the minutes
24 of the meeting of the executive committee of the UPC and various
25 documents that -- that were part of the UPC's archives and have not been

1 disclosed. Therefore, this raises a serious issue in terms of the
2 Prosecutor's obligation to disclose all of the documents from the UPC's
3 archives. That would be my first point.

4 Second point concerns the role played by MONUC with regard to the
5 UPC's archives. We know -- everybody knows, in fact, that the UPC's
6 archives -- I beg your pardon. Everybody knows that MONUC in 2003, 2004,
7 perhaps 2005, took possession of the UPC's archives during
8 pequisitions (* as interpreted) it carried out in the UPC's offices, as
9 well as the homes of some of the leading officials of the UPC.
10 Therefore, apparently virtually all, virtually all the archives have been
11 taken by MONUC during that period.

12 Therefore, a question arises; i.e., yes or no, does the -- or has
13 the Office of the Prosecutor had access, or has been given all the
14 archives the MONUC held. It is important for the Defence and the Chamber
15 to ascertain whether some of these archives have been kept by MONUC, and
16 on this point the Office of the Prosecutor has an obligation, a
17 disclosure information -- obligation. The Office of the Prosecutor has a
18 disclosure obligation insofar as the Office of the Prosecutor must
19 clearly inform the Defence and the Chamber whether the investigations
20 carried out with MONUC in their opinion have enabled them to gain access
21 to all the UPC's archives held by MONUC.

22 Obviously, as the Chamber will understand, this is a major issue
23 for the Defence, because the Defence, given its thesis, absolutely needs
24 to have access to all of these archives in order to be able to bolster
25 its assertion, for instance, according to which, for instance, the issue

1 of the demobilisation of underaged soldiers was debated and effectively
2 implemented. This is a crucial issue for the Defence, and the lack of
3 documents is an obvious prejudice.

4 I will conclude by summing up the Defence's viewpoint. First of
5 all, we ask the Chamber to order the Office of the Prosecutor to disclose
6 to the Defence all the documents from the UPC in its possession, and
7 secondly, we request that the Chamber order the Office of the Prosecutor
8 to inform the Defence and the Chamber as to the stance taken by MONUC
9 with respect to access to the UPC's archives. On this last point, the
10 Prosecutor must tell us whether, yes or no, we may think that some UPC's
11 archives have been kept by MONUC, have not been handed over to the Office
12 of the Prosecutor.

13 These would be the points the Defence would like to raise with
14 the Chamber this morning.

15 PRESIDING JUDGE FULFORD: Can I ask whether the witness is
16 standing in a corridor waiting to come in? If he is, he should go to the
17 witness waiting-room, please. Fine, but he shouldn't be left standing in
18 a corridor waiting to come into court.

19 Mr. Biju-Duval, one question before I ask for the assistance of
20 the Prosecution. You have formulated the application broadly in the
21 sense that at least once, and I think on more than one occasion, you
22 indicated that what needs to happen now is that the Prosecution effects
23 disclosure of all of the documents concerning the UPC that were in the
24 archives seized by MONUC. So that's a very broad application asking for
25 every single document, irrespective of its subject matter.

1 Towards the end of your submissions, you focused on one
2 particular issue, which was the demobilisation of underaged soldiers, and
3 you asked, particularly, or as I understood it, you were asking
4 particularly for documents that relate to that issue.

5 Now, I think we need to be precise and clear about this, if I may
6 say so. Are you, in fact, asking for every single piece of paper,
7 irrespective of its subject matter and irrespective of its relevance to
8 this trial, or are you asking for all parts of the archive that impact on
9 the issues that we've been debating in this case of which you have given
10 a very good example, if I may say so, the demobilisation of underaged
11 soldiers?

12 MR. BIJU-DUVAL: (Interpretation) Your Honour, clearly in a
13 perfect world the Defence would ask only for the documents that have an
14 impact on the issues debated in this case. The problem is that in their
15 opinion, the Prosecutor has blatantly not had the same concept of the
16 documents that have an impact on this case as we do. We had an example
17 last week when Madam Prosecutor talked about a chronology of the history
18 of the UPC, allegedly from an UPC official, was utterly irrelevant.
19 Therefore, it's against that backdrop we see ourselves forced to make a
20 request that again in an ideal world would be far too broad. This is the
21 problem the Defence faces.

22 On the other hand, it is true that at times -- what is relevant.
23 The Prosecutor is showing minutes of executive committee meetings to the
24 witness in which a military officer takes part. This document can be
25 deemed relevant, but this means that all the minutes of the executive

1 committee meetings are relevant precisely to put into perspective this
2 one specific document.

3 So one example, barring any mistake I might be making, that the
4 only minutes of committee -- executive committee meetings are minutes in
5 which a military officer was attending the meeting, whereas we can assume
6 safely that there were tens of other such meetings. In other words, what
7 we are challenging is the way in which the Prosecutor understands his
8 disclosure obligation, as well as the way in which MONUC has behaved with
9 respect to the Office of the Prosecutor.

10 PRESIDING JUDGE FULFORD: Final point: The document that was
11 disclosed to you last night has -- we haven't considered it in detail,
12 but has, we are told, an apparent particular relevance now because of
13 Witness 0019. Now, if Witness 0019 had not been called, so if he was not
14 now in the witness box, would you have submitted or, indeed, do you now
15 submit that this document, in any event, should have been disclosed to
16 you? So the question really is: Has the need for disclosure arisen
17 because Witness 0019 is testifying before us, or was it always a document
18 that should have been disclosed irrespective of his presence here before
19 us now?

20 MR. BIJU-DUVAL: (Interpretation) My answer is very clear. This
21 request is independent from the appearance of Witness 0019. The
22 Defence's request is linked to the nature of the three documents that
23 have been disclosed insofar as they come from the UPC's archive.

24 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Biju-Duval,
25 very clear.

1 Now, Mr. Sachdeva, a number of fundamental issues are raised by
2 this in relation to which we are going to need some very careful and very
3 precise assistance to make sure that we are in possession of the true and
4 full history in relation to what has happened with these documents. So
5 you will either now or, if you're not able to do it immediately, at a
6 time which you can suggest, you are going to have to inform us about what
7 happened -- if the suggestion by Mr. Biju-Duval generally is true, what
8 happened in relation to this archive in the period of 2003 to 2005,
9 whether it was seized by MONUC, whether it has been made available to the
10 Prosecution either in its entirety or in part, and having been made
11 available to the Prosecution, if that is the position, what the basis has
12 been of your access to it and, in most particularly, whether
13 Article 54(3)(e) has been invoked, generally what the Prosecution's
14 attitude has been as regards its obligation to disclose to the Defence
15 items within that record, and given these documents have now been
16 disclosed, why it is at this stage only has disclosure been effected in
17 relation to these three documents. But we want to make it clear that our
18 interest now is engaged generally, and it is not focused only on the
19 three documents that appeared late last night.

20 Now, are you in a position to assist us comprehensively now on
21 these issues? Are you sufficiently in possession of the facts, or do you
22 need more time?

23 MR. SACHDEVA: Thank you, Mr. President. For the general
24 submission with regards to the archives and the relation between the
25 Prosecution and MONUC, I would seek leave to come back to the Chamber

1 hopefully today with a -- with a more thorough submission on that.

2 With your leave, if I may just make one or two clarifications
3 with respect to the three documents.

4 One of the documents, a document that we would submit is arguably
5 exculpatory or at least Rule 77, has, in fact, been disclosed. The new
6 copy that we have is a better or more readable copy that has now been
7 disclosed. The other --

8 PRESIDING JUDGE FULFORD: Now, which one is it? You've got to
9 understand, we just arrived in court to find a little folder on our desk.
10 We haven't looked at them. So which of these do you say is already in
11 the possession of the Defence?

12 MR. SACHDEVA: Well, the document DRC-OTP-0029-0286. That would
13 be document 2 in the binder.

14 PRESIDING JUDGE FULFORD: Right.

15 MR. SACHDEVA: Is a duplicate of DRC-OTP-0184-0108. The quality
16 of this document is slightly better. So in our submission, the substance
17 of that document has already been provided to the Defence.

18 PRESIDING JUDGE FULFORD: But the other two are, as it were, new
19 documents for the Defence.

20 MR. SACHDEVA: That's right. The other two are -- again were
21 triggered because Defence Witness 0019 is here. They have been disclosed
22 pursuant also to your Honours' decision in November last year with
23 respect to the disclosure obligations related to Defence witnesses, and
24 in our submission there is nothing in these documents that is -- that
25 falls squarely under Rule 77 or 67(2), and thus, that is the reason why

1 they have disclosed, and that is why we sought lifting from the UN.

2 The other point, albeit a small one, is my learned friend talks
3 about the document that was used by my colleague Ms. Struyven the other
4 day. The material in that document is actually contained in the
5 statement of the witness, and the Defence have had that statement for a
6 number of years.

7 I would also add that following on from what your Honours have
8 asked the Defence, the Prosecution's position, of course, is to disclose
9 material that falls under Rule 77 and Article 67(2), and, in fact, during
10 the 54(3)(e) litigation your Honours will be aware that we interpreted
11 that obligation very widely and hundreds of documents were disclosed in
12 relation to Article 54(3)(e).

13 In respect of materials that emanate from the UPC, of course if
14 there are materials in our possession that relate to demobilisation,
15 minutes of executive meetings, absolutely we will -- we will have
16 disclosed that to the Defence, but it is not the Prosecution's position
17 that every single document irrespective of its content is automatically
18 disclosable. But as I said, with respect to the general interaction
19 between the MONUC and the OTP in relation to the archives, with your
20 leave I'd like to come back on that.

21 PRESIDING JUDGE FULFORD: You certainly may, Mr. Sachdeva, and of
22 course, you'll understand that we want to make sure that there ha not
23 been some kind of artificial restriction imposed on the ability of the
24 Prosecution properly to discharge its obligations in relation to this
25 particular document cache that was seized from the UPC.

1 Good. We will look forward to hearing from you later on on that.

2 MR. SACHDEVA: Thank you.

3 (The Trial Chamber confers)

4 PRESIDING JUDGE FULFORD: Thank you for raising this matter,

5 Mr. Biju-Duval.

6 Witness, please.

7 (The witness takes the stand)

8 WITNESS: WITNESS DRC-D01-WWWW-0019 (Resumed)

9 (Witness answered through interpreter)

10 PRESIDING JUDGE FULFORD: Good morning, sir.

11 THE WITNESS: (Interpretation) Good day, Mr. President.

12 PRESIDING JUDGE FULFORD: (* Previous translation continues) ...

13 THE WITNESS: (Interpretation) That didn't bother me at all.

14 PRESIDING JUDGE FULFORD: (* Previous translation continues) ...

15 for having undertaking some reading that we asked you to do first thing

16 this morning.

17 THE WITNESS: (Interpretation) I would like to thank you, because

18 you gave me the opportunity to peruse these documents.

19 PRESIDING JUDGE FULFORD: Mr. Sachdeva, the witness has

20 apparently seen the documents and has had an opportunity to read them, so

21 you can proceed on that basis.

22 MR. SACHDEVA: Thank you, Mr. President. Could I start by asking

23 the Court Officer to -- to provide the original of that document to the

24 witness.

25 PRESIDING JUDGE FULFORD: When you say "original," I think we're

1 really referring to a better photocopy, or is it truly the original,
2 Mr. Sachdeva?

3 MR. SACHDEVA: No, that's right. It's actually the better copy
4 from the vault, but --

5 PRESIDING JUDGE FULFORD: Good. I have a memory that at some
6 stage we were told that we may be receiving the original of this
7 document, many moons ago. Maybe that memory is false. But anyway, it's
8 not greeted with an immediate affirmation, so park that thought and we'll
9 see whether there's a reference in the archive.

10 Right. Better copy to the witness, please.

11 Yes.

12 MR. SACHDEVA: Mr. President, I do apologise, but I suspect that
13 the document handed over is the one that the witness read just a moment
14 ago. That is not the copy from the vault. The copy from the vault was
15 with the witness yesterday evening, in my understanding, and I understand
16 that the Court Officer would have retrieved them at the end of the day.
17 But we can proceed with this copy, just hopefully we don't misplace the
18 vault's copy.

19 PRESIDING JUDGE FULFORD: Yes. Let's proceed with this copy, and
20 I'll ask the Court Officer to track down the one that was in court
21 yesterday afternoon.

22 Yes, please carry on, Mr. Sachdeva.

23 Questioned by Mr. Sachdeva: (Continued)

24 Q. Good morning, sir. Now, you've had a chance to look at this
25 document, and before I take you to some specifics, I'm just going to ask

1 you a few questions on the form of this document. You would agree that
2 it is a seven-page document, wouldn't you?

3 A. I can see six pages.

4 PRESIDING JUDGE FULFORD: For the interpreters and transcribers,
5 Mr. Sachdeva, and actually for the Bench, could you give the tab number
6 and the document's reference number, please.

7 MR. SACHDEVA: Certainly. It's tab 23 of the Prosecution's first
8 binder. It is EVD 518 -- OTP-518, and the reference is DRC -- excuse me.
9 I'm mistaken.

10 PRESIDING JUDGE FULFORD: Are you sure it's tab 23?

11 MR. SACHDEVA: No, Mr. President, I was mistaken. I'll just
12 provide the ERN and perhaps that's easier.

13 PRESIDING JUDGE FULFORD: We'll need the tab number, I'm afraid.
14 So someone on your team must find out which tab it's in.

15 MR. SACHDEVA: Tab 51 of the Prosecution's first binder.

16 PRESIDING JUDGE FULFORD: Thank you very much.

17 MR. SACHDEVA: And it's 0109-0136.

18 Q. How many pages is the document, sir, seven pages?

19 A. I have just realised that page 6 -- well, in fact, the pagination
20 is not correct, so the document does, in fact, consist of seven pages.

21 Q. And you will agree that this is a monthly report?

22 A. Given what the document says, yes.

23 Q. Given that it is dated the 6th of November, 2002, would it be
24 fair to say that this report purports to cover situations that occurred
25 from October the 6th through to November the 6th, 2002? Would you agree

1 with that?

2 A. I believe that it's a document that covers the period, the
3 monthly period prior to the 6th of November, 2002.

4 Q. And not strictly related to --

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

6 MR. BIJU-DUVAL: (Interpretation) I apologise for interrupting,
7 but shouldn't the witness yet again be asked whether or not he is
8 familiar with the document before questions are put to him about its
9 contents?

10 PRESIDING JUDGE FULFORD: I think, Mr. Biju-Duval, if you recall
11 the discussions in court yesterday afternoon, we were proceeding on the
12 basis that with this document it was likely that the witness was not
13 involved in its creation and that he may not, in fact, have seen it
14 before, and the basis on which we permitted Mr. Sachdeva to ask questions
15 about it was to see whether the witness wanted to amend his evidence in
16 light of what is said to be an official or semiofficial UPC document. So
17 I think in those circumstances, it's really not necessary for
18 Mr. Sachdeva to take the steps you propose.

19 Please continue, Mr. Sachdeva.

20 MR. SACHDEVA:

21 Q. Sir, not related to this document but generally given your
22 position in the UPC as deputy national secretary, secretary, and indeed
23 at one point in time interim president of the UPC, would it be fair to
24 say that a lengthy report of seven pages, a monthly report, would have
25 required more attention, more care than, let's say, a daily report?

1 A. Naturally, a monthly report is drafted on the basis of daily and
2 weekly reports. It's a report that has to be compiled with the utmost
3 care.

4 Q. Now, after having looked at the document, you will agree that
5 just in terms of its structure, the report covers various issues from
6 troop morale, officers' morale, population's morale, the relationship
7 between troops and officers, troops and civilians, health, intelligence,
8 and at the very end there are a series of suggestions before it being
9 signed off by the G5. Would that be a fair description of the document?

10 A. Well, in fact, I can't assess the document. The format that the
11 main staff is supposed to use is not one I'm familiar with. I could make
12 an analogy between administrative reports and military reports, but this
13 is a purely military report, so I can't make such a comparison.

14 Q. Perhaps there may have been a problem with the interpretation.
15 I'm not asking you to make a comparison or to assess whether it is a
16 report that coincides with some of your reports but simply to agree with
17 me that this is the general structure. It covers various issues and then
18 at the end it has a series of suggestions. Would you agree with me?

19 A. Yes.

20 Q. At no point in this report is there a reference to the
21 president's October instruction or order for demobilisation, is there?

22 A. I haven't noticed that here. I haven't seen that, but that can
23 be explained because it's a report from the month of October, and the
24 G5's activities related to demobilisation were activities that related to
25 the month of November.

1 Q. Well, you've testified that the order for demobilisation was
2 issued in October, sometime in the middle of October. Isn't that right?

3 A. I said that I didn't want to guess about the date, but I
4 mentioned the month of October.

5 Q. This document is dated the 6th of November, isn't it?

6 A. That's what I see.

7 Q. Nowhere is it indicated in this document that the purported
8 drafter, the G5, had been on the radio asking children not to join the
9 army, isn't it?

10 A. Well, as I have said, this can't be seen in the report which
11 deals with activities in the month of October. G5 -- the G5's activities
12 were activities carried out in November, and the radio broadcasts were
13 also mentioned in this report, in a paragraph. So it was on the radio.
14 Perhaps you could show me a report from the month of November. That
15 would be a good thing, because I believe you have all the documents from
16 the UPC/RP.

17 Q. It's a very simple question. It's not indicated in this report,
18 is it?

19 A. I said yes, because this is a report from the month of October.

20 Q. Now, if you turn to the second page, and I want you to focus on
21 the heading -- the text in the heading "inter-troop, troop officer,
22 inter-officer, and troop civilian relations." You see that?

23 A. "Intertroop, troop officer, and troop civilian relations." I
24 believe that's it. Okay.

25 Q. I would like you to read out the first two paragraphs, please,

1 under that heading.

2 PRESIDING JUDGE FULFORD: Now, hold it, Mr. Sachdeva. The
3 witness has read the paragraphs. We've got them in front us. Is it
4 going to improve matters simply to have them read out to go into the
5 court record? What's the purpose of getting him to read them out? If he
6 wasn't familiar with them then obviously it would be helpful because it
7 would refresh his memory. But he's read them just before coming into
8 court, so what's the purpose of getting him to read them out again?

9 MR. SACHDEVA: Mr. President, the main purpose is to receive an
10 official court translation of the excerpts.

11 PRESIDING JUDGE FULFORD: Right. Okay. Fine. Good.

12 Sir, I'm sorry to ask you to undertake this task, but would you
13 be so kind as to read out for us the first two paragraphs under that
14 heading.

15 THE WITNESS: (Interpretation) I'll read this out with all the
16 mistakes.

17 "We note that in general the FPLC troops like each other quite
18 well, and they have a good relationship and collaborate in a frank
19 manner, but in a certain sense there is also tension between troops and
20 officers as a result of the mismanagement of troops, and this creates a
21 feeling of tribalism amongst them.

22 "There are officers who treat soldiers by marking them out, and
23 this has certain consequences, the following consequences: Desertion,
24 displacement of troops within units, afterthoughts, and so on and so
25 forth. On the however, this mismanagement has the following results:

1 The deserters go back, go home, demoralised. Their friends and these
2 deserters are discouraged, and therefore we no longer have the means of
3 obtaining more children for the army."

4 PRESIDING JUDGE FULFORD: Thank you very much.

5 Yes, Mr. Sachdeva.

6 MR. SACHDEVA:

7 Q. You've told the Court that Mr. Mbabazi went on the radio and
8 asked families and children not to join the UPC Army. After seeing this,
9 what do you say?

10 A. Yes. I think what I will say, Mr. Prosecutor, will reassure you.
11 What you are pointing out here is the use of the term "child." Well,
12 first of all, there is one thing I have to emphasize, Eric Mbabazi was
13 one of the officers who was well respected in the FPLC. I can't imagine
14 that he was punished on more than one occasion. When I spent time with
15 him in Mamedi, there was a lot of sympathy from him.

16 Another thing that I have to point out is that since 1996, the
17 armies that were created in the eastern part of the DRC were armies that
18 were established under strong linguistic influence from Uganda, Tanzania,
19 Rwanda, Burundi and so on and so forth because the usage of Swahili was
20 required. When one says "children" here, it's literal translation into
21 Swahili, *watoto*. In French, *les enfants*, children.

22 This is a trend in the army in our country as well, but since
23 that date the Swahili language within the army commanded a certain
24 respect and made it possible to distinguish between superiors and
25 inferiors. A soldier will see a member of the military or, rather, would

1 see superior a superior as a father. You can find the term *mzee* used.
2 They would call them *mzee* in the army. Even if that commander wasn't an
3 old person, he would be called *mzee*. For example, I experienced certain
4 things such as collaborators of -- Kisembo from the Main Staff who were a
5 lot older than Kisembo, and they would address Kisembo by calling him
6 *mzee swezi* (* phon). The literal translation would be "old man."
7 There's nothing I can do. Everything is beyond me. And he would respond
8 *tuma watoto*, "Go and send the children to find semolina." That meant "Go
9 and send guards, troops under your command, to find semolina."
10 This doesn't mean that children should be sent to do that task.
11 So the term that was used was *mzee*, but the person was *mzee*. He was
12 younger than the person who was calling him *mzee*, and that's the same
13 case here. Here it says we no longer have the means of obtaining
14 children for the army. This means it's no longer possible to obtain
15 recruits for the army. That doesn't mean that they are children. And
16 this is why on another occasion I said that when we have a look at the
17 documents, all the documents we have here, we can obtain a different idea
18 of the reality in the terrain, but children are not at issue here. This
19 concerns persons who are to be recruited for military service within the
20 FPLC. I don't know if I have made myself clear.
21 Q. This document is written French, isn't it?
22 A. Yes, it's written in French, but I have to point out something.
23 The French used by the gentleman who drafted this, well, I did appreciate
24 the way it was drafted because I didn't think that given that person's
25 level he would be able to draft the document in this manner. But I

1 wanted to mention the way in which this term "child" was used, and I told
2 you about the term *mzee*. There are many such terms that are used in army
3 slang, many such terms. And it's not just within the FPLC. Even today
4 in the FRDC, everyone who was trained since 1996 up until now continue to
5 use the same terms such as *mzee*, *tuma watoto*, *lend de kool* (* phon). It
6 means "Send that child out there."

7 Q. What's the French word for "recruits"?

8 A. Sorry? The French word for "recruit"? That time and now? Well,
9 it's *recrue*. It's still the same term, *recrue* or recruit. I was -- or I
10 would talk about recruits that he, given the terminology they used,
11 believed that he could talk about children, *watoto*. That's why there is
12 this literal translation. We could go even further because I think it's
13 the same thing that we can see if we go a little further. On page 6 he
14 says often when one obtains recruits, find the means of obtaining a
15 quarter of the recruits. If you have ten recruits in a village, you
16 should organise yourselves to return three of the recruits who had been
17 trained to that village, because the FPLC, after having trained recruits,
18 they didn't usually return them to their homes because they were afraid
19 they would commit acts of abuse, but when these villagers provided
20 recruits or when they went to do their military service, the inhabitants
21 of the village expected that their sons would return to work at home.

22 Q. We will go to that section in a moment. What is the French term
23 for "soldier"?

24 A. The term used for "soldier"? It's "soldier" or *soldat* in French.

25 Q. In fact, you will see that the title of this section -- in the

1 title of this section the terms troops, officers, and troops are all
2 used, aren't they?

3 A. Troop, troop, troop, civilians, yes.

4 Q. If you now go to the section that you were just reading. That's
5 on page 6. And if I may, please could you read the text contained in the
6 sixth paragraph from the top starting with "Often when we fetch
7 recruits."

8 A. So it's a paragraph. The seventh paragraph, I believe.

9 PRESIDING JUDGE FULFORD: It is the seventh paragraph. That's
10 right.

11 MR. SACHDEVA: I was looking at the English. Thank you.

12 Q. The seventh one, yes.

13 A. "Often when one takes charge of recruits from a village, try and
14 find the means of returning a quarter of these children in order to fill
15 in certain gaps, because they provide security for the population in the
16 bush. The latter have allegedly stated that they will no longer send
17 children, because they are experiencing a feeling of complete
18 insecurity."

19 Q. I'm going to ask you again. In fact, Mr. Mbabazi is actively
20 trying to ensure that children are recruited into the UPC Army, because
21 that was the UPC's policy. What do you say to that?

22 A. I don't agree with you, because if you were following me
23 carefully, I don't believe that you would draw this conclusion, because I
24 have told you that one should also bear in mind the military slang that
25 was in use. The term that is used is the recruits from villages, and it

1 says "means should be sought to return a quarter of these children," a
2 quarter of these recruits, and that was for the purpose of security,
3 because if this were -- was not done, the inhabitants of the area would
4 be discouraged. Therefore, it is necessary to engage in military
5 sociology. Perhaps we have to engage in military sociology, perhaps,
6 because there's a relationship between superior officers, between
7 officers and subordinates or men from the ranks, and in these reports
8 there are very specific terms that are used, and you won't be able to
9 prove the contrary.

10 If you have any doubts, you should contact the military, members
11 of the military in the DRC at the moment, and you won't be surprised.
12 Mbabazi did many things to demobilise children. He did not encourage
13 child recruitment in no way. If in his report he used the term "child"
14 as is the case here, that doesn't surprise me because it's only a literal
15 translation of a term that they were very familiar with, and they are
16 still familiar with it because it's used in the FARDC to this very day.
17 So it's not a matter of UPC policy in any way.

18 PRESIDING JUDGE FULFORD: Mr. Sachdeva, I would like to give a
19 short break soon. I don't know whether this is a convenient moment,
20 whether you wanted just to finish a point before we break off.

21 MR. SACHDEVA: Well, I do have a few more questions on this
22 document so perhaps now is a good time.

23 PRESIDING JUDGE FULFORD: Certainly. Let me know when you've
24 finished -- oh, now for a break now. Good.

25 So we will take a short break now. We'll sit again at 20 to

1 11.00. Thank you all very much.

2 COURT USHER: All rise.

3 Recess taken at 10.30 a.m.

4 On resuming at 10.42 a.m.

5 (Open session)

6 COURT USHER: All rise. Please be seated.

7 PRESIDING JUDGE FULFORD: Yes. Please continue.

8 MR. SACHDEVA:

9 Q. Sir, I suggest to you that the only reason why the term *enfants*,
10 children, was used in this document was because the intention was to
11 recruit more children into the UPC. What do you say?

12 A. I do not agree with you.

13 MR. SACHDEVA: Mr. President, if this document could be given --
14 oh, it does have an EVD number. Thank you.

15 Q. I'm now going to ask you some questions related to the period
16 February 2003. So start to cast your mind back to that period, if you
17 can.

18 Do you recall being present at a rally at -- a UPC rally where
19 Mr. Mbabazi was speaking in the month of February, or around that time,
20 2003?

21 A. A rally? No. Where was this rally taking place?

22 Q. Yes. In Bunia.

23 A. Did he invite the national secretaries?

24 Q. Well, for the moment do you remember being at a rally in Bunia,
25 in fact at all, where Mr. Mbabazi was one of the speakers?

1 A. No.

2 Q. What I would like to do is play you an excerpt of that rally, and
3 perhaps it may jog your memory, and you can tell us whether you were
4 present or not.

5 MR. SACHDEVA: With your leave, Mr. President.

6 PRESIDING JUDGE FULFORD: Certainly. Can we please, therefore,
7 make sure that the video is up on the witness's screen.

8 COURT OFFICER: In order to view the video, please press "PC 1."

9 MR. SACHDEVA: For the record, the ERN of the video is
10 DRC-OTP-0080-0002. And the -- the first segment will be played from
11 00:10:29 to 00:12.

12 PRESIDING JUDGE FULFORD: What's the quality of the audio on
13 this, Mr. Sachdeva? Are the interpreters going to be able to hear it?

14 MR. SACHDEVA: I believe so.

15 PRESIDING JUDGE FULFORD: Good. Well, could the interpreters
16 attempt to assist us in relation to what is said, to indicate over the
17 airwaves if there's a problem in being able to hear the various speakers.

18 MR. SACHDEVA:

19 Q. And, sir, firstly, just watch this exert and see if you can tell
20 us whether you were present or not.

21 PRESIDING JUDGE FULFORD: Good. Let's proceed.

22 (Video-clip played)

23 THE INTERPRETER: Your Honour, should the interpreters interpret
24 the subtitles?

25 PRESIDING JUDGE FULFORD: Interpret what is being said by the

1 speaker, if possible.

2 THE INTERPRETER: The speaker seems to be speaking in Swahili,
3 and we cannot get any interpreting from the Swahili booth.

4 PRESIDING JUDGE FULFORD: Quite right. Don't interpret then,
5 please.

6 THE INTERPRETER: Your Honour, the Swahili booth would like to
7 inform the Court that the speech was made in Lingala, and there are no
8 Lingala interpreters in the current trial. Thank you.

9 PRESIDING JUDGE FULFORD: Can we halt the clip at that point.

10 Mr. Sachdeva, I would have thought that's sufficient to establish
11 whether or not the witness can say if he was present on that occasion.

12 MR. SACHDEVA: Indeed. I could ask the witness to comment, but I
13 would also really like to show him an excerpt where we believe Mr. --
14 well, another excerpt.

15 PRESIDING JUDGE FULFORD: Well, this is entirely in your hands,
16 Mr. Sachdeva. Do you want to ask any questions now, or do you want to
17 move on to another clip first before you put any questions to the
18 witness? It's entirely up to you.

19 MR. SACHDEVA:

20 Q. Sir, after seeing this, do you recall if you were present?

21 A. First of all, it's difficult for me to determine the venue of
22 this meeting. If I had an idea of the venue, that could jog my memory,
23 because the person I see speaking here is the governor. I see the
24 governor speaking to a journalist of RTNC, Karba (* phon), who is holding
25 a recorder, and so I find it difficult to determine the venue or the

1 place.

2 Q. Very well. I'll play another excerpt. If we can move to minute
3 32:10 to minute 38.

4 (Video-clip played)

5 MR. SACHDEVA:

6 Q. That's Mr. Mbabazi, isn't it?

7 A. Yes, indeed.

8 Q. Were you there?

9 A. I think I must have been there. It was an official event, and I
10 noticed that some of my colleagues were present.

11 MR. SACHDEVA: Mr. President, on that basis I'd like to -- I'd
12 like to play another excerpt from Mr. Mbabazi, and I'd like to put a
13 question after playing that excerpt to the witness. My only concern is
14 that I'm wondering if it is still Lingala and whether it can be
15 interpreted.

16 PRESIDING JUDGE FULFORD: I would ...

17 (The Trial Chamber confers)

18 PRESIDING JUDGE FULFORD: Well, Mr. Sachdeva, can you speedily
19 find out whether the relevant speaker is delivering his oration in
20 Lingala or some other language, because if it's Lingala, you're not going
21 to be able to put your questions now, I suspect. We can deal with
22 Swahili.

23 MR. SACHDEVA: Unless, of course, the witness understands.

24 PRESIDING JUDGE FULFORD: Well, yes. Mr. Sachdeva, it would put
25 us in an exceedingly strange position in that you would be asking a

1 witness questions about a speech when, apart possibly from the accused,
2 the only person who could understand what's been said is the witness
3 himself. Now, I have to confess, I think this is the first time that
4 I've ever been in this position. I'm not saying it's necessarily
5 impermissible, but it's highly dangerous.

6 (Prosecution counsel confer)

7 PRESIDING JUDGE FULFORD: Mr. Sachdeva, unless you've got another
8 proposal now, would it help if we must take the longer break now so that
9 you can see whether you can resolve this? I don't want to stop you
10 asking questions about this. It's just I'm apprehensive of an approach
11 in which we ask a witness questions about something being said on a video
12 when the only person in court apart from the accused who can understand
13 what's being said is the witness himself. Now, that's not very
14 satisfactory.

15 MR. SACHDEVA: Yes, Mr. President. That's right. There are --
16 there are subtitles.

17 PRESIDING JUDGE FULFORD: But we don't know who did the
18 subtitles. We don't know whether they're accurate subtitles. We don't
19 know whether they're comprehensive subtitles. Very often subtitles in
20 these circumstances capture part of what's being said but not all of it,
21 and they're not always accurate.

22 Now, I don't want to be difficult, but this is potentially
23 important, and we want to make sure we're hearing evidence that's
24 reliable.

25 MR. SACHDEVA: Very well. Yes, Mr. President. If we can take

1 the break, and we'll try and find a solution, Mr. President.

2 PRESIDING JUDGE FULFORD: Good. Can you see if you can find a
3 solution.

4 And Maitre Mabile and Mr. Biju-Duval, could I ask you to
5 cooperate as much as possible to see whether a satisfactory solution can
6 be found to this that is fair to both the accused and the Prosecution,
7 and it may be that we need to talk rather rapidly to those sitting in the
8 Swahili booth.

9 All right. We'll start again at 25 past 11.00. Thank you.

10 Recess taken at 10.55 a.m.

11 On resuming at 11.25 a.m.

12 (Open session)

13 COURT USHER: All rise. Please be seated.

14 PRESIDING JUDGE FULFORD: Where are we, Mr. Sachdeva?

15 MR. SACHDEVA: Mr. President, the excerpt I'd like to show the
16 witness is, in fact, in Swahili, and accordingly, the interpreters should
17 be able to interpret the content.

18 PRESIDING JUDGE FULFORD: Right. And have we on screen the
19 moment where you want to begin? We do.

20 MR. SACHDEVA: Yes.

21 PRESIDING JUDGE FULFORD: Then what I'm going to ask the Swahili
22 interpreters to do, please, is in so far as they are able, to interpret
23 what the various speakers say during the course of the excerpt we're now
24 about to be shown.

25 Good. Let's start it.

1 MR. SACHDEVA: Mr. President, may I sit down while it's being
2 played?

3 PRESIDING JUDGE FULFORD: You certainly can, Mr. Sachdeva.

4 MR. SACHDEVA: And so we start at 33:22, and we play it up until
5 36:24.

6 (Video-clip played)

7 THE INTERPRETER: "(Voiceover) The Congolese living in Ituri have
8 decided to seek peace for their own initiative. We have had a lot of
9 problems in finding leaders starting off with Wamba Majomba (* phon),
10 Mbuzi (* phon), because they have made us suffer here. They have killed
11 people. They have destroyed the infrastructure facilities that were so
12 important in building our nation here in Ituri in Congo. Therefore,
13 instead of building, they have killed. They have given priority to
14 negative values such as corruption, injustice, and other negative values.
15 Whereas we lack major infrastructure facilities such as hospitals and
16 schools, they have simply plundered the country's wealth for their own
17 profit. They have only looked after their own interests while the youth
18 here is sacrificed.

19 "We believe that peace cannot come from far away. Peace cannot
20 come from Tanzania or Uganda or elsewhere. Young people have joined the
21 army in order to establish peace. Our army will now be called the
22 Revolutionary Army, an army whose purpose is to bring change to our
23 country. There needs to be changes in our districts, in our villages.
24 The inhabitants must be able to draw a distinction between good and evil.
25 And this task is something the young people will have to shoulder. You

1 can see that our movement as seeking to drive out those who wanted to
2 bring disorder to Congo, and now we've built our own army.

3 "So what is the mission of our army? Well, our army's mission
4 is to bring back peace to Congo."

5 MR. SACHDEVA:

6 Q. On hearing that from Mr. Mbabazi, I suggest to you that the
7 policy of the UPC and the FPLC was to recruit young people, whatever
8 their age, into their ranks. What do you say to that?

9 A. In fact -- well, I would like to start off by saying, first of
10 all, that that meeting we saw here is not the G5 meeting that was
11 summoned by Mbabazi. No. It was the Governor Milio Noktia (* phon),
12 M-i-l-i-o -- I'm just correcting what you said at the beginning,
13 Mr. Prosecutor.

14 He's not saying that the age of young people is irrelevant. He's
15 talking about young people, youth. What is youth? It's an age bracket.
16 In demographics you talk of a bracket age ranging from 15 to 59. You're
17 young if you're aged between 15 and 59. That's what you say in
18 demographics. He talked about young people, youth. He didn't talk about
19 children.

20 Q. (* Microphone not activated) ... to recruit children under the
21 age of 18? So even by your own evidence, what Mbabazi is doing here is
22 contrary to what you said, isn't it?

23 A. No. I would like to say that Mbabazi, in his statements here, is
24 talking about young people, but he did not specify the age of these young
25 people. He talked about young people. He's not holding a meeting here

1 to recruit troops. No, he's not doing that. He's not recruiting troops
2 here. I don't know. Well, maybe it would be a good idea -- I would ask
3 you to do this -- maybe it would be a good idea if you specified more
4 precisely your question, because if I must simply stick to what Mbabazi
5 said here where he's talking about young people, because I'm drawing on a
6 definition used in demographics, i.e., an age bracket ranging between 15
7 and 59. Therefore, you could say that Mawesi (* phon) was calling for
8 young people to enroll who were aged between 15 and 59. Usually in an
9 army you don't recruit troops who are older than 35. That's a very
10 well-known fact.

11 MR. SACHDEVA: Mr. President, may I ask for an EVD number to be
12 given to that excerpt, please.

13 PRESIDING JUDGE FULFORD: Certainly. Oh, by that excerpt, do you
14 mean both speakers or the speaker we've just heard?

15 MR. SACHDEVA: Actually, just the excerpt we've heard and on
16 which I've asked questions.

17 PRESIDING JUDGE FULFORD: Thank you. I only pause, Mr. Sachdeva,
18 because having seen the first speaker, the witness did indicate that he
19 thought he may have been present, having seen some of his colleagues in
20 the audience. So I think relevant evidence was actually given in
21 relation to him viewing both individuals.

22 MR. SACHDEVA: Yes. In fact, I thought it was after seeing the
23 second person, but perhaps for completeness we can have EVDs for both
24 excerpts.

25 PRESIDING JUDGE FULFORD: Right. Separate EVD numbers, please.

1 One EVD number for the first extract, another for the second.

2 COURT OFFICER: Thank you, Mr. President.

3 The first extract going between 32 minutes, 10 seconds, and 38
4 minutes will bear the EVD number EVD-OTP-00676.

5 Second excerpt between 33 minutes, 23 seconds and 36 minutes 36
6 seconds will bear EVD number EVD-OTP-00677.

7 MR. SACHDEVA:

8 Q. Sir, you spoke yesterday and in your evidence about the
9 Radio Candip. I take it you're also aware of the Radio Okapi?

10 A. Yes.

11 Q. Okapi was the radio that was used by the United Nations, wasn't
12 it, during the period --

13 A. Yes. Okapi radio station started broadcasting later. It began
14 in April -- April 2003.

15 Q. If I suggest that perhaps it was broadcasting in February 2003?

16 A. Well, then you'd be wrong, because Okapi radio station, we
17 started listening to it when we were at Dhego, because we could hear it,
18 because it was on FM, and we listened to it in May, because that radio
19 station started with the committee aimed at restoring peace in Ituri.

20 Q. Well, you had left Bunia, hadn't you, from March to May?

21 A. Yes.

22 Q. You -- we spoke yesterday about -- I'll preface that question
23 with another one.

24 During the time that Mr. Lubanga was president of the UPC, I take
25 it he must have given interviews with international organisations and

1 other members of the international community; is that right?

2 A. Well, I believe he did. As you can -- as you can imagine. Well,
3 I can imagine that too.

4 Q. Yesterday, we were talking about the complaints by the United
5 Nations and other international organisations made against the UPC and
6 FPLC with respect to the recruitment of child soldiers. Do you remember
7 that?

8 A. I can remember that, yes.

9 Q. You must remember, I take it, that in February 2003, MONUC again
10 made a complaint against Mr. Lubanga and the UPC in relation to the
11 recruitment of children under the age of 15. Do you remember that?

12 A. If we need to talk all the time about MONUC's accusations or
13 accusations raised by the international community or some sectors of the
14 international community, well, I believe that was really this sort of an
15 about pressure exercised against the UPC. That's what we were. We were
16 subjected to this totally unfair treatment several times.

17 Q. You remember that in respect of one of these complaints, this
18 complaint that I'm speaking of, Mr. Lubanga responded to a complaint by
19 MONUC that children were being recruited into the army. He respond by
20 saying, "MONUC never told me that we couldn't recruit children." Do you
21 remember that?

22 A. I can't remember that.

23 Q. Well, think carefully. You've told us that demobilisation was
24 debated in the executive committee meetings. You've talked about an
25 order in October. You've spoken about complaints by the international

1 community. This is an issue that was directly relevant to Mr. Lubanga
2 and to the secretariat. You must remember this very direct complaint
3 against Mr. Lubanga and his response.

4 A. In fact, you're alluding to an interview he gave to some
5 journalists. I wasn't there during that interview, so I don't know what
6 kind of opinion I could state.

7 Q. Do you remember that interview, and do you remember the response
8 being broadcast?

9 A. No. I said that I can't remember that interview.

10 Q. Perhaps I can show you a copy of that interview to see if it
11 refreshes your memory.

12 PRESIDING JUDGE FULFORD: You were on your feet a little while
13 ago, Mr. Biju-Duval. I don't in any way want to prejudice your
14 contribution, but if he's simply shown the interview to see whether that
15 jogs his memory, would you object to that?

16 MR. BIJU-DUVAL: (Interpretation) No.

17 PRESIDING JUDGE FULFORD: All right. Let's see if seeing the
18 interview has any effect, Mr. Biju-Duval. Certainly, Mr. Biju-Duval.

19 MR. BIJU-DUVAL: (Interpretation) I do have an objection. Unless
20 I am mistaken, but I don't believe that is the case, the Prosecutor did
21 not warn us of any such document. In other words, I am wondering how
22 reliable the document that is going to be shown to the witness is.

23 PRESIDING JUDGE FULFORD: Thank you, Mr. Biju-Duval.

24 Mr. Sachdeva, is this in the documents that have been provided to
25 the Bench and the Defence in advance?

1 MR. SACHDEVA: Mr. President, my learned friend is absolutely
2 right. I had not anticipated that I would be in a position to show the
3 witness the document, but after the answers -- I was suggesting the
4 content to the witness. And so it is entirely unanticipated, in my
5 submission.

6 PRESIDING JUDGE FULFORD: Right. Do you, in fact, have copies in
7 court now or not?

8 MR. SACHDEVA: I have one copy for the witness.

9 PRESIDING JUDGE FULFORD: None for us.

10 Mr. Biju-Duval -- can I see it for a moment, please.

11 Now, Mr. Sachdeva, this then is not a newspaper article. This
12 is -- this has been downloaded from a web page; is that right?

13 MR. SACHDEVA: It is a news report from the internet.

14 (The Trial Chamber confers)

15 PRESIDING JUDGE FULFORD: Mr. Sachdeva, the witness has said that
16 he doesn't remember the interview. Without any warning, what you're now
17 seeking to do is to show him something that's been printed off from a web
18 page when certainly on the face of the piece of paper there is very
19 little at all to assist us with the provenance of the piece of paper that
20 you're seeking to put to him. I think in all the circumstances, this is
21 likely not to be a profitable undertaking, and I'm going to ask you to
22 move on, please, to your next point.

23 Usher, can you return this to Mr. Sachdeva, please.

24 MR. SACHDEVA:

25 Q. Before I move to another major topic, I just want to ask one

1 point, seek one clarification from you. Yesterday when we spoke about
2 the executive committee meeting in October where demobilisation was
3 discussed, you said that the secretary for press and communication would
4 draft -- drafted the minutes. Do you remember that?

5 A. Yes.

6 Q. What was that person's name?

7 A. Well, Amboko Bebetu.

8 Q. In October 2002, in fact, Mr. Amboko Bebetu was the secretary for
9 culture and tourism, wasn't he?

10 A. Well -- okay. You're making confusion here. Amboko Bebetu
11 became in December -- or took over that position, but at that point in
12 time it was somebody called Mbomo Saga, unless I'm wrong.

13 Q. Well, I'm not making any confusion here. I'm simply reading from
14 the decree. I asked you in the October meeting where demobilisation was
15 discussed, who took the minutes. I want to know the name of that person
16 who took the minutes.

17 A. I said it was the national secretary for press and
18 communications. And Amboko Bebetu handled that portfolio in December, in
19 December. And Mbomo Saga. I believe it was Mbomo Saga, I believe unless
20 I'm wrong there was another name, but the national secretary for
21 communication press was Mbomo Saga.

22 Q. So at that meeting where demobilisation was discussed, your
23 evidence is that Mbomo Saga drafted the minutes; is that right?

24 A. What I'm saying -- I mean, I can certify that it was the national
25 secretary for communication and press. Now, who was holding that

1 portfolio, I believe it was Mbomo Saga at that point in time, because in
2 December it was Amboko Bebetu who held that position.

3 Q. The reason why I persist, Witness, I find it difficult to
4 understand that you can give evidence that there were never any cases of
5 forced recruitment, but a question on -- about a national secretary in
6 the UPC executive, you can't remember. Why is that?

7 A. Well, in fact, I believe -- at least that shouldn't be surprising
8 for you, because that was the situation prevailing in October 2002, the
9 names of individuals. The text of decree you're holding, I mean, I can't
10 remember it by heart, *in extenso*.

11 I can be about 90 per cent precise in terms of who held which
12 position and who had such a portfolio, but what you can't expect is for
13 me to be able to do that without making the slightest mistake. No. I
14 mean, man is not infallible. My memory can play tricks on me after all
15 these years that have gone by. And above all, all these years I've just
16 spent in prison, obviously my memory must have been affected. I mean,
17 even if you look at a phone network, I mean, it uses computers still it
18 tends to break down after a while if it is not maintained.

19 Q. We spoke about Mr. Adubango Biri yesterday, remember?

20 A. Yes.

21 Q. He was a national secretary at the time you were a deputy
22 national secretary, wasn't he?

23 A. Yes.

24 Q. (* Microphone not activated) ... related to youth and sport; is
25 that right?

1 A. Yes, also.

2 Q. Just like yourself, he would have been present at the executive
3 committee meetings?

4 A. Yes, he attended those meetings.

5 Q. He was, as you've said already, a co-founder of the UPC, wasn't
6 he?

7 A. He was a co-founder, yes.

8 Q. In February 2003, you will recall that he raised an issue in
9 relation to the training of FPLC officers for demobilising children in
10 the FPLC between the ages of 10 and 16 years old.

11 A. Yes. Yes. He made an allusion to child demobilisation, but he
12 did not specify during the meeting their age, the age of these children.

13 Q. Are you sure about that?

14 A. I'm absolutely certain.

15 MR. SACHDEVA: I would like to show a document. It is -- it's
16 tab number 23 of the Prosecution's first binder. The EVD number is 518,
17 and the ERN is 00113.055. I apologise. It's 070 at the end. And I
18 have -- I have a better copy from the vault to show the witness.

19 Q. Sir, you can take the document out of the plastic folder. It
20 might be easier.

21 First question: Have you seen this document before?

22 A. No.

23 Q. You see the UPC letterhead on the front, don't you?

24 A. Yes.

25 Q. If you go to the back, you will see that there's a stamp and that

1 it is signed by Marcel Adubango Biri; is that right?

2 A. Yes, but I can't certify whose signature it is. I can't remember
3 how all of me colleagues used to sign. I can't remember that.

4 Q. You will see that the document has been copied to the president
5 of the UPC.

6 A. Yes.

7 Q. Amongst that list, also the coordinator of the executive who at
8 that point was your boss, wasn't he, Mr. Djalum?

9 A. As coordinator of the executive, we have to make distinctions.
10 Djalum was my boss, as the national secretary for internal and customary
11 affairs, but here the copy is being provided to him as the coordinator of
12 the executive. So these are two different posts that are involved.

13 Here he's the coordinator of the executive. As coordinator of
14 the executive he had another office, but as the national secretary of
15 internal affairs, I was involved in that, so, yes, he was my director,
16 boss there. This is an important distinction that we must make.

17 Q. You will see that it is dated, if you go to the front, the 12th
18 of February, 2003?

19 A. Yes.

20 Q. And as with the other document, there is a reference number
21 underneath the date indicating that it emanates from the cabinet of the
22 secretary, of the national secretary.

23 A. Yes.

24 Q. And it is addressed to Mr. -- well, it is addressed to the
25 commander G5 of the FPLC, isn't it?

1 A. Yes.

2 Q. The subject matter written on the left-hand side states that it
3 is related to the selection of 13 officers for DDRRR child soldiers;
4 isn't that right?

5 A. That's what I can see, but could you just grant me a little time
6 so that I can familiarise myself with the contents of this document.

7 PRESIDING JUDGE FULFORD: Most certainly. Take a moment, sir.
8 Fortunately it's not too long, but please take a moment to read the
9 entire document carefully.

10 Please carry on, Mr. Sachdeva.

11 MR. SACHDEVA: Thank you.

12 Q. You will see after reading this document that in the first
13 paragraph it is quite clearly stated that this relates to child soldiers
14 aged between 10 and 15 or 16 years of age. Now, on seeing that, what can
15 you tell me about your evidence you've just given that you were sure that
16 the ages were not identified?

17 A. Well, as I have said, when there were executive committee
18 meetings, you should understand how this work. At the governmental
19 level, you don't deal with correspondence. At governmental meetings,
20 each and every minister doesn't come to show his correspondence. So one
21 comes to deal with important subjects that then are forwarded to the
22 respective bureau. So there are two different things. We have the
23 correspondence here that comes from this national secretariat, okay? And
24 the terms used in this document are the terms that are specific to the
25 person who compiled the document, to the sender, the national secretary

1 for education, youth, and -- and the national secretary for education.

2 As far as the age group is concerned, when we would meet, we
3 didn't speak about 10, 15, or 16-year-olds. It was at his level that he
4 believed that he could define this age range in such terms. So he did
5 that. We limited ourselves to discussing the subject of young people
6 under the age of 18, to that alone.

7 And furthermore, because for us it wasn't a matter of aiding
8 DDRRR, it was just a matter of a demobilisation programme, because the
9 DDRRR here, that was a specific programme for the ex-FAR, the
10 Interahamwe, and others in the east of Congo. So this is a document that
11 in my opinion does not reflect all the ideas expressed in the course of
12 debates that were held at the executive level.

13 Q. I appreciate what you said, that you haven't seen this document,
14 but at the time were you aware of the existence of this document?

15 A. Was I was aware of what, of this document? No.

16 Q. I want to be fair to you. It's right that I asked you about
17 whether Mr. Adubango Biri attended the executive meetings. My question,
18 in fact, was simply whether in February 2003 you will recall that he
19 raised an issue in relation to the training of FPLC officers for
20 demobilising children in the FPLC between the ages of 10 and 16 years
21 old. So I don't specify whether it was raised during a meeting. Did you
22 understand my question to be in relation to a meeting? That's what I
23 want to know.

24 A. Could you please repeat that question, because --

25 PRESIDING JUDGE FULFORD: (* Previous translation continues) ...

1 clear as to what you mean, Mr. Sachdeva.

2 MR. SACHDEVA: Perhaps I'll ask the question in a different way.

3 PRESIDING JUDGE FULFORD: Certainly, but why don't you ask the
4 question that you originally asked in a way that won't lead to any
5 misunderstanding.

6 MR. SACHDEVA:

7 Q. What I want to know, sir, is why have you said that you were sure
8 that the ages were not identified.

9 A. I'm telling you that I know that the ages were not identified,
10 because within the UPC or the FPLC we never referred to the age of 10,
11 11, 12, 13, or 14. I don't know whether I have to provide proof. Do you
12 want me to defend the cause of -- the cause presented here by my
13 colleague who sent this document to his office?

14 We didn't discuss ages - I said that - because it was necessary
15 to be logical, to be consistent, and to act in accordance with the decree
16 on demobilisation. If my colleague spoke about 10-year-olds,
17 15-year-olds, 16-year-olds that was his way of defining the age group.
18 Those were the terms used.

19 Q. But this is an official UPC document copied to the president,
20 signed, stamped, emanating from the cabinet, that talks about
21 soldiers, child soldiers in the UPC ages 10 to 16 years old.

22 A. It's a document from a national secretariat. I said that it was
23 a document from a national secretariat, the document from a national
24 secretariat, an UPC minister, if we should say that, and natural any,
25 information is provided which, unfortunately, does not express the

1 debates we had within the executive. So perhaps it's necessary to try
2 and understand whether in relation to this the person to whom this was
3 addressed was unable to react. That could also be the case. And then we
4 should also see the Presidency archives. We should see whether there
5 were any reactions from the president and from those to whom copies were
6 sent. This is how we work.

7 PRESIDING JUDGE FULFORD: Mr. Sachdeva, there are limits to this.
8 This is a document not written by the witness of which he was previously
9 unaware, and I think there is a real limit to the extent to which you can
10 build questions upon the basis of something which he didn't draft and
11 which he has said he wasn't previously, as I've just mentioned, aware of.

12 Now, do you have an additional objection to that, Mr. Sachdeva?
13 If you do, now please take the opportunity of mounting it.

14 MR. BIJU-DUVAL: (Interpretation) Yes, your Honour. The
15 Prosecutor hasn't properly presented the issues in the document. In his
16 questions he claimed that the document concerned child soldiers in the
17 UPC, but at no point in time does this document state that child --
18 children were present in the FPLC, in the UPC. So this is a particularly
19 important detail added by the Prosecutor when examining the witness with
20 regard to the document, and to me this is extremely important, and I
21 would even go as far as to say unfair.

22 PRESIDING JUDGE FULFORD: Now, where do you propose going to now
23 with this document if at all, Mr. Sachdeva?

24 MR. SACHDEVA: A few further questions and then a final
25 suggestion.

1 PRESIDING JUDGE FULFORD: Well, on -- on what topic? I mean,
2 given -- given the indication I've just -- I've just set out in relation
3 to the limits of the proper use of this material, now are you proposing
4 to ask questions remains loyal to that indication, Mr. Sachdeva, or are
5 you going to defy it?

6 MR. SACHDEVA: I believe I intend to ask questions that remain
7 loyal to that indication, Mr. President.

8 PRESIDING JUDGE FULFORD: Good. I shall listen very carefully.
9 Please carry on.

10 MR. SACHDEVA:

11 Q. On the left-hand side under "Object," what is the term used to
12 describe the soldiers? It's "*enfant*," isn't it?

13 A. It says "*Enfant soldats*," child soldiers.

14 Q. You said that perhaps children under the age of 15 may have
15 fallen through the net and perhaps there may have been some in the UPC.
16 I suggest that you are wrong, and, in fact, the UPC and the FPLC
17 recruited and used scores if not hundreds of children who were under the
18 age of 15.

19 A. I can only reiterate what I have already said. I do not share
20 your opinion, and you can continue pursuing these speculations of yours.

21 Q. There is no mention of the October decree in this document, is
22 there?

23 A. No, there's no mention of it.

24 MR. SACHDEVA: Mr. President, may I have one moment?

25 PRESIDING JUDGE FULFORD: You certainly may.

1 MR. SACHDEVA:

2 Q. I suggest to you that the programme that is spoken about here was
3 never, in fact, implemented at the behest of the president himself,
4 Mr. Lubanga. He never implemented this programme. What do you say?

5 A. Could you be a little more explicit, because you referred to a
6 programme. Which programme were you referring to?

7 Q. I'm talking about the programme to train 13 FPLC officers to
8 assist with demobilisation. That programme never went ahead, because
9 Mr. Lubanga cancelled it.

10 A. No. The programme did go ahead.

11 Q. And who headed that programme?

12 A. Well, the programme was initiated by the national secretariat for
13 education, and the national secretary led the programme.

14 Q. I see that you were reading from the document when you answered
15 that question. Is your answer based on what's contained in this
16 document, or is it based on your own knowledge?

17 A. My answer is based on reports that we were provided with at an
18 executive meeting, reports provided by a minister. My colleague
19 Adaba (* phon).

20 Q. I have to ask that again, I believe. When was that meeting in
21 which this programme was discussed?

22 A. The summary, the minutes, was provided at the end of the month of
23 February by the ministry concerned. We were provided with a summary of
24 what steps had been taken in that direction.

25 Q. Even if this programme was initiated, it only would have

1 pertained to those children between the ages of 10 and 16 who were
2 willing to leave the UPC. Isn't that right?

3 A. Well, I have said that I didn't limit myself to that age group,
4 and I didn't want to get engaged in such speculation either, because
5 there is just the author of the document who can say why he preferred to
6 define the age group in such terms, because within the FPLC there were
7 never 10 year, 11-year-olds, 12-year-olds or 13-year-olds. So if there
8 was a problem at the level of my colleague's secretariat, well, you will
9 have to spare me the exercise of trying to explain the relevance of these
10 ages mentioned here.

11 Q. (* Microphone not activated) ... you have given evidence about
12 the programme and that there were steps taken to implement the programme.
13 Let's leave aside the age for the moment. I suggest to you that this
14 programme only pertained to those children willing to leave the UPC.
15 What do you say to that?

16 A. The programme concerned minors who wanted to leave the UPC. And
17 apart from these minors, naturally one should also be aware of the fact
18 that there were minors who were also active in the self-defence forces.

19 Q. There is no mention in this document of the self-defence forces,
20 is there?

21 A. Well, in fact, demobilisation is concerned here --

22 Q. Please just answer the question. There is no mention of
23 self-defence forces in this document, yes or no?

24 PRESIDING JUDGE FULFORD: Right. Before you answer, yes,
25 Mr. Biju-Duval.

1 MR. BIJU-DUVAL: (Interpretation) The manner in which the
2 Prosecutor is interrupting the witness when the witness starts giving an
3 answer is simply not acceptable.

4 PRESIDING JUDGE FULFORD: Yes. Let's maintain a civilised
5 approach to this, please.

6 Sir, I think you're simply being asked to comment on the
7 document, and the comment that you're asked to provide is that, in fact,
8 so it is suggested, there is no mention of self-defence forces in the
9 document. Essentially, do you agree with that?

10 THE WITNESS: (Interpretation) There is no reference to
11 self-defence forces here, and there is no explicit mention of the FPLC
12 either.

13 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

14 MR. SACHDEVA:

15 Q. Well, sir, that's not right. It is addressed to the G5 of the
16 *Force Patriotique pour la Liberation du Congo*. FPLC is mentioned?

17 A. It is addressed to the G5 commander of the Patriotic Forces for
18 the Liberation of Congo, to the FPLC, G5 naturally, but one should also
19 be aware of the fact that he doesn't only have prerogatives within the
20 FPLC. He has duties that go beyond that. He has duties towards the
21 population. So the duties he performs should also have a positive impact
22 on society at large.

23 MR. SACHDEVA: Mr. President, may I have one more moment.

24 PRESIDING JUDGE FULFORD: Of course.

25 MR. SACHDEVA: I have finished with the substance of this

1 document. I just want to ask one question in relation to the reference
2 number, if I may.

3 Q. Sir, just in relation to the reference number underneath the
4 place and date, I think it reads number 0009/SNFDN/CAB/UPC/RP/02/2003.

5 A. That is what I see as well.

6 Q. The -- the number 009, that's a specific number assigned to -- to
7 denote this document, right, a specific reference number?

8 A. Could you please repeat your question so that I can understand it
9 more clearly? Fine.

10 Q. The number 9 identifies this document.

11 A. Yes, that is the number of the letter. In administrative
12 correspondence, every time a letter is issued a reference number is
13 attributed to the document, and this is the number of this document,
14 namely number 009 (* as interpreted).

15 Q. I see. I take it then from the beginning of the year to the end,
16 if there were to be several documents emanating from this division, the
17 numbers would be sequential, would rise. Is that right?

18 A. Yes, that's right. The numbers would rise sequentially. This is
19 the ninth letter issued by the national secretariat, and if another
20 letter were drafted later on, that number would -- that letter would bear
21 the reference number 10 or number 11 and so on and so forth until the end
22 of the year.

23 Q. So, for example, if we move to June or July or February of 2003,
24 we may have a number of 50 or 60; is that right? It goes up in the year.

25 A. Those are the regulations, the rules followed in administrative

1 correspondence.

2 MR. SACHDEVA: Mr. President, I do --

3 (Prosecution counsel confer)

4 MR. SACHDEVA: Thank you. That's the cross-examination.

5 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Sachdeva.

6 Mr. Biju-Duval, I imagine you've got a few matters in

7 re-examination.

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

9 PRESIDING JUDGE FULFORD: Just a moment then, please.

10 (The Trial Chamber confers)

11 PRESIDING JUDGE FULFORD: Please proceed, Mr. Biju-Duval.

12 MR. BIJU-DUVAL: (Interpretation) Thank you, Your Honour. I would

13 like to say that I have a few questions. We would also like to show to

14 the witness, to show him again a short excerpt of the video that was

15 projected this morning, and this means that we will need a Lingala

16 interpreter. And before we find time to get an interpreter, we could

17 look at this maybe this afternoon. We have this logistical difficulty

18 because there is no Lingala interpreter now.

19 PRESIDING JUDGE FULFORD: Can you proceed with some of your

20 questions now. I'll ask the Court Officer to see if we can purloin a

21 Lingala interpreter from another Chamber to assist us at some stage this

22 afternoon, but I'm sure arrangements can be made for that. So we'll

23 return to that point a little later, Mr. Biju-Duval. Thank you.

24 Further Questioned by Mr. Biju-Duval:

25 Q. (Interpretation) Good morning, sir.

1 A. Good morning.

2 Q. I would like to put a short question to you in order to get
3 clarification on dates. When you were examined by Madam the Prosecutor
4 on the 5th of April, she asked you the following question:

5 "So on 13th of June 2002, Thomas Lubanga and certain members of
6 the delegation were arrested; is that correct?"

7 Answer was:

8 "That is right."

9 And here you were referring to the arrest of Thomas Lubanga in
10 Kampala.

11 With respect to the date of 13th of June, 2002, do you have any
12 precise personal recollection of that date in particular, or you simply
13 accepted the suggestion that was put to you?

14 A. Of course I do not have in mind the 13th of June as -- well, the
15 arrest was something that actually happened, and that's why I accepted
16 the suggestion. I understood that the arrest took place during a period
17 or on a date that would most probably be the one that Madam the
18 Prosecutor suggested. However, I know that in Bunia, Thomas's departure
19 from Bunia happened only a few days after -- after the death of
20 Commander Claude, Commander Claude of the APC. When Claude went down and
21 challenged the mutineers in their quarters, they did not spare him.

22 That evening there was a serious attack on the residence of
23 Thomas. Shortly afterwards, that is on that same night with the
24 cooperation of the UPDF, Thomas was able to save his life. The next day,
25 he departed to Uganda.

1 That is the only memory, the only event I have in mind in order
2 to situate his departure. It is highly probable that this happened in
3 Bunia towards the end of the month of May or the beginning of June,
4 because shortly afterwards, Thomas was arrested in Kampala and taken to
5 Kinshasa.

6 Q. Thank you. When you were questioned yesterday by the Prosecutor,
7 he asked you where the minutes of a meeting were. The transcript
8 reference is 345 -- transcript 345 of the 6th of April, page 51 of the
9 French. You said that you could not locate the document, and you said
10 that:

11 "Afterwards, MONUC broke down the doors of our offices and
12 residences in order to obtain whatever documents they could find."

13 My question to you is the following: When you talk of MONUC
14 breaking down the doors, your office doors and your -- the doors of your
15 homes and collecting documents, what event are you referring to?

16 A. Whilst we were still in Bunia we had the UPC/RP, that is, the
17 officials of the UPC/RP, both civilian and military. At some point in
18 time these officials were subjected to -- I don't want to call them acts
19 of vandalism. However, on several occasions MONUC would surround a
20 neighbourhood in which certain officials lived, or they would surround
21 the administrative premises of UPC/RP, break down doors, arrest people.
22 And if I -- to give you all details, I could go right back to the period
23 of the ARTEMIS.

24 In the month of June, for example, 2003, ARTEMIS broke down the
25 premises of the town hall of Bunia and seized equipment and documents.

1 On the 14th -- 15th of September, 2003, MONUC started its operations, and
2 that day coincided with the third anniversary of the UPC. However, on at
3 that day, very curiously all those who were in the home of the Chief of
4 Staff were surrounded by the Blue Helmets of MONUC, who on that day break
5 down the door of the residence of the Chief of Staff and collected
6 everything they found there.

7 They did not stop there. They went as far as breaking down the
8 door of the residence of the president who was already in Kinshasa, and
9 at his residence they collected everything. They also did the same thing
10 in his office. They collected everything. Apart from that, towards the
11 month of October, November, and even the beginning of the year 2004,
12 these operations -- similar operations were carried out in the homes of
13 UPC officials.

14 Those are events which we witnessed passively, powerless to do
15 anything about it. And when we saw these documents, we felt that these
16 were the documents that were collected and collected for this purpose,
17 for the administration of justice, I believe, and we hope that Ituri will
18 be able to have its aspirations met through the administration of this
19 justice.

20 MR. BIJU-DUVAL: (Interpretation) Your Honour, may I take a
21 moment.

22 (Defence counsel confer)

23 MR. BIJU-DUVAL: (Interpretation)

24 Q. Do you know whether any UPC official -- let me repeat my
25 question. Do you know whether or not at some point in time MONUC or

1 members of the ARTEMIS force restituted to the UPC or to officials
2 concerned any of the documents that had been seized?

3 A. No. I don't remember any such event taking place. Those
4 documents were never returned to the UPC. I do remember that Michel
5 Angaika, Michel Angaika the private secretary of President Thomas,
6 complained at some point in time. He even asked MONUC to select his
7 private property from all the property seized from the residence of the
8 president; that is, private property should be returned to him, but
9 Michel Angaika never received any of his private property.

10 Q. Thank you.

11 MR. BIJU-DUVAL: (Interpretation) Your Honour, we are now about to
12 put questions relating to the video excerpt before I go on to my further
13 questions.

14 PRESIDING JUDGE FULFORD: And is it now impossible to deal with
15 other the matters before the video, Mr. Biju-Duval? I don't want to put
16 pressure on you. If you would prefer to do it in this order, then we
17 will assist.

18 MR. BIJU-DUVAL: (Interpretation) Let me find out from my
19 colleagues whether certain questions can be put to the witness, but as
20 far as I am concerned, I don't have any further questions before that.

21 (Defence counsel confer)

22 MR. BIJU-DUVAL: (Interpretation) I have no further questions to
23 ask the witness apart from those which relate to the short excerpt.

24 PRESIDING JUDGE FULFORD: Then of course we will assist and hope
25 that a Lingala -- I see a promising nod from the Court Officer in this

1 regard. Good.

2 Now, you're on your feet, Mr. Sachdeva. Yes?

3 MR. SACHDEVA: Yes, Mr. President. It's not an objection just
4 yet, but I would like to inquire -- well, at this stage I don't see how
5 the playing of the --

6 PRESIDING JUDGE FULFORD: You can have a discussion with
7 Mr. Biju-Duval over lunch, and if an objection survives that
8 conversation, you can formulate it and present it at half past 2.00.

9 MR. SACHDEVA: Very well. Thank you.

10 PRESIDING JUDGE FULFORD: Sir, we're now on the home straight.
11 Your evidence is nearly finished, and unless something seriously goes
12 wrong this afternoon, you will have finished your evidence, I imagine,
13 shortly after half past 2.00. So we look forward to seeing you for a
14 final time a little bit later today. Thank you very much.

15 We'll rise.

16 Luncheon recess taken at 12.49 p.m.

17 On resuming at 2.29 p.m.

18 (Open session)

19 COURT USHER: All rise. Please be seated.

20 PRESIDING JUDGE FULFORD: Thank you for acting as --

21 THE INTERPRETER: Thank you -- (* overlapping speakers)

22 PRESIDING JUDGE FULFORD: Now, any submissions?

23 MR. SACHDEVA: Mr. President, the Defence and the Prosecution
24 have resolved the issue. There are perhaps some housekeeping items I'd
25 like to raise before my learned friend commences, with your leave.

1 PRESIDING JUDGE FULFORD: Certainly.

2 MR. SACHDEVA: The -- just for the reference, the ERN of the last
3 document that I showed the witness related to the child soldiers is
4 DRC-00113.070, and that is EVD-518. And I'm also reminded by my case
5 manager that the prosecution showed three excerpts of the video to the
6 witness, and perhaps accordingly three EVD numbers ought be given to
7 those excerpts.

8 PRESIDING JUDGE FULFORD: Shows you how imperfect human memory
9 is, Mr. Sachdeva. I remember the gentleman at the beginning, I remember
10 the gentleman at the end. What was the third extract?

11 MR. SACHDEVA: It was the same gentleman at the end but at a
12 different time -- different part of the excerpt -- part of the video.

13 PRESIDING JUDGE FULFORD: All right.

14 Court Officer, can you make sure that each of the three extracts
15 then has its own EVD number, and you better identify a third EVD number
16 for the third extract.

17 COURT OFFICER: Thank you, Mr. President. The third extract
18 which was shown at the very first is the excerpt going from 10 minutes,
19 29 seconds to 12 minutes, and it will bear the EVD number EVD-OTP-00678.
20 Thank you.

21 PRESIDING JUDGE FULFORD: Thank you very much.

22 MR. SACHDEVA: And, Mr. President, completely unrelated, but if
23 it is amenable to your Honours, the Prosecution would like to come back
24 to the Chamber by tomorrow on the further proposal for closing brief and
25 the arguments.

1 PRESIDING JUDGE FULFORD: Yes. I'm hoping, Mr. Sachdeva, that
2 you will be in possession of an improved agenda either later this
3 afternoon or first thing tomorrow morning from the Chamber, unless there
4 is some kind of substantive new ingredient which you haven't revealed so
5 far that we ought to be taking into consideration.

6 MR. SACHDEVA: I believe there is, but if your Honours would
7 permit me I could make that submission now.

8 PRESIDING JUDGE FULFORD: Not with the witness waiting to
9 complete his testimony, Mr. Sachdeva. Right. So you have got a new
10 element so far not discussed, certainly in any detail, that you feel we
11 ought to factor into the arrangements for the closing part of the case;
12 is that right.

13 MR. SACHDEVA: I believe so. Yes, Mr. President.

14 PRESIDING JUDGE FULFORD: All right. We'll come back to that at
15 a convenient. Thank you.

16 Now, Mr. Biju-Duval, I understand that Ms. Buteau has control
17 over the video. Please proceed.

18 MR. BIJU-DUVAL: (Interpretation) Yes, your Honour. I would like
19 to show once again to the witness the first excerpt from the video we
20 watched this morning. In any event, part of this first excerpt,
21 therefore, EVD-OTP-00678 from minute 00:10:29 to 00:11:30.

22 PRESIDING JUDGE FULFORD: Just before it's played, this is being
23 revealed on the public broadcast, isn't it? Good. Yes, please carry on.

24 (Video-clip played)

25 THE INTERPRETER: "(Voiceover) We are marching for peace. We

1 want peace. We want tranquility. We want to live together here in
2 Ituri, and why not throughout Congo. We have marched to show to the
3 entire world that we want peace. That's why I'm so happy. I would like
4 to congratulate you for having shown that you support the UPC and its
5 president. Our march today demonstrates the support we are providing for
6 our children and, let me quote, the patriotic force for the liberation of
7 Congo, FPLC. They should be congratulated today."

8 MR. BIJU-DUVAL: (Interpretation)

9 Q. Mr. Witness, you told us you believe in all likelihood you
10 attended this meeting. In this speech, as far as you understand, what
11 does the following phrase mean: "our children"?

12 A. Yes. Well, when the governor of the province, Mileo Lotio talks
13 about "our children," "our children," he's simply trying to talk about
14 our military, our troops. He doesn't mean children in terms of age, but,
15 rather, the troops who are at the service of Congolese people living in
16 Ituri, and it's a purely social concept here, "our children."

17 MR. BIJU-DUVAL: (Interpretation) Thank you. I have no further
18 questions, your Honour.

19 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Biju-Duval.

20 Sir, some days ago you indicated to us that there were various
21 concerns that you have that you wished to make us aware of. The Judges
22 undoubtedly have a responsibility for the witnesses who appear before
23 this court, and so we, of course, will listen very carefully to anything
24 that at this stage you would wish to address us about. But before you
25 do, and this is not meant to deter you, before you do, you will, of

1 course, I know, bear in mind that there is only a limited amount that we
2 are able to do, particularly in relation to events not in this country
3 but in the Democratic Republic of the Congo, and most especially as
4 regards not things in the future but events that have already taken
5 place, matters that are essentially now, however unfortunate, of history.
6 As I say, I'm not seeking to deter you, and if you believe there are
7 things that should be brought to our attention in relation to the way
8 that you have been treated during the period whilst you have been
9 co-operating with the court, for which we're grateful, this now is the
10 moment when you should tell us about them.

11 THE WITNESS: (Interpretation) Thank you very much,
12 Mr. President, ladies and gentlemen, for this time you're granting me to
13 allow me to talk about the issues I raised the other time that are
14 grounds for concern for me.

15 The other day you asked me to talk with the Defence team, and I
16 did that. As a result, I really did not expect another opportunity to be
17 able to do this once more in, let's say, before your eminent court, but
18 since I have the opportunity, I would like to take it, and thank you very
19 much for giving me this chance.

20 I committed myself freely and volunteered to come and be a
21 witness before your eminent court. I believe I had to do it to shed
22 light on the case you are dealing with. I was also informed of rights I
23 would enjoy as a witness, as well as -- well, I was also told that as a
24 witness, I had to be very discreet, to act as discreetly as possible. I
25 was given a guarantee that a team from the court's office had come to

1 Kinshasa. We talked about this. I was with -- travelling with the other
2 witnesses who were held in prison, first from the central prison of
3 Makala to the airport. It was still night when we made this trip. We
4 weren't -- well, I personally was not at all unhappy that -- that the
5 appropriate security system had been deployed, a solid escort. And even
6 the MONUC was there with an armoured car, for obvious reasons, perhaps.

7 When we got to the airport still under the protection of the
8 Congolese national police, the Congolese authorities, when we got to the
9 airport, as I was saying, officially we were handed over to the court,
10 because the Congolese authorities who were there on that occasion, I saw
11 Colonel Mutanzeni (* phon), a lieutenant-colonel who was -- and the
12 lieutenant-colonel was accompanying him. The director of the prison who
13 were escorting him. They left, and we remained in the hands of the
14 court.

15 I am not making accusations here against any agent of the court,
16 not at all, but I would like to say that at a point in time after, of
17 course, I had been asked to wear the clothes that had about prepared for
18 this trip, one of the security agents in charge of security spoke to me
19 in Swahili and told me I had to wear an overcoat to hide -- such a way
20 that I would hide my handcuffs. The handcuffs, because the Congolese
21 authorities wanted to film us as we boarded the plane. I reacted
22 negatively. I said that was not possible. And -- and shortly
23 beforehand, I had been told that the very Minister of Justice had come
24 for this. I asked why is the Minister of Justice here just to film us?
25 How can you understand that? The justice minister leaves his home to

1 come and film the witnesses who are boarding a plane to discharge a noble
2 function that the court has requested him to do.

3 So I ended up with Floribert Ndjabu. We were isolated two by
4 two. So I was with Floribert, in another cell there Pitchou and
5 Daidja (* phon). When I reacted this way the security agent left, and
6 the person I believe was the head of this mission, he is from the
7 Registry, I don't know his name, came and when he reached me he stood
8 between Ndjabu and myself, asked how were things going. I said, "Not
9 well. This is not all right because I've just learned that the justice
10 minister has come to film us." He said, "What's wrong with that?" And
11 then I said, "Well it's wrong," because I've never seen any witnesses of
12 the ICC being filmed when they were leaving. I never saw that on TV. I
13 said I was entitled to protection.

14 So Ndjabu, for his part, reacted in a different way. He said in
15 that case he refused to board the plane. That was Floribert's reaction,
16 because he believed this was a threat. That was his argument. The head
17 of the mission denied that. He -- but it wasn't really a threat, he
18 claimed, but he stated that that argument of protection justified. But
19 then he said he had to meet the other two witnesses who were in another
20 room to see what their reaction would be. He went to see them, and later
21 when he got back, he was on the threshold of the door of an old room in
22 the airport where we were, and he said the problem's been solved. I
23 asked him, "What does that mean? You've solved the problem?" He said,
24 "The minister has gone." I said, "Fine. If he's gone, that's good."

25 Now -- then we were told that it was time to board the plane. So

1 two by two security agents escorted us, and I was the last one in our
2 column, and I was looking around, and I had a very good view of our
3 surroundings, and I noticed the justice minister, Luzolo Bambi Lessa, who
4 was talking with a soldier and a jeep, a white jeep, not from -- far from
5 where the justice minister was standing, and next to that jeep there was
6 a gentleman with a small camera who was filming our -- us as we boarded
7 the plane. Not -- everybody else failed to notice that. And I'm the one
8 who called out and said, "They're filming us." But I had told the head
9 of the mission -- I told the head of the mission, "You said the problem
10 had been solved and now they're filming us. So you fooled us. You have
11 tricked us." At that point Ndjabu reacted and said, "You betrayed us."
12 After all, we boarded the plane and we left.

13 That really upset me, and I was on the verge of going on a hunger
14 strike. I did not eat on the plane. But in any event, I have to say
15 that the -- the sympathy the security agents had for me and for us
16 generally speaking, their nice way of behaving with us, gave me back -
17 how could I put it? - the desire to keep living.

18 Why was I so upset by the fact that the justice minister was
19 there? Because he's our henchman. The Minister of Justice is our
20 henchman. How many times has he not -- been called upon with respect to
21 our case? Several times. Several times. Even as I said earlier in
22 Chamber II -- Courtroom II, on the 9th of June when he headed the
23 delegation of the Congolese state when they came to examine
24 the (* indiscernible) of the Katanga case, well, the Chamber
25 questioned -- took the time to question that delegation from Kinshasa

1 about what had happened to us, and it's unfortunate, it's unfortunate,
2 because we have the transcripts. They failed to keep their word, and
3 that's a shame for the republic -- Democratic Republic of the Congo in
4 terms of its justice. But if we are in that situation, the one we are in
5 today, it is because the Minister of Justice and Human Rights is not
6 doing his work.

7 I can understand, I mean, if he is going to work, he needs the
8 impetus from the head of state. He says it himself. It's -- I'm --
9 because I'm being -- I just thought the head of state, I've just done
10 this, I've just done that. That's not acceptable.

11 So the presence of any representative of the Congolese state as
12 that state is our henchman, even as we were heading for The Hague as
13 witnesses at a psychological level, personally that really affected me.
14 It affected me.

15 And the next day as we arrived here, when I was given a card, a
16 phone card for 10 euros, I called Bunia. And then I called Bunia. I
17 first called my big sister who lives in Kinshasa, and she told me -- a
18 cousin called her to tell her that we had been talked about on the Okapi
19 radio station. They had said that three people had left as witnesses.
20 Their names were quoted but not mine. As a result, my old dad who lives
21 in Bunia was very, very worried. I called my dad. I calmed him down. I
22 told him it was a very pleasant trip all in all.

23 Therefore, subsequently, I called my brother-in-law. I called my
24 brother-in-law. I also called my wife. Both said that they had seen
25 our -- well, the footage of us boarding the plane on the RTNC TV station,

1 and the justice minister was there in the studio of the RTNC and
2 commented this footage. He said, "There you are. These people have left
3 for The Hague and will be back in early May. They will come back in
4 early May."

5 That is a problem. Mr. President, this is a problem. By
6 consequence it is a serious problem in terms of protection. I'm saying
7 this because I will always remember the threat I received in October 2004
8 when I spoke on the Tropicana TV channel, and several questions were
9 asked by a lady who is a journalist about what was happening in Ituri
10 with respect to the reports of MONUC and Human Rights Watch. After I
11 spoke on this TV station, I received a phone call the very next day from
12 a gentleman, and it was a masked number. And this gentleman introduced
13 himself as the Prosecutor for the court of security for the state, and he
14 wanted me to meet him to bring him evidence of the events I had alleged
15 had occurred, because Mbusa Nyamwisi was -- a minister of the transition
16 government was called into question. I said I talked about him not as a
17 minister but as a warlord in Ituri. And I could not meet him. That was
18 my reaction at that point in time. I could not meet him, and if there
19 was evidence, it was not up to him to gather that evidence.

20 Shortly afterwards I got a call from Molondo Loondo, the
21 military governor who had just come back from Kampala, because he was the
22 number two in military intelligence at DNIAP (* as interpreted). He
23 called me and he threatened me. I told President Thomas Lubanga about
24 that. He called him in turn, and Loondo kept -- "Shut up," and then he
25 took us to gaol.

1 So what I am raising is an issue that is also linked to my
2 protection as a witness, because I did not feel sufficiently protected
3 when I arrived, first of all. And now when I go home, I'm starting to
4 wonder to what extent the International Criminal Court will be able to
5 protect me. That is a real concern. Above all, because in this case
6 here the -- the players in the tragic history of Ituri all belong to the
7 great presidential family, the ones we call the alliance of a
8 presidential majority. All of them. All of them. They are in power.
9 And we are in the run-up to elections in my country. I don't know what
10 it's going to be like. So my biggest concern has to do with my
11 protection and protecting my family as well.

12 I will not take too much time. I don't want to waste too much of
13 your precious time. Thank you very much, Mr. President, for having
14 listened to me.

15 PRESIDING JUDGE FULFORD: Sir, I want to thank you for that
16 extremely clear and full explanation. What I do undertake on behalf of
17 the Judges of this Chamber is that we will investigate very carefully
18 whether or not you were treated inappropriately during the course of the
19 seemingly unfortunate events that you have described at the airport prior
20 to your departure to Holland, and I also undertake that in due course you
21 will receive a letter, either from the appropriate official in the
22 Registry or from us, setting out any conclusions that follow from the
23 investigation that we will conduct as regards what happened prior to your
24 transportation to this country.

25 As regards the wider concerns that you've expressed as to your

1 safety, at this stage I am going to say nothing at all. There are issues
2 relating to your current status and the circumstances in which you came
3 to Holland from custody in the DRC that make it inappropriate for me to
4 say anything publicly at this point this time. Notwithstanding that, we
5 have heard what you've said, and to the extent that it is appropriate for
6 us to do so, we will look to see whether there's anything that we ought
7 to do bearing in mind the responsibility which the Judges of this court
8 have toward witnesses who come to testify.

9 The other matter that I want to raise at this stage is to express
10 our thanks to you for having come here. As we have indicated to all
11 witnesses who have participated in this trial; regardless of whether
12 they've been called by the Prosecution, by the Defence, or on behalf of
13 participating victims, this Court is only able to arrive at a proper
14 concluded decision if individuals such as yourself are prepared to put up
15 with, at the very least, the inconvenience and possibly the personal risk
16 that is involved in testifying. We therefore owe you a not
17 inconsiderable debt, and you leave this court with our sincere thanks.

18 So thank you very much. You're now free to leave with the two
19 gentlemen sitting on either side of you.

20 THE WITNESS: (Interpretation) Thank you very much, your Honour.
21 And I would also like to thank all the parties that have participated in
22 these proceedings.

23 (The witness stands down)

24 PRESIDING JUDGE FULFORD: Mr. Sachdeva, what's the new issue.

25 MR. SACHDEVA: Thank you, Mr. President. I would have liked to

1 have discussed this with the Defence, but --

2 PRESIDING JUDGE FULFORD: No, no, no. No immediate hurry for
3 this. If you would like the opportunity of discussing it with the
4 Defence first of all, we have got to have a break at some stage this
5 afternoon, we could do that now, and then before we call Witness 0011,
6 after we've had a 10-minute break, if 10 minutes is going to be long
7 enough, you can then address us before the witness comes in.
8 Alternatively, you can address us tomorrow morning. It's entirely up to
9 you.

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

11 PRESIDING JUDGE FULFORD: Right. Tomorrow morning. We'll break
12 now. We'll start with Witness 0011 at quarter past 3.00, and we will
13 rise as normal at 4.00. Thank you very much.

14 COURT USHER: All rise.

15 Recess taken at 3.05 p.m.

16 On resuming at 3.15 p.m.

17 COURT USHER: All rise. Please be seated.

18 PRESIDING JUDGE FULFORD: Maitre Mabilie, just to make sure I've
19 got the ground rules clear, the witness is to give evidence publicly and
20 there are no protective measures that you seek us to implement at this
21 stage.

22 MS. MABILLE: Absolutely, your Honour.

23 PRESIDING JUDGE FULFORD: Thank you very much indeed.

24 Can we have the witness, please.

25 (The witness entered court)

1 WITNESS: WITNESS DRC-D01-WWWW-0011

2 (Witness answered through interpreter)

3 PRESIDING JUDGE FULFORD: Good afternoon, sir.

4 THE WITNESS: Good afternoon. (Interpretation) good afternoon,
5 your Honour.

6 PRESIDING JUDGE FULFORD: (* Previous translation continues)...
7 your evidence. A few things from me that I'm going to ask you to bear in
8 mine, but before I embark on those, can I straight away apologise for the
9 fact that we have kept you waiting for some days before your evidence
10 commenced. As I'm sure you'll understood, it's difficult to predict
11 exactly how long witnesses are going to take in the witness box, and the
12 last witness took rather longer than we had anticipated; hence, the
13 inconvenience for you, for which you have our apologies.

14 In terms of the evidence that you have got to give, a number of
15 ground rules, please.

16 Everything you say is being transcribed and interpreted. As a
17 result, it is critical, if you can possibly remember it, not to speak any
18 faster than I'm speaking now. So if you can make sure your answers are
19 measured, and if you build in some pauses alone the way to enable the
20 interpreters and the transcribers to catch up. But most important of
21 all, when Maitre Mabilie finishes her question, can you always leave just
22 a second or two of a gap before you come in with your answer. Otherwise,
23 there's an overlap in the translation of the question and the answer with
24 two people speaking too closely together, which means that part of your
25 evidence will be lost forever. So pause, please, before you commence

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1 your answer.

2 If at any stage either Maitre Mabilie or myself or Prosecution
3 counsel does that, it's not because we're being rude. It's because we're
4 reminding you to slow down. So it's just -- it will just be a reminder
5 to you to take it easy during your evidence.

6 Now, I hope there is a card before you in the correct language,
7 which I'm going to ask you to read out loud so that everybody can hear
8 you give your solemn undertaking to tell the truth during your evidence.
9 So could you read that out loud now, please.

10 THE WITNESS: (Interpretation) I solemnly declare that I will
11 speak the truth, the whole truth, and nothing but the truth.

12 PRESIDING JUDGE FULFORD: Now, that was perfect in terms of
13 volume and speed, and if you speak like that for the entirety of your
14 evidence, I would be extremely grateful to you.

15 Yes, Maitre Mabilie.

16 Questioned by Ms. Mabilie:

17 Q. (Interpretation) Good day, Witness.

18 A. Good day.

19 Q. We have already met. My name is Catherine Mabilie, and today I
20 will be putting some questions to you on behalf of Thomas Lubanga's
21 Defence team.

22 My first question is as follows: Could you tell us your name,
23 please?

24 A. My name is Angaika Bhaba Michel.

25 Q. (* No interpretation)

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1 A. I was born in Bela-Makiki on the 1st of January, 1963.

2 Q. (* No interpretation) Could you tell us what your educational
3 background is, please?

4 A. I have a BA in psychology. I specialised in the psychology of
5 work.

6 MS. MABILLE: (Interpretation) Your Honour, I am wondering
7 whether the witness is listening to the interpretation into English.
8 This is perhaps not necessary, but I'm not sure. I'm just wondering
9 about that.

10 THE WITNESS: (Interpretation) No, I'm not following the English
11 interpretation.

12 PRESIDING JUDGE FULFORD: I assume, Maitre Mabilie, that he is
13 simply getting the live feed of the French. Whether it's necessary, in
14 fact, for the witness to have headphones on is another matter entirely,
15 but there we are.

16 Sir, might I suggest that you in fact -- no, no, no, leave them
17 on because if there is an intervention from me you do need them. Yes,
18 leave the headphones on. That's fine.

19 Please carry on, Maitre Mabilie.

20 MS. MABILLE: (Interpretation)

21 Q. You obtained a BA in psychology. Could you tell us where you
22 obtained your BA, you diploma.

23 A. At the University of Kisangani, in the Democratic Republic of
24 Congo.

25 Q. Could you tell us what your current profession is?

1 A. I currently teach at a university.

2 Q. And where do you teach?

3 A. Primarily in the town of Bunia in the Democratic Republic of
4 Congo.

5 Q. And at which university?

6 A. Yes. I teach at the teacher training institute in Bunia and at
7 the Shalom University in Bunia and at the Superior Technical and Medical
8 Institute in Bunia.

9 Q. Thank you. Could you tell us when you first met Thomas Lubanga?
10 What was the context?

11 A. I met Mr. Thomas Lubanga for the first time at university. When
12 I was in my first year, if I remember this correctly, he was starting on
13 his BA, and he was studying the same subject, namely, psychology.

14 Q. After having met him during your studies at university, how, in
15 fact, did you meet him? Did you meet him in a professional framework?

16 A. I subsequently met him or saw him in Bunia, in business circles.
17 He would rent out certain tools for breaking up bricks. That's how I met
18 him. That was the business, breaking up bricks. That was a family
19 heritage, and I inherited it. So that's how we met on the second
20 occasion.

21 Q. Subsequently did you meet him in professional spheres?

22 A. Yes, I met him later. He contacted me around 2001, I believe, to
23 ask me to act as a consultant at the time he was in politics and I was
24 still a teacher. He wanted me to act as an expert consultant. He wanted
25 to present certain projects for social reintegration of child soldiers

1 who were supposed to return from Uganda, and he contacted me to be a
2 consultant so that I could get into contact with an organism that was to
3 take charge of this social reintegration. It was SOS Grand Lacs or Great
4 Lakes, and on that occasion time we met a further time, in fact.

5 Q. What did he ask of you exactly to do as a consultant? What did
6 Thomas Lubanga ask you to do in that capacity in relation to SOS Grand
7 Lacs, SOS Great Lakes, or within that framework?

8 A. Yes. He asked me to prepare project of activities that would
9 make it possible for these children to be socially reintegrated, these
10 children that were supposed to be repatriated from Uganda. I had to
11 prepare such a project, in fact, for agricultural activities, for raising
12 livestock, for training hairdressers and so on and so forth. So I
13 presented him with a handwritten project, because naturally at the time
14 information technology was not very developed in the area.

15 Q. Did you, therefore, draft the report?

16 A. Yes, I drafted reports, and I would resubmit them -- or I would
17 submit them to him.

18 Q. What would happen after you submit the reports to him?

19 A. He asked his secretary to call me to come, and he put me in
20 contact with the office of SOS Grand Lacs so that we could harmonise our
21 viewpoints with a view to the implementation of the project. Of course,
22 I went to the office of SOS Grand Lacs several times, and I was received
23 only on the (* indiscernible). Other times I went there I had the
24 impression that SOS Grand Lacs as an organisation did not retain me for
25 the implementation of its projects, and that's where everything ended.

1 Q. Did you understand why SOS Grand Lacs did not retain you?

2 A. I thought that the reasons why financial. That was my
3 understanding, especially as the organisations which come to our region
4 are very often organisations that require a lot of money. People come
5 and they seek to get contracts. Many people apply to implement contracts
6 with such organisations. So I thought that maybe they had recruited
7 other persons to serve them as consultants within the framework of these
8 projects. That was my understanding of things at the time.

9 Afterwards when the children started coming, they did not call
10 me, and that's how things ended. And so I believe that it was because of
11 financial problems.

12 Q. Thank you. Did you join the UPC?

13 A. Yes, I joined the UPC.

14 Q. Could you tell us when, on what date, at what point in time did
15 you join the UPC?

16 A. Yes. I may not remember the precise date, but it must have been
17 in July, June or July 2002.

18 Q. And where were you residing at that point in time?

19 A. I was still resident in Bunia.

20 Q. Could you please tell the Court the reasons why you decided to
21 join the movement at that point in time?

22 A. Yes. Well, let me start by saying that at that time it was not
23 yet a movement. It was actually a political party, because we should
24 make a distinction here between the UPC as a political party and the
25 UPC/RP, which was a political and military movement.

1 I joined the UPC as a political party at the time, and I would
2 say it was force of circumstance. Normally I do not like politics,
3 because sometimes it leads to a conflict. It conflicts with the
4 principles of a teacher who is supposed to teach the truth. So by nature
5 I do not like politics. However, I decided to join, because at the time
6 we had a very tough conflict in Ituri, and the authorities that were in
7 power were trying to exterminate a particular group. They were targeting
8 a particular group, and this was an ethnic group that was mine, as well
9 as (* indiscernible) ethnic groups.

10 So I decided to join a political party after one of my cousins on
11 mother's, because while I was a teacher I had re-enrolled in the first
12 year of medicine in the Bunia University Centre. A cousin on my mother's
13 side came from North Kivu and asked me to go to accompany him to visit
14 the family on the other side. I accepted. He said this was not going to
15 take a week. He was an influential member of the authorities that were
16 in place that was the rebellion, RCD-K/ML. I travelled with him to Beni,
17 Butembo, Dhene, and eventually we entered Bunia.

18 What I understood with the youth in Beni and Butembo and which
19 prompted me to join politics was the following: The logic followed by
20 the young people in North Kivu was that they had to come and dominate
21 Ituri with weapons, and I was revolted by this. My cousin on my mother's
22 side was telling me these things. I listened silently to what he was
23 saying, and I was really revolted. And I wondered, I asked myself, Why
24 would neighbouring peoples wish to come and dominate another tribe by
25 force of arms as if they are not human beings who can carry out politics

1 or administration on their own?

2 When I returned from Butembo and Beni, I finally made up my mind
3 to join politics, and I started getting interested in this party which
4 was created in Bunia. It was the first party that was created at the
5 time, that is, the UPC, and whose president was an elder -- an older
6 brother.

7 There you have it.

8 Q. When you joined the UPC, could you tell us at what point in time
9 did you meet Thomas Lubanga --

10 A. When I joined the UPC, President Thomas Lubanga was not in Bunia.
11 I met him when he left prison, when he returned from imprisonment in
12 Kinshasa, and when he appointed the first government, because the
13 authorities were replaced. RCD-K/ML was chased away and the UPC became
14 the authorities in place. And when he appointed the first members of the
15 government of that rebellion, I saw him then. It must have been at the
16 end of September 2002.

17 Q. A short while ago you told us that we should not -- that we
18 should make a distinction between the party UPC and the movement UPC/RP.
19 When was this new acronym added or used for the first time, namely the
20 UPC/RP?

21 A. If you read the basic texts of the UPC, the constitution and the
22 statutes, you will understand that it is a political party which has a
23 political mandate. The UPC became the UPC/RP - in the absence of
24 President Thomas because he was in prison at the time - when a core team
25 of soldiers who felt ill-treated by RCD-K/ML, because they were soldiers

1 of that movement, split away from the armed branch of the RCD-K/ML, which
2 was called the APC at that time. They mutinied, and it was these
3 mutineers that eventually chased the RCD-K/ML away from Bunia, overthrew
4 them. And so the UPC teamed up, worked with some of them. That was the
5 logic.

6 When the UPC had to set up an armed branch, it then became the
7 UPC/RP, because it was now a political and military structure.

8 Q. If I asked you to give us a precise date, would you be able to
9 tell us a date, the date of that event?

10 A. Well, it will not be possible to give you a precise date, but it
11 must have been towards the end of the year 2002, in the month of August,
12 approximately, August 2002, around that period.

13 Q. Thank you. Did you hold any responsibilities within UPC/RP?

14 A. Yes. I was appointed by the first decree as the private
15 secretary of the president of the UPC/RP.

16 Q. For how long or up to what point did you hold or wield these
17 responsibilities?

18 A. You know that a legal instrument can only be replaced by another
19 legal instrument. The UPC/RP became the UPC again and became a
20 full-fledged political party, and there was no other text to change my
21 appointment as private secretary, and so I can say that right up to this
22 moment, as I speak, I can still be considered as a private secretary of
23 the president, because no other legal document was signed putting an end
24 to the previous appointment.

25 Q. I would like to put my question to you again. Effectively,

1 concretely, up to what point did you exercise your duties as private
2 secretary?

3 A. In concrete terms, I served as private secretary right up until
4 the time that I returned from Kinshasa, leaving President Thomas at the
5 Grand Hotel in Kinshasa. This must have been in the year 2004, if I'm
6 not mistaken, the end of 2004. Around September 2004.

7 Q. Could you please inform the Court what your responsibilities
8 were. What were your duties as the private secretary of Mr. Lubanga?

9 A. With respect to my duties, I had to manage the audiences, people
10 wishing to see the president of the UPC. I had to propose drafts of
11 various documents which had to be submitted to the president for
12 signature, upon instruction, of course. I was also responsible for
13 preparing elements related to the daily activities of the president,
14 information which had to be posted on the web site of the movement. At
15 some point I was also responsible for procurement of rations, of military
16 rations or supplies that had to be purchased by the president.

17 The president also preferred that I be the one to drive him
18 around when he was going out on official missions. Those are some of my
19 activities in a nutshell. And sometimes I will receive guests of the
20 president when they came for an event or a meeting. Those were my
21 responsibilities, therefore, as private secretary.

22 Q. Where did you exercise these responsibilities?

23 A. When you talk of where, do you mean at what office? My office
24 was located within the premises of the president, the office of the
25 president.

1 Q. You have informed us that sometimes you would receive the guests,
2 the invitees of the president, coming for meetings or other events.
3 Within the framework of such activities, did you join the president in
4 attending certain meetings?

5 A. There were times when I would attend meetings organised by the
6 president if I was available or if I was not busy doing something else.
7 If the president felt that my presence was important, then I would attend
8 meetings.

9 Q. Could you please be more precise. Do you remember the type of
10 meetings that you attended?

11 A. Yes. I attended meetings, meetings with leaders of ethnic
12 groups, for example, meetings with representatives of certain
13 non-governmental organisations, and the only types of meetings which I
14 did not attend regularly were meetings held with soldiers. Very often I
15 did not attend such meetings.

16 Q. You informed us that you attended meetings with heads of ethnic
17 groups, leaders of ethnic groups. Could you please tell us what would
18 happen at such meetings, and could you tell us why Mr. Lubanga would
19 receive some prominent figures.

20 A. Yes. I think we should look at the context of events at that
21 time. As I said earlier, it was a period when there was great tension.
22 There was armed conflict raging within Bunia, and the motives of the
23 president, President Thomas, was to bring in reconciliation, to pacify
24 the region. That was the main objective on his agenda, and most of the
25 meetings which he organised with these leaders of ethnic groups and

1 representatives of organisations focused on this main objective, which
2 was pacification and reconciliation. That is why the UPC, when it became
3 a political and military organisation became UPC/RP, RP standing for
4 reconciliation and peace. So reconciliation was the key, the primary
5 objective of President Lubanga, and most of the meetings he held with
6 these various personalities were geared towards ensuring that there was
7 reconciliation between brothers who had been killing each other. It was
8 aimed at pacifying the region. That was the key objective of these
9 meetings.

10 And I would like to tell you that there were several of such
11 meetings which were held on a daily basis, and the major difficulty was
12 to meet all these people and try to prompt them to move towards peace and
13 reconciliation within the region.

14 Q. Thank you very much. Mr. Witness, could you turn to tab 1. The
15 document bears the reference DRC-OTP-0037-0294.

16 Mr. Witness, could you please look at this document and tell us
17 whether or not you recognise it.

18 A. Yes, Counsel.

19 Q. Do you know who drafted this document?

20 A. Yes. We drafted it ourselves.

21 Q. You say yes, you drafted it yourselves. Did you draft it
22 personally?

23 A. Yes, myself and Michel Angaika.

24 Q. Do you confirm the information contained in this document?

25 A. Yes, I do confirm the information.

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1 Q. Thank you. I have no further questions on this document. Could
2 an EVD reference be attributed to this document, please.

3 PRESIDING JUDGE FULFORD: Certainly.

4 COURT OFFICER: Thank you, Mr. President. Document
5 DRC-OTP-0037-0294 will bear the number EVD-D01-01093.

6 MS. MABILLE: (Interpretation)

7 Q. Mr. Witness, could you please turn to tab number 2. The document
8 bears the reference DRC-OTP-0178-0151. It already has an EVD reference,
9 which is EVD-OTP-00047.

10 Take your time to read this document very attentively, and after
11 that I will ask you a few questions.

12 Do you recognise this document?

13 A. Yes, I do recognise it.

14 Q. Do you know who drafted it?

15 A. I prepared the draft, and I proposed it to the president for
16 signature, on his recommendation, of course.

17 Q. Could you please tell us the circumstances described to -- or the
18 circumstances under which this document was prepared by yourself since
19 you have stated that you prepared its draft and submitted it or proposed
20 it to the president for signature?

21 A. Yes. This was in October 2002, and this was one of the key
22 moments when the UPC became the UPC/RP. Through this letter, the
23 president wished to remind the Chief of Staff of FPLC, which was the
24 armed branch of the UPC/RP, that the ideology of any army which he leads
25 should avoid the enrollment of minors. And by minors here he meant any

1 individual below the age of 18. Such individuals should not be enrolled
2 into the army, especially as in the villages -- you know, the conflict in
3 Ituri started around 1998, I think, and in the villages, self-defence
4 committees had already about set up, and such committees welcomed
5 everyone, because the villages organised to themselves to ensure their
6 own security. They waited for long for the authorities to protect them,
7 and then they discovered that it was the same authorities that were
8 trying to massacre them, and so the various villages decided to set up
9 self-defence committees, village self-defence committees.

10 As I said, such committees received or welcomed everyone, and in
11 certain armies, well, there was many political and military groups within
12 the area, and they tended to enroll people of all ages. And as the UPC
13 had already started to build up its own military arm, the APC, the
14 president wanted to point out to the chiefs of staff that children were
15 not to be enlisted in this army, but that was a rationale in which
16 Thomas Lubanga has always moved. Since he started in this field, he's
17 never wanted children to be enrolled in armies, and that's why he pointed
18 it out to the FPLC Chiefs of Staff, but they must -- they were not to
19 take underaged children as troops.

20 MS. MABILLE: (Interpretation) Absolutely your Honour.

21 PRESIDING JUDGE FULFORD: Sir, your evidence has now started.
22 Thank you very much indeed. I have to respect the human rights of the
23 interpreters and the transcribers who have been working very hard today,
24 and we shouldn't sit longer this afternoon, because otherwise it's
25 completely unfair on them.

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Questioned by Ms. Mabilie

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1 Maitre Mabilie, we have a Court Officer presumably sitting in a
2 porta-cabin somewhere in the DRC waiting for the videolink testimony.
3 Are we likely to reach that tomorrow? I suspect not.

4 MS. MABILLE: (Interpretation) Well, as far as I'm concerned, your
5 Honour, I believe that I'll need another two hours.

6 PRESIDING JUDGE FULFORD: So tomorrow morning effectively.
7 Any idea, Mr. Sachdeva?

8 MR. SACHDEVA: Mr. President, I don't think it would be wise of
9 me to say that we'd finish tomorrow with this witness.

10 PRESIDING JUDGE FULFORD: Fine. Reasonable prospect of Monday?

11 MR. SACHDEVA: Certainly.

12 PRESIDING JUDGE FULFORD: Thank you very much.

13 Well, that's possibly some help for the Registry. We won't need
14 the first videolink tomorrow, but we're highly likely to need it on
15 Monday morning.

16 Mr. Sachdeva -- not Monday, Tuesday. Indeed, Tuesday. Tuesday.

17 Good. Thank you very much. Half past 9.00 tomorrow morning.

18 The hearing ends at 4.05 p.m.

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