

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

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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 Tuesday, 5 April 2011
9 The hearing starts at 9.31 a.m.
10 (Open session)
11 (The witness takes the stand)
12 COURT USHER: All rise. The International Criminal Court is now
13 in session. Please be seated.
14 PRESIDING JUDGE FULFORD: Good morning. Yes, Ms. Struyven.
15 MS. STRUYVEN: Thank you, Mr. President.
16 WITNESS: WITNESS DRC-D01-WWWW-0019 (Resumed)
17 (Witness answered through interpreter)
18 Questioned by Ms. Struyven: (Continued)
19 Q. Good morning, Witness. Before I start, I just have two
20 clarifications to ask you. The first one is yesterday, you explained
21 that you arrived three days after the mutiny that took place in the year
22 2000, three days after it happened, you arrived in Bunia; correct?
23 THE INTERPRETER: The witness says he cannot hear the
24 interpreters.
25 THE WITNESS: (Interpretation) Could you please repeat the

1 question, because I could not hear the interpreters at the time you were
2 speaking.

3 PRESIDING JUDGE FULFORD: Ms. Struyven -- yes, Mr. Biju-Duval.

4 MR. BIJU-DUVAL: (Interpretation) For reasons of clarity, I
5 would like the Prosecutor to give us the references, the transcript
6 references, of what she's saying.

7 PRESIDING JUDGE FULFORD: It's always helpful, Ms. Struyven, if
8 you are going to refer to evidence that's been given on an earlier
9 occasion, just to indicate as you put the question where we find the
10 reference in the transcript.

11 Good. Could you put the question again and give the reference to
12 where that evidence was given either yesterday or the day before.

13 MS. STRUYVEN: I'm referring to the transcript -- the English
14 transcript number 343, page 4, line 25.

15 Q. So, Mr. Witness, yesterday you indicated that you, in 2000 --
16 that after the mutiny in the summer of 2000, you arrived three days later
17 in Bunia. My question is: That was in July of 2000; correct?

18 A. Yes.

19 Q. Thank you. I have a second clarification. Bunia was taken over
20 on the 9th of August, 2002, but the fighting started on the
21 2nd of August, 2002; correct?

22 A. Well, the fighting itself, which left -- which led to the
23 departure of Molondo and the RCD started on the 9th during the day, but
24 the fact is at the very beginning of the month of August, several attacks
25 were launched against the neighbourhoods of the town of Bunia by Lendu

1 combatants under the complicit eye of the Molondo Lopondo administration.
2 That is how things took place. So from the 2nd to the 7th, there were
3 attacks against Simbiliabo, Rwambuzi, Mudzipela on the 7th of August, and
4 about 30 people died, and their bodies are in a mass grave located near
5 the primary school. And I would like to add that on the 7th of August,
6 it was the mutineers who deployed themselves to fight against the
7 attackers. No soldier of the APC came to the rescue.

8 Q. Now, going back to our document that we discussed yesterday, and
9 I'm referring to document DRC-OTP-0091-0065, at tab 60. We were
10 discussing page 6 of this document. And I was going to ask you questions
11 about the second paragraph of this document.

12 So here it says, in short, that after the 17th of April, 2002,
13 declaration, UPC becomes a politico-military movement, and one part of
14 the army joins Lubanga and will become the corps or -- I don't know any
15 better word for it, "*noyau*" in French, the corps of the armed wing of the
16 UPC.

17 Do you also disagree with that paragraph?

18 A. I would like to tell you, very simply, that I have discovered
19 that this is like a laboratory experiment. I am being asked to give my
20 viewpoint with respect to the excerpts of certain texts which were
21 drafted in a well-defined context.

22 Of course you're not wrong. I have noticed that you are trying
23 to be logical here, but when we're dealing with politics, sometimes logic
24 does not apply. However, I maintain my viewpoint. I do not support what
25 you are saying. I have told you that this is an account which needs to

1 be streamlined and reviewed, and we need time to be able to review all
2 these events. That is my viewpoint.

3 I said yesterday that even the history of my country, you have to
4 take that country with -- that history with a pinch of salt. Let's take
5 the story of Lumumba, our national hero, for example. There are certain
6 reasons that you have to bear in mind. I would like us to look at this
7 military issue with our feet firmly planted on the ground and our heads
8 firmly fixed on our shoulders.

9 What am I saying? What do I mean? What I mean is that we should
10 look at the facts that exist on the ground, the facts that speak for
11 themselves, instead of focusing on excerpts of texts that have not been
12 completed. I have said this, and I'm going to repeat it as often as
13 possible: The mutineers, in the month of April, started their mutiny.
14 Some of the soldiers of the APC started a mutiny. That was in the month
15 of April. This happened after a political declaration of the UPC was
16 made, a declaration which talked about the split between the two
17 political organisations, namely the UPC on the one side and RCD-K/ML on
18 the other hand.

19 I would not like to talk here about other social professional
20 groups which also expressed their discontent about the situation of the
21 people in Ituri. There were certain civil servants who were no longer
22 going to the office. There were certain teachers who were no longer
23 going to Yambi-Yaya and other places, who simply left for obvious reasons
24 related to their safety. What I mean is that it was everyone who
25 expressed their discontent with the RCD-K/ML.

1 And now to come back to what I was saying about the mutineers.
2 From the time they started the mutiny, right up to the end of the month
3 of August, around the 28th, the mutineers acted independently,
4 autonomously. The proof is that -- I would like to ask you to
5 investigate the events on the ground instead of focusing on the texts.
6 If you had carried out your investigation, you would have obtained
7 information which will have enabled you to make an objective appraisal of
8 the situation.

9 PRESIDING JUDGE FULFORD: Both Ms. Struyven and the Judges will,
10 of course, bear closely in mind that the events which are being
11 investigated now by questioning occurred within a particular political
12 context at the time, and we will be very much aware of the political
13 realities that existed during the relevant period. However, that said,
14 Ms. Struyven is entitled to ask you whether or not you agreed with the
15 various statements made and the various objectives set out in documents
16 of the kind that we are currently investigating, and so I'm going to ask
17 you, please, against the background that we will, of course, remember the
18 political realities, I'm going to ask you, please, to answer the question
19 that she put to you. She's entitled to ask it of you.

20 Now, Ms. Struyven, can you briefly put the question again,
21 please.

22 And I'm going to ask you, sir, to answer it.

23 THE WITNESS: (Interpretation) Thank you.

24 MS. STRUYVEN: Thank you, Mr. President.

25 Q. The question was quite simply whether you disagree with the fact

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1 that -- with the facts that are stated in this second paragraph of
2 page 6?

3 PRESIDING JUDGE FULFORD: Now, before the witness answers that,
4 what are you getting at, Ms. Struyven. Are you seeking information now
5 as to his attitude at the time or his attitude now, because what you've
6 said is does he agree, which implies you're asking him whether now, in
7 April 2011, he agrees, or are you asking him what his attitude was back
8 at the time that this was being drafted? Now, you must make it clear
9 which period of time you're referring to.

10 MS. STRUYVEN:

11 Q. Mr. Witness, at that time, would that have been -- whatever is
12 stated in paragraph two of this page, and I've summarised it earlier, at
13 that time did you agree with that statement at that time?

14 A. At that time, my opinion was not sought.

15 Q. Would you agree today -- I'm asking you your opinion. Today
16 that's true. Would you agree today that that would be a correct
17 reflection of what was happening in April 2002?

18 A. No.

19 Q. Now, in the last paragraph of this section of page 6, it says
20 that the armed wing remained in Bunia and chased Molondo away, and this
21 is a reference to the armed wing of the UPC as is indicated in the
22 paragraph before that.

23 Would you agree that that is a correct reflection of what was
24 happening in August 2002? Reference is made here to the 2nd of August,
25 2002.

1 A. In August 2002, those who chased out Molondo were not UPC
2 soldiers. It was the mutineers who supported the UPDF in this operation
3 which led to the eviction of Lopondo and the RCD from the area.

4 MS. STRUYVEN: Your Honours, I think we need an EVD number for
5 this document.

6 PRESIDING JUDGE FULFORD: Certainly, Ms. Struyven.

7 EVD number, please.

8 COURT OFFICER: Thank you, Mr. President. Document
9 DRC-OTP-0091-0065 will bear the following number: EVD-OTP-00672.

10 PRESIDING JUDGE FULFORD: Thank you.

11 Please carry on.

12 MS. STRUYVEN:

13 Q. Now -- so you -- you still distinguish the mutineers and UPC.
14 Just for me to properly understand you, would you agree that Kisembo and
15 Bosco and Tchaligonza and Kasangaki and Bagonza, who you indicated as
16 being some of the mutineers of the April 2002 mutiny, would you agree
17 that they were in the APC at that time?

18 A. No. Oh, yes. Yes. Of the APC, yes.

19 Q. And the APC was the army, at that time, of the RCD-K/ML of
20 which -- or in which Thomas Lubanga at that time, before the split-up,
21 was the minister of defence; correct?

22 A. Yes.

23 Q. So you would agree at least that Thomas Lubanga knew these
24 mutineers; correct?

25 A. Could you explain what you mean by knowing the mutineers?

1 Q. Are you aware of any relationship between Thomas Lubanga and the
2 mutineers at that time?

3 A. I think only Thomas himself can answer that question. I cannot
4 say anything about any relationship between them.

5 Q. (* Previous translation continues) ... at that time; correct?

6 A. Yes.

7 Q. I'll ask you another question. Is it correct that before the
8 split-up, Thomas Lubanga appointed Bosco as a commander of operations in
9 the APC?

10 A. Could you please repeat the question. Yes.

11 Q. Would you agree that before the split-up in April 2002,
12 Thomas Lubanga, as the minister of defence, appointed Bosco Ntaganda?

13 A. Thomas Lubanga, as minister of defence of RCD-K/ML, carried out
14 general deployment, general deployment of the commanders of major units,
15 and this was something which was strictly within his responsibilities.

16 It's true that in that capacity, as I heard at the time, with respect to
17 the deployment, the name of Bosco Ntaganda was also mentioned as former
18 member of the RCD right from their days in Kisangani.

19 Q. Your answer's yes, he appointed Bosco Ntaganda. Do you remember
20 in which position he appointed Bosco Ntaganda?

21 A. I heard that Bosco Ntaganda was appointed as assistant commander
22 of operations.

23 Q. So --

24 A. Of course, with the endorsement of Mbusa Nyamwisi.

25 Q. Do you know any appointments of the other mutineers? Kisembo,

1 Floribert Kisembo, for example?

2 A. Well, I cannot give you a list of all those who were appointed.

3 I remember Bosco's case, because when I was returning from Lake Albert, I
4 stopped at Lopondo's house, and I heard a discussion. I heard the
5 utterances of Lopondo on that subject.

6 Q. I didn't ask you to give a list of all the appointments. I asked
7 you if you knew, for example, whether Floribert Kisembo was appointed at
8 that time by Thomas Lubanga in the APC?

9 A. I do not know. I do not know.

10 Q. The reason why you remember the appointment of Bosco is because
11 that appointment caused a lot of excitement in Bunia; correct?

12 A. I will not say that his appointment led to a lot of excitement.
13 I did say that -- I remember his case, because whilst I was in the home
14 of Molondo Lopondo, on the 6th of April, I believe, I heard Lopondo and
15 his people getting excited, and they were making comments about this
16 appointment. In fact, they disapproved of it. It was Lopondo and his
17 supporters in his home who were excited about it, not the population or
18 the entirety of Bunia, no.

19 Q. In any event, to come back to my point, there was a relationship
20 between Thomas Lubanga and at least -- a close relationship between
21 Thomas Lubanga and at least Bosco Ntaganda. Would you agree? In
22 April 2002.

23 A. I cannot say anything about how close their relationship was.
24 When the head of state appoints me as territorial administrator, it does
25 not mean that I have a close relationship with the head of state. I

1 think it's on the basis of the study of my documents or my records. So I
2 cannot, therefore, claim that Thomas Lubanga had close relations with
3 Bosco. However, I can say that Bosco had close relations with Mbusa and
4 Wamba Dia Wamba, with whom he left Kisangani to come to Bunia.

5 Q. (* Previous translation continues) ... on this. You explained
6 that there was a mutiny by these soldiers which was not linked to the
7 revolution of Thomas Lubanga and his crowd. Can you explain to us
8 briefly why the soldiers were having this mutiny?

9 A. I heard it said that these soldiers were discriminated against
10 within the APC, and they were not happy about this. This is what I heard
11 said.

12 Q. Now, moving back to the time --

13 PRESIDING JUDGE FULFORD: Before you do, Ms. Struyven, at least
14 twice this morning you've intervened too quickly in your question, and as
15 a result, either part of your question or part of the answer has been
16 lost. So please keep an eye on it.

17 THE WITNESS: (Interpretation) Thank you, your Honour.

18 MS. STRUYVEN:

19 Q. Going back to the time line - so we're now still in April
20 2002 - because of this fighting that was going on in Bunia and because of
21 the split-up of Bunia in two parts, as you indicated yesterday, because
22 of those problems that were happening in Bunia, the Ugandans invited
23 Lubanga and others to Kasese. Do you remember that?

24 A. I think that we should clarify things here. The division of the
25 town happened shortly after the departure from Kasese. Thomas Lubanga

1 and his aides went to Kasese in order to meet the delegation of RCD-K/ML,
2 so that together they could look for a solution to the -- this problem
3 that was prevailing in the town.

4 Q. So that was at the end of April; correct?

5 A. Yes.

6 Q. And so in Lubanga's delegation there was Lubanga himself, of
7 course, Richard Lonema, Tinanzabo, Litsha, Bosco, and Tchaligonza;
8 correct?

9 A. (* No interpretation)

10 PRESIDING JUDGE FULFORD: Pause for a moment, Ms. Struyven.

11 There was no interpretation for the last answer.

12 Mr. Omofade, can I ask you whether you're able to hear what the
13 English interpreter is saying? It was extremely faint on my headset.

14 MR. OMOFADE: I heard nothing, your Honour.

15 PRESIDING JUDGE FULFORD: Thank you. Right. So there's a
16 problem with the equipment. I think the interpreter started to tell us
17 what the witness's answer was, but it came across extremely faintly on my
18 headset, and it is still extremely faint.

19 THE INTERPRETER: The interpreter has switched to another
20 microphone. Is it more audible now?

21 PRESIDING JUDGE FULFORD: And could you now, please, give the
22 witness's last answer.

23 THE INTERPRETER: The witness said that he can't -- "I can't
24 remember the names of all those who went to Kasese, but Bamaraki was one
25 of the prominent individuals who went there."

1 PRESIDING JUDGE FULFORD: Thank you very much indeed.

2 Please continue, Ms. Struyven.

3 MS. STRUYVEN:

4 Q. So you're -- you don't remember that Bosco and Tchaligonza also
5 went to Kasese? Is that your testimony?

6 A. I don't remember that name as being the name of one of the
7 individuals who left for Kasese. Not just those names. There were some
8 other names. I've mentioned a few names that I could remember.

9 Q. Would you agree that apart from these -- what you call political
10 representatives, there was also the military representatives of the
11 mutiny that went to Kasese, even if you don't remember their names?

12 A. I'm unable to answer that.

13 Q. If you say, "I'm unable to answer that," is that because you
14 don't remember, or is that for another reason?

15 A. No. I can't remember all these little details. It's now 2011,
16 and we're speaking about events that took place in 2002. I really have
17 to make a significant effort to find my bearings.

18 Q. Now, if we move on, would you agree that at the beginning of
19 May of 2002, Lubanga returned to Bunia after this trip to Kasese?

20 A. I believe that they went to Kampala from Kasese, and then from
21 Kampala, they went to Kinshasa.

22 Q. According to our information, he came back to Bunia in the month
23 of May and remained in Bunia before he left to Kampala. Would that be
24 possible, according to you?

25 PRESIDING JUDGE FULFORD: Sir, before you answer that question.

1 Yes, Mr. Biju-Duval.

2 MR. BIJU-DUVAL: (Interpretation) It's just a question of the
3 form of the question. The Prosecution can't start a question by first
4 saying "According to our information." That is simply not acceptable,
5 whatever the objective of the question is.

6 PRESIDING JUDGE FULFORD: It's pretty elementary, Ms. Struyven,
7 and Mr. Biju-Duval is right. You can -- you can ask the witness whether
8 he came to Bunia in the month of May and remained in Bunia before he left
9 to go to Kampala. What you can't do is try to re-enforce the question by
10 suggesting that you have information in your possession which tends to
11 indicate that the question you're putting is correct. That involves you
12 giving evidence. So put the question again, please, without the part at
13 the beginning.

14 MS. STRUYVEN:

15 Q. Did Mr. Lubanga come back to Bunia in the month of May and
16 remained in Bunia until he left for Kampala?

17 A. Well, in fact, I don't want there to be confusion, but I know for
18 certain that after Thomas's residence was attacked by Lopondo's men in
19 the month of May, he went to Kampala. He was taken there by the UPDF,
20 withdrawn by the UPDF, and then went to Kinshasa. The order it's
21 necessary to establish with regard to these movements is an order that I
22 find a little difficult to establish.

23 Q. That's okay. So would you agree that in June, indeed the Ugandan
24 authorities invited him and his delegation to Kampala?

25 A. I was saying that one thing is certain: Thomas Lubanga and his

1 collaborators, his immediate collaborators, moved -- I don't want to get
2 lost with regard to my -- the time, but in June they went to Kampala, and
3 from Kampala, they were taken to Kinshasa.

4 Q. And so with Thomas Lubanga there was Richard Lonema,
5 Adele Lotsove, Nembe, Mama Akiki, Nestor Bamaraki, Dieudonné Mbuna, and
6 Chief Kahwa; correct?

7 A. Among those who went to Kampala, because I can't understand that
8 Mama Lotsove was in the group to go to Kampala, since she no longer lived
9 in the town of Bunia. She no longer lived in Bunia, and she would have
10 been in Bunia when -- I can no longer find my bearings there.

11 Q. But the others I've listed went to Kampala; correct?

12 A. Well, as far as the others are concerned, the list of these
13 names, I don't know how to reconstitute it, but it's true that all those
14 who were there with Thomas in Kinshasa are those who left with him for
15 Kampala. There was Avochi, Bamaraki. There was also Thomas himself, of
16 course, and there was Tshombe.

17 Q. Would you agree that Chief Kahwa was part of the delegation that
18 went to Kampala?

19 A. I can't remember that.

20 Q. But would it be possible that he was part of the delegation that
21 went to Kampala?

22 A. How can I determine whether it was possible? I can't start
23 imagining such a possibility.

24 Q. Would you agree that Thomas Lubanga was the leader of the
25 delegation?

1 A. Yes.

2 Q. And while the delegation was in Kampala, they saw that Ugandans
3 had also invited representatives of the RCD-K/ML; correct?

4 A. I wasn't with them there, and I don't know how I could talk about
5 what happened in Uganda.

6 Q. So you have no information whatsoever about what went on in
7 Uganda. Is that your testimony?

8 A. Well, should I start talking about what was said - that's my
9 question - about what one could hear through the grapevine? I don't know
10 what purpose that would serve here.

11 PRESIDING JUDGE FULFORD: Very good question from the witness,
12 Ms. Struyven. I repeat, as I said yesterday, we have on occasion allowed
13 hearsay into this trial for the decisions that have been identified in
14 our written and oral decisions. Is it going to assist us if the witness
15 tells us now what he recalls of what, I don't know, gossip that reached
16 his ears as to what had taken place at meetings at which he wasn't
17 present? Is that going to improve the position very much?

18 MS. STRUYVEN: Well, your Honours, this witness pretends to be a
19 founder of the UPC. The -- he pretends to have been in key positions.

20 PRESIDING JUDGE FULFORD: I think use of the pejorative term
21 "pretend" is undesirable in this context, Ms. Struyven. The witness has
22 said those things. Now, given that he has said that, what is your
23 submission?

24 MS. STRUYVEN: Well, our position is that, as mentioned, he said
25 that he was an interim president of the UPC. He said that he was a

1 spokesperson of the UPC. He said that he was a founder of the UPC.
2 Therefore, I would assume that he would be in a position to give evidence
3 on the key events that occurred in the history of the UPC. It seems that
4 he is aware of certain events --

5 PRESIDING JUDGE FULFORD: Thank you, Ms. Struyven. That is
6 sufficient.

7 Sir, the Prosecution are interested in what was reported to you
8 arising out of those discussions in Uganda, and so I'm going to ask you,
9 please, to tell us what was reported back to you as to what had been
10 discussed.

11 THE WITNESS: (Interpretation) Thank you, your Honour.

12 According to what I was told, according to what I followed, in
13 Uganda there were RCD delegates who arrived there that -- the terrain in
14 Uganda wasn't favourable to an exchange of any kind, because the terrain
15 seemed as if it had already been won over to the cause of the RCD-K/ML.
16 The proof of that is that in Kampala, there was no substantial debate.
17 No substantial debate was allowed. It was only concluded that the UPC
18 delegation had been arrested and then taken to Kinshasa.

19 PRESIDING JUDGE FULFORD: Thank you very much.

20 Please continue, Ms. Struyven.

21 MS. STRUYVEN:

22 Q. I'm not sure I fully understood your answer, but is it correct
23 that the Ugandans wanted to reconcile the group of Thomas Lubanga and the
24 RCD-K/ML?

25 A. According to what I followed, there was no substantial debate.

1 The environment wasn't favourable to the UPC delegation, and that's what
2 ended in the arrest of the delegates I have been talking about and their
3 removal to Kinshasa.

4 Q. So on the 13th of June, 2002, Thomas Lubanga and other members,
5 not all the member -- members of the delegation, but some members of the
6 delegation, were arrested; correct?

7 A. That's quite right.

8 Q. And Lonema and Dieudonné Mbuna, although they were part of the
9 delegation, they managed to avoid an arrest and to return to Bunia;
10 correct?

11 A. That's correct.

12 Q. And Chief Kahwa and Beiza also managed to avoid an arrest and
13 returned to Bunia; correct?

14 A. As I said at the beginning, I can't confirm that Chef Kahwa was a
15 member of the delegation. That's something I have said. So I can't
16 confirm that. I can't confirm such an arrest.

17 Q. You were in Bunia in June of 2002, were you not?

18 A. Yes.

19 Q. Did you see Kahwa in Bunia in that period?

20 A. Kahwa isn't resident in Bunia. Kahwa has his residence in
21 Mandro, and he also has a residence further down in Tchomia, by
22 Lake Albert, so he could spend time down there on occasion, and I
23 wouldn't see him in Bunia then.

24 Q. Now, when Lonema and Dieudonné Mbuna returned to -- to Bunia,
25 they continued implementing the plan to remove the RCD-K/ML, did they

1 not?

2 A. In fact, when they returned, it wasn't possible for them to show
3 themselves, because the environment was so hostile that for the sake of
4 their own security, they had to adopt a very particular mode of life.

5 Q. Would you agree that at that time there was a training camp set
6 up in Mandro?

7 A. I heard that around the month of July when the mutineers had
8 withdrawn from the town of Bunia to go and live in Mandro. I heard that
9 there was a form of military training that was being given there.

10 Q. And that training was being given by Kisémbu and the other
11 mutineers; correct?

12 A. Well, in fact, I can't really say who was responsible for that
13 there. I didn't see them in action, but the leaders of the mutineers are
14 those I had to identify on another occasion. There was Kisémbu,
15 Tchiliganza, Bosco. Kahwa was also there.

16 Q. And do you know that at that time a lot of new soldiers were
17 being recruited and trained at Mandro?

18 A. Well, in the surroundings, people spoke about that.

19 Q. And would you agree that weapons were air-dropped from Rwanda to
20 Mandro in that period?

21 A. Unfortunately, I'm not in a position to confirm that. I was in
22 Bunia, not in Mandro.

23 Q. Okay. If I go back to the arrest of Thomas Lubanga, as you
24 indicated, the day after their arrest in Kampala, they were transferred
25 to Kinshasa; correct?

1 A. Yes.

2 Q. And they were held first at DEMIAP?

3 A. Yes.

4 Q. And they stayed there for 20 days, more or less. Are you aware
5 of that?

6 A. I don't know how many days they spent at DEMIAP, but they spent a
7 lengthy period of time in the DEMIAP cells.

8 Q. And around the 3rd of July, 2002, Thomas Lubanga was transferred
9 and put under house arrest in the Grand Hotel in Kinshasa?

10 A. I'm not familiar with the date, but I know that he was assigned
11 to house arrest in the Grand Hotel in Kinshasa after having been in the
12 DEMIAP.

13 Q. (* Previous translation continues) ... to get some information on
14 that. The Grand Hotel is one of the most luxurious hotels in Kinshasa,
15 quite a large hotel, many rooms, big courtyard, swimming pool, et cetera.
16 Do you agree with that?

17 A. Yes.

18 PRESIDING JUDGE FULFORD: I think we'll take the short
19 mid-morning break now. Thank you, Ms. Struyven.

20 Thank you very much for your help, sir. We're going to take a
21 short break now, and we look forward to seeing you again at 20 to 11.00.

22 We'll rise.

23 COURT USHER: All rise.

24 Recess taken at 10.28 a.m.

25 On resuming at 10.41 a.m.

1 COURT USHER: All rise. Please be seated.

2 PRESIDING JUDGE FULFORD: Yes, Ms. Struyven.

3 MS. STRUYVEN:

4 Q. Mr. Witness, as soon as Mr. Lubanga was moved to the Grand Hotel,
5 he had more liberties than he had at DEMIAP. Would you agree?

6 A. I cannot assert that. The Grand Hotel has several images,
7 several aspects. It's also a dungeon. I mean, it might seem surprising
8 to people who have not experienced that, but I can tell you that is the
9 case. And I will tell you that a lot of people who are in the central
10 prison in Makala, as well as offices, are people who were very, very
11 closely monitored by the DEMIAP unit, but there is a DEMIAP unit in the
12 Grand Hotel.

13 Q. Are you aware that Thomas Lubanga could hold press conferences
14 while he was under house arrest there in August 2002?

15 A. No.

16 Q. You were in Bunia in August 2002; correct?

17 A. Yes.

18 Q. And you have not heard of any press conference by Mr. Lubanga in
19 August 2002 from Kinshasa?

20 A. Well, in fact, what -- what sort of information should I have
21 had? National radio? We don't get it in Bunia.

22 Q. At that time there was no mobile phone coverage in Bunia, but
23 there was satellite phones that people communicated with; correct?

24 A. Well, people who could afford it and could find some, yes, could
25 communicate with the entire world if they wanted.

1 Q. Wasn't there also a place, some sort of a shop where people could
2 go to to communicate by satellite phone?

3 A. There was a house -- yes, I remember. There was a house, but --
4 but the place went bankrupt very quickly, because they charged so much
5 money for those calls that people in the town stopped going there.

6 Q. But in that period June, July, August, people could still go to
7 that shop; correct?

8 A. Well, as it was an open shop, of course, yes, I suppose that
9 anybody who could afford there was able to, but I didn't stand there
10 watching who would come in or not. I just suppose that anybody who could
11 afford the charges could go there.

12 Q. From the Grand Hotel, Mr. Lubanga was able to communicate with
13 Bunia, was he not?

14 A. I cannot say that, because he never communicated with me, and --
15 and even less with the people I was hanging around with, because they --
16 nobody had any news of Thomas Lubanga.

17 Q. He was communicating with Lonema and Dieudonné Mbuna, was he not?

18 A. As I said, I cannot state that, because Mbuna and Lonema were
19 living in clandestancy (* as interpreted) at that point in time. I met
20 them from time to time, and I always wanted to find out news about
21 President Thomas, but they told me that they had no news whatever from
22 him. That's what I can assure you.

23 Q. So when did you first hear that he had communicated with Bunia?

24 A. During all the time he was in Kinshasa, I never heard that Thomas
25 had communicated with Bunia. In fact, when he arrived in Bunia, the news

1 was given to us by the UPDF. The officer in charge of a sector of the
2 UPDF brought the message to Lonema that Thomas with -- was on his way and
3 via Kampala. Therefore, there was no communication with Thomas Lubanga.

4 Q. But Thomas Lubanga was aware of what was going on in Bunia.
5 Would you agree with that?

6 A. I can't tell you what he knew or didn't. I can't -- how can I
7 say Thomas knew what was going on in Bunia? It's very hard for me to say
8 anything of the sort.

9 Q. (* Previous translation continues) ... you have heard about it
10 afterwards or discussed it afterwards?

11 A. No. But obviously, because events in Bunia were reported in a
12 fragmented manner, and you'd hear bits of news on the RFI and other
13 international media, I suppose that everybody could have an idea of what
14 was going on.

15 Q. In that period, Lonema was acting as interim UPC leader. Would
16 you agree with that?

17 A. No.

18 Q. You would not agree that he identified himself in that period as
19 the (interpretation) interim president of the UPC?

20 A. I cannot affirm that, because if he held that power, I'm sure he
21 would have managed the party at that point in time, but he did not.

22 Q. (In English) Would you agree that after the takeover of Bunia,
23 Richard Lonema met with several representatives, representatives of the
24 judiciary, representatives of MONUC, representatives of the youth
25 committees, representatives of the group that was called or referred to

1 as the *chef de quartier*?

2 A. He might have done that, but that would have been at his own
3 personal initiative. But he certainly did not report to the other
4 leaders of the party, although they were also interested in knowing what
5 was going on.

6 Q. Who -- who of the UPC -- I'm trying to understand. Who of the
7 UPC were you hanging out with in August of 2002? Who -- which members
8 were you in contact with?

9 A. I used to meet Lonema himself, as well as Mbuna, but of course, a
10 lot of other people didn't want to sort of have a high profile at that
11 point in time, obviously because of the atmosphere at the time. And
12 Lonema could not have been the interim president of the UPC when the UPC
13 had Adubango as its deputy president.

14 MS. STRUYVEN: Your Honours, we would like to show a video to
15 this witness of that period of August 2002 in which Lonema addresses the
16 journalist, and he identifies himself as the interim, and he explains
17 when this happened.

18 PRESIDING JUDGE FULFORD: Let me just ask a question or two about
19 this, Ms. Struyven. Is it suggested that the witness was present during
20 the events shown on the video?

21 MS. STRUYVEN: We don't know that for sure, your Honours.

22 PRESIDING JUDGE FULFORD: Do you have any basis for advancing the
23 suggestion that he may have been?

24 MS. STRUYVEN: Well, it's -- it's -- there's several people in
25 that video, including representatives of the UPC. Given his role, again,

1 in the UPC, I would assume that he would have been there, but I cannot be
2 certain about that at all.

3 PRESIDING JUDGE FULFORD: All right. So if this is to happen,
4 stage one has got to be to find out whether the witness was there at all
5 and is therefore in a position to comment on what occurs -- or what is
6 shown.

7 Now, Mr. Biju-Duval, on the basis that in the first instance the
8 Chamber will need to establish whether or not the witness was himself
9 present, on the basis that we approach it in that cautious manner, do you
10 have any objection to the video being shown?

11 MR. BIJU-DUVAL: (Interpretation) No, your Honour, as long as,
12 you know, the reliability of the video can be established.

13 (Trial Chamber confers)

14 PRESIDING JUDGE FULFORD: Good. Then let us show the video. Can
15 we make sure, please, that the witness's screens are set up so that it
16 can be received. And can the Court Officer remind me which button I
17 should press.

18 COURT OFFICER: Your Honours, we'll have to press "PC 1" on our
19 screens.

20 PRESIDING JUDGE FULFORD: Thank you. I wanted to make sure I
21 didn't press the ejector button.

22 MS. STRUYVEN: For the record, the video is DRC-OTP-0123-0009,
23 and we intend to play minutes 00:38:42 to 00:44:09.

24 PRESIDING JUDGE FULFORD: Good. We have it on our screen,
25 Ms. Struyven. I hope the witness has. Has the Usher checked? Good. So

1 play the video, please. Does it come with volume? Does it come with
2 sound or not?

3 MS. STRUYVEN: It comes with sound, your Honours.

4 PRESIDING JUDGE FULFORD: All right. Please play it.

5 (Video-clip played)

6 PRESIDING JUDGE FULFORD: Well, there's nothing coming over the
7 headphones, Ms. Struyven. Perhaps try again.

8 (Video-clip played)

9 THE INTERPRETER: I'm afraid the sound is inaudible.

10 PRESIDING JUDGE FULFORD: Please stop it, Ms. Struyven. The
11 interpreters have just said that it is inaudible as far as the -- as far
12 as those sitting in the booths behind us are concerned, so this is not
13 going to be a very profitable exercise as it is. Do you have a
14 transcript of what is alleged to have been said?

15 MS. STRUYVEN: Yes, I do, your Honours.

16 PRESIDING JUDGE FULFORD: Why don't we distribute that. Has that
17 been provided to the Defence in advance?

18 MS. STRUYVEN: It's been disclosed in the past, but it haven't
19 been disclosed at this -- it hasn't been re-disclosed at this particular
20 point.

21 PRESIDING JUDGE FULFORD: So we don't have an agreed transcript
22 as to what is said to have occurred. Well, Ms. Struyven, what are we
23 going to do? The interpreters can't hear what's being said. How do you
24 propose we proceed?

25 MS. STRUYVEN: Your Honours, I can summarise briefly what he

1 says.

2 PRESIDING JUDGE FULFORD: No. You're not giving evidence,
3 Ms. Struyven.

4 MS. STRUYVEN: We can try over the break to test the sound system
5 and to see if the translators can follow after the break.

6 PRESIDING JUDGE FULFORD: Certainly. Let's then move on to
7 another point. Thank you.

8 MS. STRUYVEN:

9 Q. About Richard Lonema, isn't it correct that he was coordinating
10 all the political and military activities in August of 2002?

11 A. I don't see him coordinating such activities.

12 Q. So your testimony's that while you were in Bunia in August of
13 2002 and before that, Richard Lonema had no role whatsoever in the UPC,
14 or could you explain to us what his role was according to you?

15 A. The UPC was not yet completely structured. The president was
16 known, the vice-president was known, and the secretary-general as well
17 was known. The rest of us were simply founding members or cofounding
18 members. We were still at -- we were still at that stage. Lonema did
19 not have any specific responsibilities. Well, unless he arrogated
20 certain responsibilities to himself, but I would like to state here that
21 he did not have any particular mandate.

22 Q. So -- and can you -- the president was Thomas Lubanga, I assume.
23 The vice-president and the secretary-general were whom?

24 A. I said the president was Thomas Lubanga. At the very beginning,
25 the vice-president, Adubango -- well, was Adubango, and the

1 secretary-general was Urom Anman Warom.

2 Q. I assume after the fighting in Bunia, MONUC in other instances
3 wanted to talk to the representatives of the fighters. Who would then
4 represent the group that took over Bunia?

5 A. I was never with those who allegedly met with MONUC. I was never
6 with them. I'm not in a position to tell you, therefore, those who met
7 MONUC.

8 Q. So you don't know who was representing, acting as a spokesperson
9 at that time for UPC?

10 A. Well, I have already stated here that no one had such a mandate.
11 If anyone did so, he was doing it on his own initiative. I repeat, on
12 his or her own initiative. And I would go as far as saying that when
13 Thomas arrived, he heard people say that Litsha was passing himself off
14 as secretary-general, and Thomas asked, "Who made Litsha Daniel
15 secretary-general?" That is the question he asked. Do you understand?
16 "Who appointed Litsha Daniel as secretary-general?"

17 Q. Now, as a last point, talking about the 9th of August takeover
18 itself, is it still your testimony that nor -- Thomas Lubanga nor
19 soldiers linked to Thomas Lubanga would have had anything to do with this
20 takeover?

21 A. I would say yes, because there were no soldiers attributed to
22 Thomas. Thomas was in no way related to the takeover of the 9th. The
23 soldiers took over Bunia on the 9th.

24 MS. STRUYVEN: I would like to show one more document -- well,
25 yeah, to start with one more document to the witness. This document was

1 shown already last week. It has already an EVD number. It is
2 DRC-OTP-0113-0133, and the EVD number is EVD-OTP-00663, and it is tab 46,
3 and it was discussed at transcript 342, page 20 and further.

4 PRESIDING JUDGE FULFORD: Thank you very much. So tab 46, Usher,
5 please for the witness.

6 MS. STRUYVEN:

7 Q. Witness, we looked at this document last week, and as you can
8 see --

9 A. Yes.

10 Q. -- you were asked to read out certain paragraphs of this
11 document. As we can see, this document was established on the
12 11th of August, 2002. It is signed by Thomas Lubanga. And as you read
13 out -- so it's only two days after the fighting in Bunia. And as you
14 read out last week -- or you were asked to read out, the first and the
15 last paragraph of the first page clearly referred to armed elements that
16 were behind the minister of defence of the RCD-ML, namely Thomas Lubanga,
17 taking control over Bunia?

18 Now, if we leave the document aside, this document shows that
19 already two days after the fighting, Thomas Lubanga and his people
20 clearly took credit for the takeover that occurred two days earlier.

21 Would you agree with that?

22 A. This is a political declaration made by the FRP, and it's a claim
23 made by the UPC. Several people were trying to claim this military
24 victory, and this is -- can be explained by the contexts of that period
25 in time. It was a time when politicians wanted to enhance their value in

1 the eyes of the people so that they can be interlocutors speaking with
2 other political actors to defend the interests of the people at that
3 particular point in time. I find this approach quite justifiable. Of
4 course it doesn't express the reality, what actually happened, because
5 they were all detained people who wanted the government to accept to
6 engage in dialogue with them. It is a political manoeuvre, which is
7 understandable. They wanted the State of Congo to accept to engage in
8 dialogue to them, to take them seriously and to get them out of
9 detention. That was done.

10 And I would like to give you another example, because there were
11 many of such political declarations at that time. There was the case of
12 RCD National of Lumbala, Lumbala who claimed -- well, this is important
13 because I want to draw an analogy there. Since you're not of that
14 opinion, I will stop there, but you should remember that this does not
15 seem strange to me. The UPC did it. The FRP, which is also another
16 entity, did the same thing. Any other person or organisation could have
17 done that in order to protect their interests, in order to make their
18 voice heard. It was a purely political manoeuvre that had absolutely
19 nothing to do or had absolutely no legal basis.

20 Q. Now, you keep on referring and you keep on making this
21 distinction between the FRP and the UPC. As we had established
22 yesterday, all of these people who are mentioned in the document of the
23 FRP, which later on become members -- or not all of them, but the
24 majority of them would become later members of the UPC; correct?

25 A. I cannot say that this was the case of all members of the FRP,

1 because we do not have an exhaustive list of the members of the FRP with
2 us. Let us say that there were certain members of FRP committees who
3 ended up in the UPC later on, but there are others, as you rightly said,
4 who did not end up within the UPC. For example, Bayau, Avochi, just to
5 mention those two in the list that we examined yesterday.

6 Q. Witness, could I ask you to go -- have a look at a UPC decree at
7 DRC-OTP-0113-0055, and it's under the Defence binder tab 2.

8 I'm just showing this as an example. If you look at the preamble
9 of this UPC decree, as well as any other of the UPC decrees, reference is
10 made to the political declaration of the 17th of April and the
11 11th of August, 2002, and I'm reading this from the second line under the
12 first heading. Would you agree that this 11th of August declaration of
13 2002 is also, together with the document we examined yesterday, namely
14 the document of the 17th of April of 2002, would you agree that this
15 document of the 11th of August of 2002, is another key document of the
16 UPC, or is referred to as a key document in the history of the UPC?

17 A. Could you please -- could you please try to establish the
18 relationship here, because I did not fully understand your question.

19 Q. (* Previous translation continues) ... as well as in any other
20 UPC decree, reference is made in the preamble of these decrees to two
21 documents, the document, the declaration of the 17th of April, 2002, and
22 the declaration of the 11th of August, 2002.

23 Now, the document that we're examining, that we're looking at, is
24 the 11th of August, 2002, declaration, and my question to you is: Would
25 you agree that this is a key document in the history of the UPC?

1 A. Of course we are referring to two declarations here. It is
2 important for me here to repeat what I said yesterday. The declaration
3 of 17th of April, well, I saw it for the first time yesterday. I saw it
4 in English. The same applies to that of the 11th of August.

5 As I can see in this decree, reference is made to these two
6 declarations, these two political declarations. However, you are
7 referring to the history of the UPC here, and I would like to say that
8 these are documents that were drafted, documents that were referred to
9 later on in the context in which the UPC/RP was established, and they
10 were justified under the context that applied at the time. At that
11 particular point in time, this was justified, but when the UPC will have
12 to write its history properly, there are a lot of things which will have
13 to be reviewed again.

14 Q. Now, this document was drafted two days after the takeover of
15 Bunia. Would you agree that at that time it was the soldiers of
16 Thomas Lubanga who effected this takeover?

17 A. I do not agree with you. It was the mutineers who took over the
18 town of Bunia.

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

20 MR. BIJU-DUVAL: (Interpretation) Your Honour, I can understand
21 that we -- counsel can disagree with the answers of a witness, but I
22 don't think that the same question should be put to the witness several
23 times over. It's almost like harassment. This question has been put to
24 the witness about ten times, and the witness has given the same answer,
25 and I think we really should move on.

1 PRESIDING JUDGE FULFORD: I think that's right, Ms. Struyven.
2 We've been here before on more than one occasion during the questioning.
3 Now, I think there was a matter that the Prosecution wished to
4 raise with the Chamber before the mid-morning break in the absence of the
5 witness. We'll do that now.

6 So we're going to deal with an issue now with the Prosecution,
7 and we're going to then take the longer mid-morning break. So if you
8 could leave us now, please, and we look forward to seeing you again at
9 12.00. Thank you very much indeed.

10 THE WITNESS: (Interpretation) Thank you, your Honour.

11 (The witness stands down)

12 PRESIDING JUDGE FULFORD: Now, who's dealing with this issue?
13 Mr. Sachdeva.

14 MR. SACHDEVA: Thank you, Mr. President. With your leave, may we
15 move into private session.

16 PRESIDING JUDGE FULFORD: Private session, please.

17 (Public session at 11.20 a.m.)

18 (Expunged)

19 (Expunged)

20 (Expunged)

21 (Expunged)

22 (Expunged)

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- 17 (Expunged)
- 18 (Expunged)
- 19 (Expunged)
- 20 (Expunged)
- 21 Recess taken at 11.22 a.m.
- 22 On resuming at 12.01 p.m.
- 23 (Open session)
- 24 (The witness takes the stand)
- 25 COURT USHER: All rise. Please be seated.

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

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1 PRESIDING JUDGE FULFORD: Yes, Ms. Struyven.

2 MS. STRUYVEN:

3 Q. So, Mr. Witness, we ended with the declaration of the
4 11th of August, 2002, but I understand that you maintain that the
5 soldiers -- although this declaration claims victory over the fight, the
6 soldiers only decided at the end of August on who to give political
7 control to; correct?

8 A. Yes.

9 Q. I would like to show you one last document.

10 MS. STRUYVEN: It's DRC-OTP-0037-0264. It's been only recently
11 distributed, I think, in a small -- yeah.

12 PRESIDING JUDGE FULFORD: Any objections to the use of this
13 document, Mr. Biju-Duval?

14 MR. OMOFADE: It's tab 75.

15 MR. BIJU-DUVAL: (Interpretation) We don't have any objections
16 in principle, your Honour.

17 PRESIDING JUDGE FULFORD: Thank you very much.

18 Yes, Ms. Struyven.

19 MS. STRUYVEN:

20 Q. So, Mr. Witness, may I ask you to go to the second page of this
21 document where you see that it was signed on the 14th of September,
22 2002, by Mr. Lubanga. Do you recognise this signature?

23 A. Yes. It looks like Thomas Lubanga's signature.

24 Q. And on the first page of this document you see the reference to
25 the UPC. Does that seem to correspond to the documents that you used to

1 see at that time? The emblem, I mean.

2 A. Yes, that's our logo.

3 Q. And if I ask you to go to the second page again, to title two,
4 which is called "The Objectives of the UPC." I can read in the first
5 paragraph, third line, in French:

6 "(Interpretation) The UPC/RP has taken arms to remove all the
7 forces that contribute to the destruction of Ituri and the Congo, and
8 this sullies our image. The UPC/RP has put an end to the management of
9 Ituri by the RCD-ML."

10 PRESIDING JUDGE FULFORD: (* Previous translation continues) ...
11 frame a question, Ms. Struyven.

12 Mr. Biju-Duval.

13 MR. BIJU-DUVAL: (Interpretation) Yes, your Honour. It's still
14 the same comment. Before the witness is examined with regard to an
15 extract from a document, I think it is indispensable for the witness to
16 tell us whether he is familiar with the document or not, and the witness
17 should also be allowed a certain amount of time to familiarise himself
18 with the document.

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

20 Now, the question you want to ask about that section,
21 Ms. Struyven, is?

22 MS. STRUYVEN: The question was simply going to be if he also
23 disagrees with that statement, but of course he can have the time to look
24 at the document. Maybe I can first ask him if he recognises this
25 document.

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

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1 PRESIDING JUDGE FULFORD: Sir, have you seen this document
2 before?

3 THE WITNESS: (Interpretation) No, I haven't.

4 PRESIDING JUDGE FULFORD: Ms. Struyven wants to ask you about the
5 particular section that she has just read out on the second page under
6 "The Objects of the UPC." Could you please focus particularly on what is
7 written under that heading, but you may also like to take a moment or two
8 just to familiarise yourself with the rest of the document. So do take a
9 few minutes or a minute or two just -- just to read through the document
10 so that you are aware of its contents, and we will then see whether
11 you're in a position to deal with the matter that Ms. Struyven has
12 raised.

13 Now, sir, going back then to Ms. Struyven's question under the
14 heading "The Objects of the UPC," she asks, I think, whether you agree
15 that as of one of the objects of the UPC, and I read out again:

16 "The UPC/RP has taken arms to remove all the forces that
17 contribute to the destruction of Ituri and the Congo and this sullies our
18 image. The UPC/RP has put an end to the management of Ituri by the
19 RCD-ML."

20 Now, does that coincide with your understanding of what one of
21 the objects of the UPC was in September 2002?

22 THE WITNESS: (Interpretation) Yes, exactly. These are the
23 UPC/RP objectives, and it's in September 2002.

24 PRESIDING JUDGE FULFORD: Please continue, Ms. Struyven.

25 MS. STRUYVEN:

1 Q. But the paragraph also says that the UPC/RP has taken up the arms
2 to remove the forces that were destroying Ituri. Do you agree that it is
3 the UPC/RP who has taken up the arms?

4 A. Well, there were troops that had remained in Bunia, and since
5 they had committed themselves to working under the label of the UPC/RP in
6 September, and the UPC accepted to evolve with these troops, throughout
7 the period of September these troops -- or, rather, the army was being
8 structured. As I have said, the UPC, in the month of September, was
9 getting involved and starting fighting all these enemies of peace. Even
10 on the 14th of September, 2002, the day of that declaration, on that day
11 Nyankunde was destroyed. That was the date on which Nyankunde was
12 destroyed, and the troops that were facing this situation were troops
13 from the UPC/FPLC. So that can be explained easily.

14 Q. Thank you.

15 MS. STRUYVEN: I don't have any further questions apart from the
16 video, so I'll try to -- with your leave, I would like to try to play the
17 video, just a few minutes at the beginning, to see if he recognises the
18 scene to verify whether he was there or not.

19 PRESIDING JUDGE FULFORD: Certainly.

20 Sir, what we're going to do is show you a stretch of video, a
21 sequence of video. I'm going to ask you to look at it, and a little way
22 into it I'm going to ask for it to be stopped so that you can indicate
23 whether or not you were present when the events shown were taking place.

24 THE WITNESS: (Interpretation) Fine. Thank you.

25 MS. STRUYVEN: So I'll -- for the record, I'm not sure if I --

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

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1 for the record again it's DRC-OTP-0123-0009, at minute 00:38:43.

2 (Video-clip played)

3 THE INTERPRETER: The interpreter notes that the sound is very
4 poor and cannot be heard.

5 PRESIDING JUDGE FULFORD: Pause the video, please.

6 Sir, to your memory were you present when what -- when this
7 interview, as it appears to be, was taking place?

8 THE WITNESS: (Interpretation) No.

9 PRESIDING JUDGE FULFORD: Anything else, Ms. Struyven?

10 MS. STRUYVEN: No, your Honours.

11 PRESIDING JUDGE FULFORD: Thank you. Now, I think we now move to
12 Mr. Omofade, if I'm right in understanding it.

13 Now, Mr. Omofade, I want to stress that there is a particular
14 risk when questions are divided up, not only with three counsel asking
15 questions of a witness but one counsel coming back for a second time,
16 that there is a real risk of repetition. We're not to cover in your
17 questions now ground which you've either covered before or Ms. Struyven
18 has covered without you first making an application to the Bench for
19 leave. Is that clear?

20 MR. OMOFADE: That's clear, your Honour.

21 PRESIDING JUDGE FULFORD: Thank you very much.

22 Questioned by Mr. Omofade: (Continued)

23 Q. Good afternoon again, Mr. Witness.

24 A. Good afternoon.

25 Q. Mr. Witness, in -- in the course of your testimony last week,

1 your testimony in chief, you spoke extensively -- in response to
2 questions from Defence counsel for Mr. Lubanga, you spoke extensively
3 about your movements between March and May 2003. Do you remember doing
4 that?

5 A. Yes, I do.

6 Q. And do you recall telling us about the number of stops that you
7 made, starting on the 7th of March, I believe in a place called Mabanga,
8 on the 8th of March in a place called Lalu. Do you remember that?

9 A. Yes. Lalu.

10 Q. And do you recall telling us also of a chance meeting on your way
11 escaping the fighting with Floribert Kisembo, the Chief of Staff of the
12 FPLC? Do you remember that?

13 A. A chance meeting. Could you a little more about the context
14 within which I mentioned this.

15 Q. Well, Mr. Witness, you tell us, because you told us that you
16 happened upon Mr. Floribert Kisembo.

17 A. Well, I can add this: Kisembo was in a jeep. I was on foot. I
18 was between -- I was near Centrale and I was going towards Iga-Barriere
19 on foot. Then the jeep overtook me and stopped not far from me. When it
20 stopped I approached it. There were a lot of troops in the jeep and
21 there was Major Lobo from the Zaire armed forces at the time. And he
22 told Kisembo, That's one of our ministers. That's one of the ministers.
23 Let's take him. Obviously there wasn't any room, but they organised
24 things so I could get into the jeep. That's how it was.

25 Q. So was this a plan -- a pre-planned meeting or a chance meeting?

1 I suggest it was a chance meeting.

2 A. It wasn't a meeting. We were going away from Bunia. There
3 wasn't a meeting one could refer to. If I say that it was a chance
4 meeting, well, that means that there was no planned meeting. We hadn't
5 planned to meet on that road at that point in time, no.

6 Q. It might have been my choice of word, but maybe it's fairer to
7 you for me to say you met up with Floribert Kisembo on that occasion
8 purely by chance. Is that correct?

9 A. Yes, it was by chance, in fact.

10 Q. And just an estimate, but how many others were in the jeep with
11 Floribert Kisembo and Major Lobo?

12 A. Twenty-two or 23 individuals quite easily. The jeep, the
13 land cruiser, was a large one. I can put like that.

14 Q. And was there just the one jeep or were there other vehicles in a
15 convoy?

16 A. There was just one other jeep.

17 Q. So your testimony's that there were two vehicles; is that
18 correct?

19 A. No, no. I was saying that on the road Iga-Barriere -- or,
20 rather, on the Centrale road to Iga-Barriere, there was just one jeep,
21 but we arrived at Iga-Barriere. There were other troops who had preceded
22 us. It was only when we arrived there that they got into little lorry
23 with other commanders, and then we had a two-vehicle convoy that
24 proceeded from Iga-Barriere to go to the mining region.

25 Q. Okay. Just so we can get this straight, there was the initial

1 jeep with approximately 22 persons in it, and you joined them, and then
2 you joined up with another vehicle in Iga-Barriere. How many persons
3 were in that other vehicle, that truck you referred to?

4 A. There were three in front in the truck, and at the back 24,
5 25 individuals.

6 Q. Well, why didn't you tell Defence counsel that you also stopped
7 at Iga-Barriere when you were testifying on Thursday?

8 A. Well, perhaps that slipped my mind if I didn't mention it, but
9 it's true that this is the road we followed, and you can't arrive at
10 Mabanga without passing through Iga-Barriere, unless you take a plane.

11 Q. Well, Mr. Witness, that's the precise point. It's so obvious
12 that it must have been something you should have mentioned. Why didn't
13 you mention it?

14 A. Well, on that day, I think I bothered the Defence a bit because
15 they asked me to be very brief and just to mention a few details. I
16 tried to be more detailed and say that I'd spent the night at the
17 Nyamurongo cemetery, the night between the 6th and the 7th. So I went
18 into some details, but if that slipped my mind I regret the fact, but
19 that was the case.

20 Q. On what date did you stop at Iga-Barriere?

21 A. On the 7th of March, 2003.

22 Q. And how long did you stay there for?

23 A. We didn't spend more than an hour there. It was really a very
24 brief stopover, and we then continued.

25 Q. And what was your next stop?

1 A. From there we went towards Mabanga, and we passed through Nizi.

2 We didn't even stop there.

3 Q. So we now have a picture of these two vehicles proceeding first
4 from Iga-Barriere to Mabanga, and did you then, both vehicles, proceed to
5 Lalu?

6 A. Lalu. Yes. In fact, when we arrived at Mabanga, we spent the
7 night there because we arrived at night, and these roads aren't very
8 practicable. These aren't very good roads. The two vehicles arrived in
9 Lalu.

10 Q. And you told us that on the 9th of March you stopped at
11 Mongbwalu.

12 A. Yes.

13 Q. And on the 12th of March at Mbidjo.

14 A. Mbidjo. M-b-i-d-j-o.

15 Q. Mbidjo.

16 A. Mbidjo. That's correct.

17 Q. And on the 13th, you stopped at a place called Baku. Is that
18 correct?

19 A. It's quite right.

20 Q. And you finally got to a place called Mamedi. Is that correct?

21 A. Yes, that's correct.

22 Q. What dates did you arrive at Mamedi?

23 A. It was on the 14th of March, 2003, that we arrived in Mamedi.

24 Q. And is it your evidence that you stayed on in Mamedi for a period
25 of almost a month? Is that your evidence?

1 A. That's correct.

2 Q. Now, did any other troops join you at Mamedì, or did you meet up
3 with any other troops loyal to Floribert Kisembo at Mamedì?

4 A. I have to point out that when we left Mongbwalu, there were FPLC
5 troops in Mongbwalu. The withdrawal from Mongbwalu was the withdrawal of
6 all the FPLC troops. So it didn't only concern the two jeeps that left
7 from Bunia, no. There were troops that were in Mongbwalu. Others had
8 commandeered vehicles of certain tradesmen to transport weapons and
9 munitions when it was necessary to withdraw from the town. So we left
10 from the town, and there were other troops who went on foot.

11 When we arrived at Mbidjo, there was an assembly, a parade, in
12 the morning. There was Kisembo, who was a little bit out of breath
13 because there had been betrayal within the FPLC, and it was thought that
14 every soldier should have the right to choose where he wanted to go to,
15 so we went to Mamedì. We went there, and the troops that we had there
16 were around 650. To a certain extent it was like a battalion.

17 Q. Sir, I'm going to ask you to clarify again. Did you meet up with
18 other troops before you got to Mamedì, or did you join other troops
19 there? Which one is it? How did the 600 come about?

20 A. As I told you, in Mongbwalu there were FPLC troops, but the
21 withdrawal was from all the FPLC troops. That's easy to understand,
22 isn't it? So in Mongbwalu, I suppose we could have had a brigade there
23 in Mongbwalu. So we had this retreat. Some troops went towards
24 Yedi (* phon), the Yedi line, with Major Salongo (* phon), and others
25 went back inland, and others headed towards -- Jerome -- Aru, and others

1 decided to follow Kisembo, and we went with them to Mamedi. In Mamedi
2 there were no FPLC troops. This is in the Upper Uele district.

3 Q. That's in addition to the two vehicles, you met other troops at
4 Mongbwalu, and it was those troops together with these two vehicles that
5 proceeded to Mamedi. Is that your answer?

6 A. Yes.

7 Q. And so at Mamedi, how many FPLC troops had converged there in
8 addition to yourself, Floribert Kisembo, and Major Lobo? Just
9 approximately.

10 A. Well, roughly speaking, all in all we were close to 650 soldiers.
11 Around a battalion.

12 Q. And did there come a time when you left Mamedi after about a
13 month?

14 A. Yes. We left from Mamedi towards to Arombi, A-r-o-m-b-i. It's
15 about 15 kilometres away from Mamedi on the road towards Durba.

16 Q. And did you eventually leave Arombi?

17 A. Yes. We left from Arombi I believe around the 28th of April to
18 head back towards Mamedi.

19 Q. Why did you leave Arombi and head back towards Mamedi?

20 A. Well, we were on the 28th of April. The area where we found
21 refuge was not ours. It was under the control of the RCD national of
22 Maba (* phon). We also needed to win back the Ituri region, which is
23 ours, where we left our families. We knew that at any time
24 (* indiscernible) would have to pull back and we would have to go back to
25 Ituri. So we decided to leave Arombi to go to Mamedi on our way towards

1 the Ituri District.

2 Q. Is there still approximately 650 of you, or did some leave your
3 company, or did others join you?

4 A. Well, I believe that in Arombi, first of all, three commanders
5 joined us, three chiefs of military operations. I believe they had come
6 from Dhego. They fought their way through -- through the forest and
7 joined us in Arombi. Some troops also deserted. Some of them went
8 towards Oicha. They went in that direction, but not more than
9 five troops deserted.

10 Q. So the question again is how many joined you? You mentioned
11 three commanders. That would leave your number approximately 650 --

12 A. Yes. If I have to be very precise, but, in fact, I can only give
13 approximate figures.

14 Q. For the sake of the transcript, I said that would leave your
15 number approximately 653. Is that about right, those of you that
16 returned to Mamedi?

17 A. Well, you say 653. You need to subtract those who left us. I
18 said not more than five soldiers deserted. They were deserters. So
19 we're talking about 640.

20 Q. And where were you based in Mamedi when you returned?

21 A. I, myself, personally?

22 Q. I believe the whole group remained together. That seems to be
23 your evidence. So where was the group, including yourself, based?

24 A. Well, I don't know if you can really understand what Mamedi is,
25 because I run the risk of describing a village that you won't be able to

1 locate. All you need to know is that Mamedi is a sort of forest village,
2 a few buildings that look like houses. Yeah, you've got sort of straw
3 huts on both sides of the road, because the farmers in the forest tend to
4 have their homes more within the forest. All they've got is a few huts
5 close to the road. So the troops had to build - how could I put it? -
6 sort of huts, straw huts, to -- well, for accommodation, because there
7 were hardly any houses in Mamedi, and they couldn't -- you know, not
8 everybody could sort of find accommodation there. And we also had
9 civilians following us.

10 Q. So were you based at the straw huts that the troops constructed,
11 as you've described?

12 A. Personally, I was living with some officers from the general
13 staff in a hut that was in front of the house in which the general Chief
14 of Staff was living. That's where I spent the night with these officers
15 from the general Chief of Staff, in that hut. There were no doors, but
16 we stayed there all the time we were there.

17 Q. And just going back slightly to the time you met up with
18 General Kisembo, up to the time you got to Mamedi at the end of April.
19 Did Floribert Kisembo and his troops take any part in any battles or
20 fighting?

21 A. Well, I would say -- there wasn't really a battle. Nonetheless,
22 there was attempted incursion by Jerome's troops into Baku where the FPLC
23 had its advance positions. We were in Mamedi. That's 8 kilometres away
24 from Mamedi -- from Baku. So troops from Jerome tried to move into Baku,
25 but they were staved off. We didn't even hear about it, in fact. That's

1 the only skirmish that occurred.

2 Q. Moving back to Mamedì, you said a number of civilians also joined
3 you. You didn't tell us about those before. How many were they?

4 A. I talked about the other time. I said about 10.000 civilians.

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

6 MR. BIJU-DUVAL: (Interpretation) The question actually solves
7 the problem. The witness did talk about it during this hearing.

8 PRESIDING JUDGE FULFORD: Please carry on.

9 MR. OMOFADE:

10 Q. These 10.000 civilians, at what point during the course of the
11 journey that you've described to us this morning did they join up with
12 you?

13 A. The civilians left from Mongbwalu with us. When we pulled out
14 from Mongbwalu, they left with us.

15 Q. And did they have their vehicles with them, or were they part of
16 these two vehicles you were traveling in?

17 A. No. In our environment, people are used to walking. I walked
18 myself on several -- many times on several sections. Yes.

19 Q. So is it your evidence that 10.000 civilians walked behind your
20 two vehicles from Mongbwalu to Mamedì? Is that your evidence?

21 A. I'm saying the following: There were about 10.000 civilians, and
22 I also told you that after Mongbwalu -- I'm not saying that there were
23 only two vehicles that left from Bunia that went to Mamedì. No. I told
24 you that after Mongbwalu, there were other vehicles that were
25 requisitioned by the troops, I said so not long ago, and were used to

1 carry ammunition. And there were also traders who heard about our move
2 that were able to bring some of their -- a few goods from their stores,
3 use their vehicles. But, of course, a lot of cars and trucks broke down
4 because the road between Mongbwalu and Mbidjo is an absolute hell for
5 drivers. So we had to leave a lot of vehicles behind. I had to walk
6 several times because there was no more room in the jeep. There was this
7 human tide. You just can't imagine maybe what this was like, but this
8 was a situation of war we were living in, and there was nothing really.

9 Q. But, Mr. Witness, I asked you very detailed questions earlier on
10 and gave you, I believe, ample opportunity to describe to us the number
11 of vehicles that proceeded on this journey to Mamedi, and you almost
12 insisted that it was two vehicles. Why didn't you tell us about these
13 vehicles that were requisitioned along the way? Why didn't you?

14 A. The vehicles weren't requisitioned on our way. What I said is --
15 was in Mongbwalu, there some troops requisitioned some vehicles and
16 loaded them with weapons, ammunition, when they were withdrawing. I said
17 that. I have said it.

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

19 MR. BIJU-DUVAL: (Interpretation) Yes. I would simply like to
20 point out that the Prosecutor's comment is not fair. The Chamber can
21 refer back to room 47 (* as interpreted) of the French transcript where
22 he -- you have the following statement by the witness where -- that after
23 Mongbwalu other vehicles were requisitioned and were used.

24 PRESIDING JUDGE FULFORD: Thank you very much.

25 MR. OMOFADE:

1 Q. How many other vehicles were requisitioned, Mr. Witness?

2 A. I can't give you an exact number. As I've already said, some
3 vehicles broke down. Because if you don't have a four-wheel drive, you
4 can't use that road. Find out about it. You'll see. I mean, some
5 vehicles broke down. I mean their front-wheel drive broke down, for
6 instance, and we had to press on with three vehicles, I believe. A third
7 one was unable to come up the V12 valley. We call it the V12 valley.
8 One vehicle remained stuck there. When we came back, all we found was
9 the frame of the car. The rest had been plundered. So we had to use
10 two vehicles, and one of them was sent to Oicha to be sold. That's what
11 I have to say.

12 Q. Okay. So just to be fair to you, how many vehicles arrived at
13 Mamedi at the end of April 2003?

14 A. As I said, only two vehicles got there. Plus some jeeps.

15 Q. How many jeeps?

16 A. Two Toyota four-wheel drive pickups, one with a long chassis, the
17 other with a short one. A blue van and a white one.

18 Q. So would it be fair to say four vehicles? Without distinguishing
19 between jeeps and Toyota pickups, would it be fair to say four vehicles
20 arrived in Mamedi on the 28th of April?

21 A. No. Hold on. Let's -- you have to take time into account here.

22 On the 14th of April, two vans only. The others had broken down
23 on the way and so forth.

24 Two, when we got to Arombi, the white Toyota pick-up was seen to
25 be sold in Oicha by the general Chief of Staff. Then we came back on the

1 28th with only one pick-up, the blue one with the long body frame.

2 Q. Where were the 10.000 civilians staying in relation to where you,
3 the troops that had originally arrived in Mamedi?

4 A. The civilians were in huts they could find here and there. Some
5 of them actually slept outdoors in the countryside, but we -- it's --
6 it's a bit complicated describing this site without a map, but let's try
7 and do it in the following way: The advanced position, as I said, was in
8 Baku, and that was to cover the area we were in 8 kilometres away. Now,
9 the civilians were taking refuge wherever they could find somewhere. And
10 some people organised themselves as they could within the group. But
11 military, in turn, some of them ended up in the -- the area around
12 Kisembo, the Chief of Staff, and others sort of set up of sort of hamlets
13 to spend the night.

14 PRESIDING JUDGE FULFORD: Mr. Omofade, you've dealt with this,
15 bottom of page 45, top of page 46. We had a discussion about where the
16 whole group stayed, and then we moved on to where the officers were. In
17 any event, it's quite clear we're not going to finish this today, so
18 we're going to break off at this stage. Thank you.

19 Sir, I'm afraid your evidence will be carrying on tomorrow when
20 Mr. Omofade and Mr. Sachdeva will conclude their questions, I anticipate,
21 of you. So thank you very much for your assistance over the last few
22 days, and we look forward to seeing you again at half past 9.00.

23 Mr. Biju-Duval, I hope that this afternoon will provide you and
24 other members of the Defence team with an opportunity of discussing the
25 new documents with Mr. Lubanga so that you are in a position to deal with

1 all matters in you final questioning hopefully tomorrow.

2 Yes, Maitre Mabilles, but only very quickly, I'm afraid.

3 MS. MABILLE: (Interpretation) Just a point I'd like to make.

4 We're going to have to change our schedule for the witnesses because
5 we're running late. I won't talk to the Chamber about it right now, but
6 I'll send you an e-mail to remind you that we'll have to change our
7 initial schedule.

8 PRESIDING JUDGE FULFORD: Well, it would be useful to know --
9 we're going to move to Witness 0011 next?

10 MS. MABILLE: (Interpretation) Yes, yeah, but afterwards, of
11 course, for the video-conferences there's going to be a lag, and since
12 we're working with the victim protection unit and they have to be brought
13 to Bunia, if the Chamber allows me to do so, I will make a proposal this
14 afternoon to make sure that we can change the timetable in a satisfactory
15 manner.

16 PRESIDING JUDGE FULFORD: Thank you very much. That's obviously
17 sensible. There needs to be cooperative discussions between the
18 Prosecution and the Defence as to how long Witness 0011 is likely to be
19 in the witness box so that proper decisions can be taken as regards the
20 scheduling of Witness 0007 and Witness 0037.

21 Thank you very much. We will sit again at half past 9.00
22 tomorrow morning.

23 The hearing ends at 13.00 p.m.

24

25