

Witness: Witness DRC-D01-WWWW-0011 (Resumed) (Open Session)
Questioned by Mr. Sachdeva (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, 12 April 2011
9 The hearing starts at 9.32 a.m.
10 (Open session)
11 COURT USHER: All rise. The International Criminal Court is now
12 in session. Please be seated.
13 PRESIDING JUDGE FULFORD: Good morning. Witness, please.
14 (The witness takes the stand)
15 WITNESS: WITNESS DRC-D01-WWWW-0011 (Resumed)
16 (Witness answered through interpreter)
17 PRESIDING JUDGE FULFORD: Good morning, sir.
18 THE WITNESS: (Interpretation) Good morning.
19 PRESIDING JUDGE FULFORD: Mr. Sachdeva.
20 MR. SACHDEVA: Thank you, Mr. President.
21 Questioned by Mr. Sachdeva: (Continued)
22 Q. Good morning, sir.
23 A. Good morning Prosecutor.
24 Q. Last week we were speaking about the decree on the 1st of June,
25 2003, and I want to take you back to something you said about that

1 situation. Is my understanding of your evidence correct that when the
2 UPC and when you returned to Bunia, President Lubanga held a rally and at
3 that rally children under the age of 18 were noticed; is that right?

4 A. Those who were there amongst the people who were armed, well,
5 some of them were below the age of 18.

6 Q. I take it that within this group there were also children under
7 the age of 15; is that right?

8 A. Less than 15? I'm talking about those who were less than 18,
9 because no one really ascertained the ages of these people, but when you
10 looked at them, they looked like people who were below the age of 18. As
11 to their being under the age of 15, no one actually verified that. No
12 one actually did a cross-checking.

13 Q. These children that were seen, you said that they were abandoned
14 and may have emanated from the ranks of PUSIC. So is your evidence that
15 these children were not part of the UPC/FPLC?

16 A. Considering the situation that preceded that event, when we
17 returned, we found these young people, and it is obvious that these young
18 people were not within the FPLC when we left Bunia. It is when we
19 returned that we saw them, and so we understood that they came from other
20 sources other than the FPLC.

21 Q. For the moment leave aside how they may have joined or come into
22 the UPC/FPLC, but at that time, were those children at the rally in the
23 UPC/FPLC?

24 A. How could we know at that point in time? They had just appeared
25 during the rally. Now to say that they were of the UPC/RP, well, I

1 cannot say that, because I did not see them before we left Bunia. One
2 thing is certain, however, and it is that when we returned, we found
3 these children, but I cannot say that before we left Bunia they were
4 there. I cannot, therefore, say that they were members of the UPC/RP.
5 When we returned to Bunia, we found them amongst the young soldiers who
6 were there, young soldiers of the FPLC.

7 Last time I talked to you about the origin of these young people.
8 So can we therefore say that they are members of the FPLC just because
9 they joined our ranks when we returned? It's up to you to appreciate
10 that, Mr. Prosecutor.

11 Q. Yet it was the presence of these children that prompted the
12 1st June, 2003, order; is that right?

13 A. That is correct.

14 Q. So Mr. Lubanga certainly thought that these children were part of
15 the FPLC, didn't he?

16 A. That is not important, whether he thought about this or not. The
17 fact is that we found ourselves in the middle of a certain situation, and
18 the situation was that within the ranks of those who bore weapons, there
19 were individuals aged below 18. That is the essential thing here. Now,
20 what he thought or did not think about was not important at that point in
21 time. The fact was that there were individuals below the age of 18
22 serving within the ranks, and they were not supposed to do so, and the
23 president deemed it important to decide on their immediate
24 demobilisation.

25 Q. That's right, serving within the ranks of the FPLC.

1 A. Could you repeat what you just said, because I did not get it.

2 Q. (* Previous translation continues) ... was serving within the
3 ranks of the FPLC, weren't they?

4 A. Mr. Prosecutor, I made myself clear. When you say they were
5 serving, you are using an imperfect tense here, and it is as if you are
6 trying to make me say that prior to the day we discovered them in the
7 rally they were already serving within the FPLC, and I have been saying
8 that I cannot state that here, because they served in the final days when
9 Bunia was taken over again. I was not in Bunia, and I cannot really
10 confirm this, and so I'm not in a position to say whether they were
11 serving or not. The fact remains that on the day of the rally, their
12 presence was noticed and a meeting was held by the president of the
13 UPC/RP, and so he had the civic spirit of having them demobilised,
14 because their presence did not tally with his conception of what an army
15 should be.

16 Q. Well, sir, I'm simply referring to what you yourself have said in
17 evidence, and I quote:

18 "The fact was that there were individuals below the age of 18
19 serving within the ranks, and they were not supposed to do so, and the
20 president deemed it important to decide on their immediate
21 demobilisation."

22 So my question is simply when you say serving within the ranks,
23 you mean, don't you, serving within the ranks of the FPLC?

24 PRESIDING JUDGE FULFORD: Mr. Sachdeva, this is becoming very
25 circular. We're going round and round on this, and that question is

1 going to prompt exactly the same answer from the witness. Now, you can
2 tackle this if you want to from a different perspective, but really,
3 going around the same track is not going to help us.

4 MR. SACHDEVA:

5 Q. Sir, you remember the decree on the 1st of June, 2003, don't you?

6 A. Yes, I do.

7 Q. You remember that the decree specifically states that children
8 under the age of 18 should be demobilised from the FPLC; isn't that
9 right?

10 A. That is correct. That's correct.

11 Q. If I suggest to you that this demobilisation never took place
12 and, in fact, the children were re-armed and used by the FPLC/UPC, what
13 do you say?

14 A. That is not true. These children were indeed demobilised, and if
15 you say they were re-armed, they were re-armed to fight where? Because
16 after we returned, there was no longer any more fighting. Sometime
17 later, the ARTEMIS force arrived, and afterwards, the president went to
18 Kinshasa and things started moving towards a situation of normalisation.

19 Now, if these children were re-armed after we returned, they were
20 re-armed to fight where? They were demobilised, because there is
21 evidence that these children were demobilised. For example, all the
22 contacts that were established organisations to take charge -- which were
23 supposed to take charge of these children.

24 Q. Did you ever attend executive committee meetings at the
25 Presidency?

1 A. Yes, a few times, about -- on about two or three occasions, I
2 think.

3 Q. Do you remember when that was?

4 A. Every time I attended an executive meeting, my presence was
5 justified by the fact that I had to bring documents or I had to wait for
6 feedback. I did not attend these meetings permanently from end to end.
7 I participated as an expert or as a technician who was there to address
8 certain needs, and if such needs were satisfied or if orders were issued
9 for me to leave, I will leave to go and take care of other activities,
10 because I was not a member of the executive. I took charge of other
11 issues. And if I was called upon, I would attend for a particular
12 purpose, at the end of which I would go away. This does not mean,
13 therefore, that I was attending all the meetings of the executive.

14 Just before the visit of Mr. Mountaga Diallo the Special
15 Representative of the UN Secretary-General, I remember at that time I
16 attended a few meetings for technical reasons, not as a full-fledged
17 member of the executive committee.

18 MR. SACHDEVA: Mr. President, may have a moment just to check one
19 issue?

20 PRESIDING JUDGE FULFORD: Of course, Mr. Sachdeva.

21 (Prosecution counsel confer)

22 MR. SACHDEVA: Thank you very much, Mr. President.

23 Q. Sir, the -- the position of national monitoring secretary, do you
24 remember when that position was nominated?

25 A. I do not fully understand. There were several positions of

1 national secretaries. What exactly are you talking about? Could you
2 please reformulate your question.

3 Q. The post I am speaking about is the *secrétaire national à la*
4 *présidence chargé du suivi*. When was that post created?

5 A. I do not remember correctly.

6 Q. If you turn to the Defence binder, and I believe it is a document
7 under tab 10, and the ERN number is DRC-OTP-0089-0090. That's a document
8 you signed; isn't it?

9 A. That is correct.

10 Q. And if you turn over the page, you will see that under Article 1
11 the -- Dieudonné Mbuna Gombi is nominated for that position; is that
12 right?

13 A. Article 1 talks about defence security diplomacy and that all of
14 these fall within the remit of the president.

15 Q. If you look on the first page of the decree itself at the bottom,
16 you will see it says "Décret," Article 1, "*et nommé*," and then under
17 point 1 you will see the position.

18 A. Maybe way have different documents. Here I read Article 1 of
19 decree number 03 bis, "Defence security and diplomacy shall fall under
20 the competence of the Presidency." That's what is written in Article 1.
21 I wonder if we have the same documents or do we have two different
22 documents?

23 PRESIDING JUDGE FULFORD: Maitre Mabilille.

24 MS. MABILLE: (Interpretation) Mr. Prosecutor, apparently we're
25 not dealing with the same documents. If you're looking at that document

1 under tab 10, then this is not the document which you -- you are
2 referring the witness to. That's why he's a bit confused. The document
3 under tab 10 has the reference DRC-00089-090.

4 MR. SACHDEVA: Very well, yes. That is a mistake. I apologise.
5 I believe the document can be found under tab 19 of the Prosecution's
6 binder. Forgive me.

7 Mr. President, I do apologise. In fact, that also is a mistake,
8 but I do have a copy for the witness to have a look at. It is one that
9 he signed.

10 PRESIDING JUDGE FULFORD: Just so we understand the ground rules,
11 it means then possibly because of the similarity in numbers that that's
12 the only copy in court. Is that right at the minute, the one in your
13 hand?

14 MR. SACHDEVA: I'm afraid so, Mr. President.

15 PRESIDING JUDGE FULFORD: Right. Usher, could you pass it to
16 Maitre Mabilie for a moment.

17 And, Maitre Mabilie, can you look at this and see if you have any
18 objections to the witness looking at this document, and we can have
19 copies made in due course.

20 MS. MABILLE: (Interpretation) No objection, your Honour.

21 PRESIDING JUDGE FULFORD: Thank you very much. Could it be
22 passed to the witness, please.

23 Sir, please take a moment to familiarise yourself with that
24 document, and Mr. Sachdeva will have some questions for you on it.

25 Maitre Mabilie?

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1 MS. MABILLE: (Interpretation) Your Honour, could this document be
2 projected on screen so that we can all view it at the time the Prosecutor
3 is asking his questions to the witness. Is that possible?

4 PRESIDING JUDGE FULFORD: The ELMO, I think it's called. Yes.
5 Is there a difficulty with that, Mr. Sachdeva?

6 MR. SACHDEVA: Certainly not.

7 PRESIDING JUDGE FULFORD: Good. Can we see if we can wake up the
8 ELMO.

9 MS. MABILLE: (Interpretation) It is in the e-court system, your
10 Honour.

11 PRESIDING JUDGE FULFORD: All right. Can we have it up on our
12 screens, please.

13 COURT OFFICER: Would the Prosecution just confirm the DRC
14 number, the ERN number.

15 MR. SACHDEVA: DRC-00089-100.

16 Q. Now, sir, the front page is your name and signature; is that
17 right?

18 PRESIDING JUDGE FULFORD: Just pause a moment, Mr. Sachdeva,
19 while the Registry gets this up.

20 COURT OFFICER: And this is a confidential document?

21 MR. SACHDEVA: (* Overlapping speakers) ... believe so.

22 THE INTERPRETER: The interpreters didn't get what Maitre Mabilie
23 said, your Honour.

24 PRESIDING JUDGE FULFORD: I'm afraid you weren't picked up at all
25 by the interpreters, Maitre Mabilie. Could you make your observation

1 again, please.

2 MS. MABILLE: (Interpretation) I understood the Prosecutor saying
3 that the document is confidential, and I stood up to say that I did not
4 understand why the Prosecutor said the document was confidential, or
5 maybe I did not understand him, or did I have problems with the
6 interpreting?

7 PRESIDING JUDGE FULFORD: I'm afraid for once, Maitre Mabilie,
8 you misunderstood Mr. Sachdeva. No confidentiality, apparently, applies
9 to this document.

10 Right. Up on the screens publicly, please, so we can get on with
11 this. Good.

12 Carry on, Mr. Sachdeva.

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

14 Q. Sir, on the front page of this document you see your name and
15 signature, don't you?

16 A. That is correct.

17 Q. And I revert to my initial question. On the second page, in the
18 decree itself it's right that under Article 1 the position of *secrétaire*
19 *national à la présidence chargé du suivi* assigned Dieudonné Mbuna Gombi.
20 Do you agree with that?

21 A. Indeed.

22 Q. And the decree is dated the 8th of June, 2003, isn't it?

23 A. It is.

24 Q. If you now turn to tab 5 of the Defence binder. And for the
25 court record this is DRC-00014-253.

1 And, sir, you remember that this is a document you said yesterday
2 you hadn't seen before, but you knew of the person who signed at the
3 bottom. You remember that?

4 A. Indeed.

5 Q. This document is dated the 3rd of June, 2003, isn't it?

6 A. Yes, it is.

7 Q. Mr. Dieudonné Mbuna is signing the document as the *chargé du*
8 *suivi* five days before he was officially appointed; isn't that right?

9 A. There is a situation that has to be noted, if you would allow me,
10 and that is that -- what's this called? The title of the grade that's
11 given which previously was in the change. Now, if you have a look here,
12 before, in fact, he was *chargé du suivi et questions militaire*, and on
13 the date of the decree he had the military aspect taken away, and he was
14 just put in charge of *suivi* and no longer *questions militaire*. That's
15 what I see in the document.

16 So in addition to *suivi*, he had *questions militaire*, but
17 thereafter he no longer had responsibility for *questions militaire* and
18 was only responsible for *suivi*. So that was a change to the title that
19 was made where he had certain competencies taken away from him, and
20 that's what I get out of this documentation.

21 Q. Was Mr. Mbuna appointed to the *secrétaire national à la*
22 *présidence chargé du suivi et questions militaire*?

23 A. Well, I couldn't tell you the date exactly. I mean, it was a
24 long time ago that things happened, but what I do know is that Mr. Mbuna
25 held different positions. He changed posts on several occasions. I

1 can't remember exactly when he was appointed for the posts with military
2 issues and also when he had this competence for military issues taken
3 away from him.

4 Q. Well, if you look at the decree, the 1st of June, 2003, decree,
5 where this post is mentioned, there is no stipulation at all in relation
6 to military questions. It's end tab 4 of the Defence binder.

7 A. I think that it must be a problem with regards to the mission in
8 this decree. At least he was responsible for *suivi et questions*
9 *militaire*, and that is how -- why he was interested in the military
10 matters and demobilisation. I think there was a mission which was also
11 being responsible for *suivi* in the 1st of June document.

12 THE INTERPRETER: The interpreter collects: I think there is an
13 omission of *questions du suivi* in the decree in the June document.

14 MR. SACHDEVA:

15 Q. Well, leaving aside what you think, it's right that there -- the
16 position as stated in this decree refers to the national monitoring
17 secretary, and it does not specify anything to do with military
18 questions; isn't that right?

19 A. Of course. I already said that. That's correct.

20 MR. SACHDEVA: Mr. President, at this stage I would seek leave to
21 tender the document DRC-00014-253.

22 PRESIDING JUDGE FULFORD: Unless there are any objections, EVD
23 number, please.

24 MS. MABILLE: (Interpretation) No objection, your Honour.

25 PRESIDING JUDGE FULFORD: Thank you. EVD number, please.

1 COURT OFFICER: Thank you, Mr. President. The document
2 DRC-OTP-0014-0253 will bear the EVD number EVD-OTP-00679.

3 PRESIDING JUDGE FULFORD: Thank you.

4 Yes, Mr. Sachdeva.

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

6 Q. Sir, last week we were discussing the 21st October, 2002,
7 demobilisation order, and I'm just going to run through what I understand
8 your evidence to be, and please let me know if that is a correct
9 understanding.

10 You said that there were two registers. One register would
11 relate to documents that emanated from the cabinet, the president's
12 cabinet, and one register that related to documents emanating from the
13 private secretary; is that right?

14 A. One small clarification. Documents that emanated from the
15 Presidency or the cabinet, on the one hand, and by the private secretary
16 on the other, when it comes to the cabinet, you had -- well, it was
17 coming from the Presidency via the cabinet and via the private secretary.

18 Q. Very well. And you said that the way in which the documents
19 could be distinguished would be the layout of the documents. So
20 documents that emanated from the private secretary would have the
21 reference number on the left, the date and place on the left and the cc
22 on the left-hand side; is that right?

23 A. In fact, that is what the private secretary would do. They would
24 present documents with all the references and the signatories which would
25 be lined up on the left. They had a classic template, if you like, while

1 the documents that came from the cabinet of the president had, first of
2 all, a cc at the top, while the private secretary had a cc at the bottom,
3 and they had the date and reference on the right. This was a question
4 of -- well, it wasn't an administrative rule which was established, but
5 it was a habit, if you like. They had different habits. It wasn't said
6 that the private secretary, you have to do it on the left, and it wasn't
7 said to the cabinet, you have to have everything on the right-hand side.
8 No. This wasn't a rule, but there were habits that developed in this
9 way. The private secretary would do it in that way. I would present
10 things lined up on the left, while the cabinet would do it on the right,
11 and that's basically developed over time into a type of routine.

12 Q. Could I ask you to turn to tab 43 of the Prosecution's binder.
13 For the court record, it's D-00089-069.

14 Now, this document is in the same format and same layout as the
15 21st of October, 2002, document. Would you agree with that?

16 A. Yes.

17 Q. The reference is on the left. The cc is on the left at the
18 bottom. Do you see that?

19 A. Indeed.

20 Q. The document that we have here is dated the 30th of November,
21 2002, isn't it?

22 A. It is.

23 Q. The reference number, if I turn your attention to the reference
24 number, is 190. Do you see that?

25 A. I do, yes.

1 Q. Why is a document in November 2002 emanating from the same
2 register as the 21st October 2002 document? Why does it have a lower
3 reference number than the 21st October 2002 document, which you will
4 recall had a number 287.

5 A. Yes. When I look at this document, when I look at the writing of
6 the date and the reference number, you can see it's lined up as the
7 private secretary document, but this isn't from the private secretary,
8 because the numbering and the writing is not my writing. I personally
9 wrote it. So this is a document which must have been written for --
10 by -- or which was asked to be written by the private secretary but which
11 was returned.

12 Well, this is an arrangement. It must be what explains or --
13 well, I was the person who was meant to have written this document. This
14 is my logic. But this document must have been asked for by the director
15 of the cabinet, because the writing isn't mine. So this must come from
16 the director of the cabinet. So it's not necessarily said that it's a
17 rule that as a private secretary you always have to line things up on the
18 left, and on the president's cabinet you have to line it up on the right.
19 No. It's a problem of habit. I was used to writing my documents taking
20 all the elements on the left, so I would repeat that this must come from
21 the cabinet of the president given that the writing of the number and the
22 date is not mine.

23 Q. Sir, are you making this up as we go along here?

24 A. Prosecutor, this is the truth. This is something that happened,
25 and when I look at the writing, it's the truth. It's evident. It can be

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1 checked. It's not something I'm just making up now. It is a fact. It's
2 there. It makes it possible to remember what happened.

3 If you look at the form in which it was presented, it must have
4 been a document that was written in theory by me if you look at the
5 writing on the left, but if you look at the actual writing and the
6 numbers, this has to be a document that came from the director of the
7 cabinet of the Presidency. This isn't something that I'm just inventing
8 now. This is a fact. It's a fact. The facts are the facts. You can't
9 change them. It's not just a thought. This is a fact. Which makes me
10 go back to what I see before me.

11 MR. SACHDEVA: Mr. President, could this document be given an EVD
12 number, please.

13 PRESIDING JUDGE FULFORD: Certainly.

14 COURT OFFICER: Mr. President, document DRC-OTP-0089-0069 already
15 bears an EVD number that was attributed to at the trial phase. The EVD
16 number is EVD-OTP-00505.

17 MR. SACHDEVA: I'm just about to start my last series of
18 questions. If I may just have one moment.

19 (Prosecution counsel confer)

20 MR. SACHDEVA:

21 Q. Sir, I take it you know of a Mr. Djokaba.

22 A. Who? Which? I know three of them, I think. Which are the ones
23 you're talking about?

24 Q. Djokaba Lambi Longba?

25 A. Yes, I know.

1 Q. You're aware that he testified, aren't you?

2 A. Really? You're the one who's telling me that. I thought he was
3 in prison in Kinshasa.

4 MR. SACHDEVA: Mr. President, that's the cross-examination.
5 Thank you.

6 PRESIDING JUDGE FULFORD: Thank you, Mr. Sachdeva.
7 Anything, Maitre Mabilille?

8 MS. MABILILLE: (Interpretation) No additional questions, your
9 Honour.

10 PRESIDING JUDGE FULFORD: Thank you, Maitre Mabilille.

11 Sir, that now concludes your testimony before this court. We
12 want to thank you for your participation and for your patience. We are
13 aware that we have kept you waiting over a number of days to give
14 evidence, and your testimony has also stretched over quite a long period
15 of time.

16 It is critical for the effective working of this court that
17 people such as yourself are prepared to come all this way to testify
18 before us. In order for us to be able to understand the truth in this
19 case, it is absolutely necessary that witnesses on both sides come to
20 give their evidence as to the relevant events and the material issues.
21 We are acutely aware of the inconvenience for you and the possibility of
22 some personal danger. So for all those reasons, you may leave us now, as
23 I say, with our sincere thanks.

24 Usher, can you please accompany the witness back to the witness
25 waiting-room.

1 THE WITNESS: (Interpretation) Thank you very much, your Honour.

2 I don't know if I can ask something.

3 PRESIDING JUDGE FULFORD: You can certainly ask something. I

4 don't guarantee you'll get an answer, but please put the question.

5 THE WITNESS: (Interpretation) Thank you very much, your Honour.

6 I've spent three weeks here almost, and would you just give -- I just

7 wanted to ask if I could great Thomas Lubanga before my departure.

8 PRESIDING JUDGE FULFORD: I think we have already made

9 arrangements in relation to this, sir, so once you've left court and

10 during an adjournment either today or tomorrow, there will be an

11 opportunity for you to meet with Mr. Lubanga and greet him.

12 THE WITNESS: (Interpretation) Thank you very much.

13 PRESIDING JUDGE FULFORD: Thank you very much indeed. You're now

14 free to go.

15 (The witness withdrew)

16 PRESIDING JUDGE FULFORD: Counsel, the position now is that we're

17 turning to the first of the witnesses testifying via a videolink. The

18 Registry are going to need half an hour to set up the arrangements. It's

19 been tested, I think, a number of times, and as of the last test the

20 connection seemed to be working well.

21 I know that it is difficult sometimes to say whether documents

22 are definitely going to be relied on because it all depends on how the

23 questioning goes, but are there any documents which one side or the other

24 is definitely going to rely on in relation to which there is definitely

25 an objection, because it's probably best for us to, with those documents

1 and those documents only, to resolve the dispute, if we can, before the
2 video testimony begins given that it's slightly awkward.

3 Any in that category?

4 MS. SAMSON: If I may respond, your Honour. There are three
5 documents on the Prosecution's list of potential documents to be used
6 with this witness. The Defence has objected to two of those three
7 documents. It is unlikely that the Prosecution will be using those
8 documents in the course of this examination. They were placed on the
9 list pending the answers of the witness. The Defence, I think rightly
10 indicates, that right now there is no basis to suggest that this witness
11 can comment upon them. We will have to see. But, of course, should he
12 not be able to, we will not be proceeding to show them to him.

13 PRESIDING JUDGE FULFORD: Absolutely, Ms. Samson. If in due
14 course in your judgement the circumstances make it appropriate for you to
15 reply to rely on them, we'll make whatever arrangements are necessary for
16 the matter to be litigated during the course of the witness's evidence.
17 Thank you for that indication.

18 MS. SAMSON: Thank you.

19 PRESIDING JUDGE FULFORD: Excellent.

20 Public testimony, Maitre Mabile? Any security issues that we
21 need to be aware of?

22 MS. MABILLE: (Interpretation) No, your Honour. Public testimony
23 without any request. No particular request.

24 PRESIDING JUDGE FULFORD: And will the witness be able to read
25 the words on the card when entering into his or her solemn testimony?

1 I'm sorry, I don't remember off the top of my head if it's a man or a
2 woman.

3 MR. DESALLIERS: (Interpretation) Yes, your Honour. It's a man,
4 and he has no difficulty or will have no difficulty in reading the card
5 which will be put before him.

6 PRESIDING JUDGE FULFORD: Excellent. Well, subject to any other
7 issues in relation to this witness, we will then sit at 11.00 to commence
8 his testimony.

9 Eleven o'clock.

10 COURT USHER: All rise.

11 Recess taken at 10.29 a.m.

12 On resuming at 11.03 a.m.

13 (Open session)

14 COURT USHER: All rise. Please be seated.

15 PRESIDING JUDGE FULFORD: Good morning, Court Officer.

16 COURT OFFICER: (Via videolink) Good morning, your Honour.

17 PRESIDING JUDGE FULFORD: Can you hear me clearly?

18 COURT OFFICER: (Via videolink) I can hear you loud and clear,
19 your Honour.

20 PRESIDING JUDGE FULFORD: Excellent.

21 Ladies and gentlemen, I have been asked to remind you of the
22 potential two-second delay between here and Africa, although having heard
23 the exchanges just now, I think it's probably less than two seconds, but
24 please be aware of it.

25 Good. Can we have the witness in then, please.

1 WITNESS: WITNESS DRC-D01-WWWW-0007

2 (Witness answered through interpreter)

3 (Witness testified via videolink)

4 PRESIDING JUDGE FULFORD: Does the witness need to be given
5 headphones?

6 COURT OFFICER: (Via videolink) No, your Honours. He can hear the
7 French language from the -- from the volume of it.

8 PRESIDING JUDGE FULFORD: Excellent.

9 Good morning, sir.

10 THE WITNESS: (Interpretation) Good morning.

11 PRESIDING JUDGE FULFORD: In a moment, you are going to be asked
12 some questions by Mr. Desalliers. Can I ask you, please, to make sure
13 that you listen carefully to what he says and to speak slowly when you
14 reply so that everything you say is properly interpreted; is that clear?

15 THE WITNESS: (Interpretation) Yes, perfectly clear.

16 PRESIDING JUDGE FULFORD: Excellent. There is, I hope, a card
17 with some words written on it that is about to be given to you. Would
18 you please read those out loud so that we can hear you give your solemn
19 undertaking to tell the truth.

20 THE WITNESS: (Interpretation) Yes.

21 PRESIDING JUDGE FULFORD: Please do so.

22 THE WITNESS: (Interpretation) I solemnly declare that I will say
23 the truth, all the truth, nothing but the truth.

24 PRESIDING JUDGE FULFORD: That was excellently done, and if you
25 give your evidence in that way, we will get along extremely well.

Witness: Witness DRC-D01-WWWW-0007 (Open Session)
Questioned by Mr. Desalliers

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1 Mr. Desalliers, you can remain seated.

2 Questioned by Mr. Desalliers:

3 Q. (Interpretation) Good morning, sir.

4 A. Good morning, Marc.

5 Q. I was going to say that we've already met. However, I don't
6 believe we need to do that now. Today, sir, I'm going to ask you a few
7 questions on behalf of the Defence of Mr. Thomas Lubanga. Do you hear me
8 clearly?

9 A. Yes, I hear you perfectly well.

10 Q. Just a little reminder: Please, it's not easy to remember to do
11 this, it's not natural, but when I've finished asking a question, can you
12 please wait a couple of seconds before you answer to help the
13 interpreters.

14 A. All right.

15 Q. Could you start by telling us your complete name, please.

16 A. My name is Origène Lokana Nyamutale Katekpa.

17 Q. And what's your date of birth?

18 A. I was born on the 1st of January, 1963.

19 Q. Where were you born?

20 A. In Balouwa.

21 THE INTERPRETER: I apologise: "In Blukwa."

22 MS. SAMSON:

23 Q. Could you tell us more or less where Blukwa is located?

24 A. It's in Walendu-Pitsi area and a bit of Bahema Nord area, it's
25 also halfway between Laddedjo and Buku area and 72 kilometres north-east

1 from Bunia.

2 Q. And where do you live currently?

3 A. Right now I'm living in Bunia.

4 Q. Thank you. I would now like to ask you some questions about the
5 concept of a self-defence committee in Ituri. Could you explain to us,
6 explain to the Chamber, what are or what were the self-defence committees
7 in Ituri?

8 A. A self-defence committee was a committee -- was the body used by
9 the population during the war that raged here in Ituri and in which sort
10 of able men, young men, joined, people who were able to defend the
11 population when there were attacks.

12 Q. From when were these committees created?

13 A. I can't remember exactly the date, but my committee began at a
14 meeting of commanders of the APC, the Army of the Congolese People in
15 Fataki.

16 Q. You can't remember the exact date, but do you have an idea as to
17 what year that happened?

18 A. That was around 1999.

19 Q. Therefore, as you have said, start -- this started at Fataki. Do
20 you know how many committees there may have been, self-committee
21 defences -- self-defence committees there may have been in Ituri?

22 A. We had self-defence committees in every village in which the Hema
23 lived.

24 Q. Therefore, approximately, if you know, could you tell us roughly
25 how many there may have been?

1 A. Well, you can count every single village or Hema village in
2 Ituri, and there are a lot. I don't know the precise figure, not offhand
3 at least.

4 Q. Could you explain to us how these committees were organised?

5 A. A committee was made up of chairmen in every village. There were
6 secretaries, and then collectors. They were in charge of the committee,
7 and they knew the fighters of the self-defence force.

8 Q. And who were these fighting members of the self-defence
9 committees?

10 A. All the young people who were able to fight.

11 Q. But have you got an idea of the age bracket of the people who
12 were able, who could fight, who could be members of the fighting forces?

13 A. We do not take age into account. If somebody could fight with a
14 machete or with a spear, and if there were weapons, if he could carry a
15 firearm, we would give it to him.

16 Q. You spoke about the structure of a committee. Could you tell us
17 whether the various committees in the different villages were linked with
18 one another, or did they operate autonomously? Could you tell us a bit
19 how this worked?

20 A. Every committee was independent, but to organise them we had set
21 up a co-ordination unit that could help them link with one another when
22 they needed something or a firearm. It was up to the co-ordination to
23 buy it, and we would give them money to do so.

24 Q. Until when did the self-defence committees operate?

25 A. The self-defence committees existed until 2004.

1 Q. Could you tell us if you personally played a role in the
2 self-defence committees?

3 A. I was the coordinator of self-defence committees.

4 Q. And what were your main functions as the coordinator?

5 A. My function was, for instance, when commanders had held a
6 meeting, I would promote awareness in the population of the various
7 villages so that they -- to ensure that they would actually take their
8 defence into their own hands, because they used to flee when there were
9 attacks. But I told them not to flee. We had to defend ourselves,
10 defend ourselves. We couldn't flee forever. And then the population saw
11 that I was flexible. They would give me their reports, their requests if
12 they needed something, or they would, for instance, tell me where you
13 could buy arrows in Bunia or how you could make spears, and that's the
14 way in which I helped the population.

15 Q. Those weapons you've just talked about, well, you've explained
16 there were arrows, hence -- and then you talked about other weapons.
17 With a kind of weapons were you referring to?

18 A. We were -- we bought firearms and weapons we often called SMGs.
19 SMJs, I apologise.

20 Q. How did the committees get their hands on these weapons?

21 A. I talked about the collectors earlier. They were members of the
22 village self-defence committees. So when there was a need, money would
23 be collected. Every inhabitant of the village would give money, and that
24 cash was brought to me so that I could find here and there firearms.

25 Q. And from whom were these weapons bought?

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1 A. We used to buy them from soldiers of the APC, the Army of the
2 Congolese People troops, and also from the Ugandan troops who were the
3 masters in the field at that point in time.

4 Q. Do you know somebody called Commander Pepe?

5 A. Yes.

6 Q. Who was he?

7 A. Commander Pepe was an APC commander, and he held the meeting in
8 Fataki and -- in which people were told that if they were going to flee
9 every time that we were attacked, they would have to leave forever. And
10 that's when we started setting up our self-defence committees.

11 Q. And Commander Pepe belonged to -- I apologise. I apologise. You
12 said that Commander Pepe was a member of the APC. Insofar as you know,
13 did he belong to another armed group?

14 A. No. What armed group are you referring to?

15 Q. You said that Commander Pepe belonged to the APC. Did I
16 understand you correctly?

17 A. Exactly.

18 Q. Apart from the APC, insofar as you know, did Commander Pepe
19 belong to another armed group, if you know the answer?

20 A. No. He's dead. He died close to the headquarters of -- the
21 headquarters of the APC. I do not.

22 Q. When did he died?

23 A. I do not remember when he died.

24 THE INTERPRETER: The interpreter points out that the witness
25 said he died in Beni.

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1 MR. DESALLIERS: (Interpretation) Could we show the witness the
2 document -- the only document that -- to found in the Defences folder
3 with the number DRC-D01-0003-2176.

4 THE WITNESS: (Interpretation) Yes, I can see it.

5 MR. DESALLIERS: (Interpretation)

6 Q. Could you tell us if you recognise this document.

7 A. Yes, I do.

8 Q. Could you explain to us what it is?

9 A. That is a document I drafted on the day which the president of
10 the UPC invited us to his home, and I had to write down the minutes of
11 this meeting, because they had to be disseminated through the villages in
12 the self-defence committees.

13 Q. On the first page we can see at the very top "Tuesday, the 26th
14 of February, 2003." Was that meeting held on that day or at another
15 date?

16 A. On that very day.

17 Q. And if you go to the second page of this document, we can see
18 several signatures at the bottom of the page.

19 A. Indeed.

20 Q. Do you recognise your signature?

21 A. Yes.

22 Q. Could you explain to us where it is?

23 A. It's on the left-hand side. It's on the left-hand side corner at
24 the top where my name appears, Katekpa Nyamutale.

25 Q. Thank you. Could you tell us who the other signatures are?

1 A. Yes. There was my secretary, Apase (*as interpreted); the
2 chairman of the self-defence committee, Lobongana (* as interpreted);
3 there was Floribert, from Fataki; and Daniel, from Centrale.

4 Q. Thank you. Could you tell us who took the initiative of
5 organising the meeting held on the 25th of February, 2003?

6 A. On the 25th of February, 2003, was the president of the UPC who
7 invited us to his residence.

8 Q. When you say "you," who are you referring to? Who was invited by
9 the president?

10 A. He had invited myself, the coordinator of the self-defence
11 committees, and there were a few chairmen from other villages that I
12 could find very quickly as he'd asked me to call them. So I called the
13 chairman of Centrale and the chairman of Fataki, and my own secretary.
14 The president -- the president had not got to Fataki before we had
15 finished our meeting.

16 Q. Why did Mr. Lubanga want to meet you?

17 A. We explained the purpose of this meeting in the minutes of the
18 document. What we had realised on that day was that we had to establish
19 criteria in terms of age and we -- children, I mean, 12 to 13 who were
20 big enough to carry to carry weapons, were no longer to take part in the
21 fighting, were no longer to be part of our fighting troops.

22 Q. And what was your reaction or the reaction of your group with
23 respect to the request by President Lubanga?

24 A. The president asked us to give these weapons to the UPC military,
25 and we didn't agree with that, and we were reluctant because if we handed

1 in these firearms to the military, we were going to be defenseless, and
2 we would not be able to protect ourselves. Moreover, those troops often
3 came to meet when villages had been destroyed, so we really didn't -- we
4 really objected to the idea that our rifles should be taken away and we
5 should be left without any way we could defend ourselves when we had
6 bought these guns with our own money.

7 Q. Did you reach an agreement in the course of that meeting?

8 A. The discussions were very acrimonious. At some point he
9 threatened us that if we do not give the weapons, they were going to be
10 seized from us by force. Finally, we accepted that we could disarm the
11 children, but we were not going to give the weapons to the soldiers and
12 that we were going to keep the weapons ourselves.

13 Q. And what did you do after this meeting with Mr. Lubanga?

14 A. After that meeting, I went to the various villages in order to
15 inform the village committees, the village self-defence committees, about
16 our discussions with the president of the UPC.

17 Q. And how did the various self-defence committees receive this
18 message?

19 A. Their reaction was similar to our reaction when we were before
20 the president. This was because the number of people who could defend
21 the vulnerable population, the children and the old people, was going to
22 reduce if we were going to disarm the children who had not yet reached
23 the age of majority, and so there was reticence.

24 Q. And what was effectively done with respect to children serving in
25 self-defence committees after that meeting?

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1 A. After that meeting, when we discussed with the grassroots
2 populations about the content of the meeting, some of them demobilised or
3 took weapons from their children. Others did not. They kept the weapons
4 right up to the year 2004.

5 Q. When you say children who had not reached the age of majority,
6 what age are you talking about?

7 A. I am talking about the age of 15, 16, 17, 18. These children had
8 not reached the age of 15.

9 MR. DESALLIERS (interpretation): Thank you, your Honour. Could
10 we please give a EVD reference to this document.

11 PRESIDING JUDGE FULFORD: Certainly. Court Officer.

12 COURT OFFICER: Thank you, Mr. President. Document
13 DRC-D01-0003-2176 will bear the following number: EVD-D01-01095.

14 MR. DESALLIERS (interpretation): Thank you.

15 Q. Sir, you said that the self-defence committees existed right up
16 to the year 2004. Could you please tell us why these committees ceased
17 their activities in the year 2004?

18 A. The self-defence committees stopped their activities in the year
19 2004 because the UN force was present here in Ituri. And for the UN
20 force, everyone who held firearms was a bad element, and so they could --
21 they would be shot at or imprisoned. Hence a consensus was reached to
22 disarm and reintegrate these individuals, what we called DDRRR. The
23 weapons had to be handed in so that no weapons would no longer be present
24 in the villages.

25 Q. You personally, did you go through this process of disarmament

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1 and demobilisation?

2 A. I was not demobilised, because I handed over my weapon to the
3 commanders of the UPC when the UN force was here. I gave the weapon to
4 them because they said they were going to hand over all weapons collected
5 to MONUC.

6 MR. DESALLIERS (interpretation): Could I have one moment, your
7 Honours.

8 (Defence counsel confer)

9 MR. DESALLIERS (interpretation): Thank you very much, sir.

10 Your Honour, I have no further questions.

11 THE WITNESS: (Interpretation) Very well.

12 PRESIDING JUDGE FULFORD: Thank you, Mr. Desalliers.

13 Ms. Samson, are you ready?

14 MS. SAMSON: I am, Mr. President.

15 PRESIDING JUDGE FULFORD: Please continue.

16 Questioned by Ms. Samson:

17 Q. Good morning, sir. We met very briefly. My name is
18 Nicole Samson.

19 A. Good morning. Good morning, Nicole.

20 Q. As you remember, I represent the Prosecution, and I have a few
21 questions for you today.

22 A. Yes, I do remember.

23 Q. Sir, you are Hema North; is that correct?

24 A. Yes.

25 Q. And you currently reside in Bunia?

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1 A. Yes.

2 Q. You are living in the Mudzipela area of Bunia; is that right?

3 A. Yes.

4 Q. And you've told the Court that you were born in Blukwa. Blukwa
5 is in the north-east --

6 A. That is correct. That is correct.

7 Q. Blukwa is in the north-east of Ituri; is that right? It is
8 north-east of Bunia?

9 A. Yes. Yes.

10 Q. You mentioned that there were other villages with Hema
11 populations in the north-east part of Ituri; is that right?

12 A. Could you please repeat your question.

13 Q. Certainly. In the north-east part of Ituri, there are a number
14 of villages with Hema populations; is that right?

15 A. There are many villages that have Hema populations, yes.

16 Q. I'm going to name a number of these villages, and you can tell me
17 whether they are villages that have Hema populations. Is that okay?

18 A. Very well.

19 Q. Villages such as Fataki, Bule --

20 A. Yes, they have Hema communities. Yes.

21 Q. And Mandro, Lopa?

22 A. In those villages as well there are Hema communities.

23 Q. Also in Largu; Katoto; Blukwa, as we've mentioned.

24 A. In Katoto there's a Hema community. There is Blukwa-Mbe, and
25 there is only Blukwa. In Blukwa-Mbe you have a Hema community and a

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1 Lendu community.

2 Q. The self-defence forces that you were coordinating included
3 forces in the villages that I've just mentioned; is that right?

4 A. Not only in those villages. There were others as well.

5 Q. Yes. And these were Hema self-defence forces?

6 A. Yes.

7 Q. In 1999, there were violent clashes between Lendu and Hema
8 populations, weren't there?

9 A. There was an attack on the Hema community by the Lendu community.

10 Q. There were many attacks involving Hema and Lendu in the 1999
11 period; isn't that right?

12 A. From the year 1999, yes.

13 Q. And these Hema self-defence forces were created as a result of
14 these attacks; correct?

15 A. The self-defence groups were set up to defend the villages in
16 which Hema communities were living.

17 Q. The self-defence forces were set up by Hema to protect against
18 Lendu attacks, just to be clear. That's right, isn't it?

19 A. That is correct.

20 Q. And as you've already told the Court today, the Hema self-defence
21 forces needed to use all available hands in order to protect themselves?

22 A. That is correct.

23 Q. Anyone who could help in some way would be used?

24 A. Yes.

25 Q. Because it was a matter of life or death for the villagers whom

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1 these self-defence forces were protecting, wasn't it?

2 A. Yes.

3 Q. And for that reason, the self-defence forces included people of
4 all ages, as you've said, including children under the age of 15. That's
5 right, isn't it?

6 A. Yes. Who were capable of defending the village.

7 Q. But you also needed people with military training?

8 A. Yes.

9 MS. SAMSON: Your Honour, the English transcript seems to be
10 frozen several questions back.

11 PRESIDING JUDGE FULFORD: Yes. I was hoping it might recover.
12 So can you pause for a moment. I think there's a technician in court.

13 Ms. Samson, I was going to give everybody a 10-minute break at
14 around 12.00. I think this would be an appropriate moment to do so.

15 Sir, thank you very much indeed for your assistance so far.
16 We've got a small technical problem in The Hague in relation to the
17 transcripts of the evidence. It's being sorted out, and so we're just
18 going to just take a 10-minute break, and so we look forward to seeing
19 you again over the videolink in 10 minutes' time. Is that clear?

20 THE WITNESS: (Interpretation) Very well.

21 PRESIDING JUDGE FULFORD: 12.00, ladies and gentlemen.

22 COURT USHER: All rise.

23 Recess taken at 11.47 a.m.

24 On resuming at 2.01 p.m.

25 (Open session)

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1 COURT USHER: All rise. Please be seated.

2 PRESIDING JUDGE FULFORD: Good afternoon, sir. (* Microphone not
3 activated) ...

4 COURT OFFICER: (Via videolink) Yes, your Honour. I can hear you
5 loud and clear.

6 PRESIDING JUDGE FULFORD: Good. Well, can I apologise to the
7 witness for having kept him waiting. We had a technical problem which
8 was solved about ten minutes ago.

9 Sorry for the interruption, Ms. Samson. Please continue.

10 MS. SAMSON: Thank you, Mr. President.

11 Q. Sir, just before the break you had confirmed that the Hema
12 self-defence forces that you were coordinating needed persons with
13 military training.

14 A. Exact.

15 Q. And this was because you needed persons who could properly defend
16 the Hema community?

17 A. What did you say in your question? Could you ask the question
18 again, please.

19 Q. Certainly. You wanted to have persons protect and defending the
20 Hema community who knew how to use weapons or knew of military tactics;
21 isn't that right?

22 A. I said that anybody who could use a weapon, whether a firearm or
23 bow and arrows was welcome in the self-defence community. Sorry,
24 self-defence unit.

25 Q. Yes. And you have also stated that the self-defence forces

1 needed to have some persons with military training, and my additional
2 question to you is: You wanted persons to have military training so that
3 they could use weapons and better protect the community; is that right?

4 A. We said that we needed anybody who could help defend our
5 communities, whether they had followed military training or not.

6 Q. At some point, persons from Hema self-defence forces were trained
7 by the UPC; is that right?

8 A. That's not what I said. I didn't say that members of the
9 self-defence groups had been trained by UPC people. They were young boys
10 from the village who went to follow military training at the UPC, where
11 the UPC was training its troops in Mandro.

12 Q. So, sir, just to ensure that I have understood your answer, it's
13 right that young boys from the village followed training with the UPC.
14 That's what you've said?

15 A. The young boys from the village who left for -- for training at
16 the UPC never came home to the village. They remained as UPC troops, and
17 we remained with those who had not left to follow this kind of training.
18 We believed they would come home to defend our villages, but that was not
19 the case.

20 Q. And the -- as Hema villagers, and you yourself as a coordinator
21 of a Hema self-defence group, you encouraged some of these young boys to
22 be trained with the UPC in Mandro; is that fair?

23 A. We sent boys to follow that kind of training, but the idea was
24 that these boys would come home to their villages, but this is not what
25 happened. They never came home, never came home to defend us. They

1 remained as troops of the UPC. They stayed on as troops of the UPC.

2 Q. These young boys were Hema; is that right?

3 A. There were even Alur who were trained by the UPC, but we sent
4 Hema boys, yes.

5 Q. And some of the young boys that you sent to be trained within the
6 UPC were under the age of 15, weren't they?

7 A. What I said ...

8 Q. Sir, I'm sorry, have you finished your answer?

9 A. I said that I never had stated that those boys we had sent from
10 our self-defence group to follow military training were under 15. We
11 sent adults, and the under-15 boys stayed home with us.

12 Q. So you encouraged young boys to be trained in the UPC, as you've
13 said today, in part to protect your own villages; that's right?

14 A. We sent them with the idea that they would come home to defend
15 their respective villages, but that's not what happened. They never came
16 back to defend their home villages, and we remained with those who had
17 not gone to follow military training.

18 Q. Yes, I understand, but your intention when you sent them for
19 training was that they would come back and protect your village because
20 it was a matter of life or death, as you indicated earlier?

21 A. Precisely. Yes, yes. And that's why we sent young boys, because
22 we wanted them to come back, but, no, they never did.

23 Q. At the time that you sent these young boys, you were not
24 concerned about their ages, were you?

25 A. Could you repeat the question, please.

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1 Q. Certainly. At the time that you sent these young boys for
2 training, expecting them to return to protect the village, you were not
3 concerned about their ages, were you?

4 A. What are you saying? We took their age into account. I told you
5 that we took into account their age with respect to those we sent them,
6 because you can't send a child to follow military training. You must
7 send somebody who can put up with the tough aspects, who can come to
8 terms with hunger and learn, be able to defend himself, because you have
9 physical training, this kind of training too.

10 MS. SAMSON: Your Honour, may I ask that when I'm asking a
11 question the video camera be placed onto the image of the witness,
12 because it's difficult to ask a question when I only see my own image on
13 the screen.

14 PRESIDING JUDGE FULFORD: Certainly. You're at a disadvantage,
15 Ms. Samson, in comparison with the rest of us, because our screens have
16 the witness with a little box with you in it. I was just admiring how
17 clever it is.

18 Can somebody please configure Ms. Samson's screen so that she has
19 the same arrangement as the Judges. So the witness filling the screen
20 but with Ms. Samson --

21 MS. SAMSON: I do have that image right now, but it often changes
22 when I ask a question, so I have only my own face. I prefer if that
23 image with the small caption remain the entire time, if possible.

24 PRESIDING JUDGE FULFORD: Right. Well, I'm sure that somebody in
25 the technical booth is listening to this. Please don't change the image

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1 on Ms. Samson's screen. Keep it permanently as it is with the judicial
2 screens.

3 No, no. It's a perfectly reasonable point, Ms. Samson. It's
4 very odd not being able to see the person who you're addressing.

5 Good. Please continue.

6 MS. SAMSON: Thank you.

7 Q. Sir, when you were describing your meeting with Mr. Lubanga in
8 February 2003, you indicated that it was at that time that you realised
9 Mr. Lubanga wanted you to cease using children ages 12 and 13; is that
10 right?

11 A. What I said is that Mr. Lubanga had invited us that morning, and
12 we didn't know why he was calling us. It was during the meeting that we
13 came to understand that he wanted of UPC troops to recover the weapons
14 from underaged children, children who had not reached adult age.

15 Q. You had not met with Mr. Lubanga on this issue before, had you?

16 A. No. No.

17 Q. This was the only meeting you had with Mr. Lubanga in which he
18 asked you not to use children under the age of 15?

19 A. Yes, because we, the self-defence group, didn't have the same
20 ideology as the UPC. The UPC was calling for reconciliation and peace,
21 but we didn't see how that would help us defend ourselves -- defend
22 ourselves. I mean, they were going to take our weapons away and the
23 fighting was continuing, so we wondered if that we'd not end up in a
24 situation where we couldn't exist any more.

25 Q. (* Microphone not activated) ... with the time in which you and

1 other villagers from Hema communities sent young boys to train at Mandro,
2 in which years this occurred?

3 A. It was in 2002.

4 Q. Having not met with Mr. Lubanga in relation to the age of the
5 children that the UPC wanted to accept, I suggest to you that you, not
6 knowing what the UPC wanted, sent children of all ages, including those
7 under 15, to be trained at Mandro.

8 A. I told you that we had not sent underaged children, because if we
9 had sent everybody for military training - and this was in the middle of
10 fighting - who was going to ensure the safety of the population that
11 remained in the village if we sent everybody for training?

12 Q. I take it, sir, that you were not physically present when
13 recruits from all the villages within Ituri were sent to train at Mandro.

14 A. Military training was not carried out just one day. I mean,
15 young people would go and follow military training according to where the
16 fighting was going on while the others stayed on to protect the
17 population that remained in the villages.

18 Q. Sir, my question was a different one. My question was: You
19 yourself were not physically present during the moments when children,
20 young boys, were taken from Hema villages for training at Mandro. Isn't
21 that right? You yourself were not present at that moment.

22 A. I wasn't there enlisting children. We talked matters over with
23 members of the committee to send young people who had the right age to
24 follow military training, and we believed they would come home, but I
25 was -- indeed I wasn't there in every village.

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1 Q. Sir, the UPC itself also defended against attacks by Lendu
2 forces. That's right, isn't it?

3 A. The UPC was defending us against the APC, and they often came to
4 try and protect the civilian population, but they often turned up late.

5 Q. The UPC was also engaged in battles against Lendu forces, weren't
6 they?

7 A. I wasn't there. I didn't see the UPC fighting against Lendu
8 fighters, but the UPC would come whenever a village was attacked. They
9 frequently came to defend the population, but usually the Lendu fighters
10 had already left.

11 Q. Sir, where were you based in 2002/2003? Were you in Bunia or
12 were you in Blukwa?

13 A. I was in Bunia.

14 Q. You were aware then that in March 2003 the Lendu and the UPC
15 fought in Bunia?

16 A. In March 2003, UPC troops fought battles with the Ugandan Army
17 here in Bunia, not with the Lendu. And the Lendu intervened as allies of
18 the Ugandan Army.

19 Q. Are you aware that there were attacks in Mongbwalu between the
20 UPC and the Lendu in October/November 2002?

21 A. What often was a ground for concern was not -- was not conquest
22 made by the UPC. What worried me was ensuring the survival of the Hema
23 population.

24 Q. Yes, and in that role, you were aware of various attacks to Hema
25 populations in Ituri where the UPC were involved in protecting that

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1 population, weren't you?

2 A. But it was normal. They had to defend the population everywhere
3 they were, because it was their population at that point in time. And
4 not just the Hema. There were several ethnic groups here in Ituri. In
5 Bunia, like in Mahagi and Langu, the UPC defended its territory against
6 the APC troops and the Lendu troops, not just in the Hema villages.

7 THE INTERPRETER: Sorry, FNI troops instead of Lendu.

8 MS. SAMSON:

9 Q. The FNI troops were composed of Lendu or Ngiti persons; is that
10 right?

11 A. The FNI troops were made up of Lendu. The -- you also had the
12 FRPI troops, they were also made up of Lendu and Hema and even other
13 tribes. That was the case for the FPRI. Ngiti, for instance, is Lendu.

14 Q. And you as coordinator of Hema self-defence forces, you
15 identified and sought protection from the UPC because your interests were
16 the same.

17 A. The UPC was a political party, well, a military political party,
18 but the self-defence community was a group of fighters. That was the
19 difference.

20 Q. And according to your testimony today, both the Hema self-defence
21 groups and the UPC were fighting the Lendu.

22 A. The self-defence group did not launch attacks against the Lendu
23 fighters. It was the Lendu who came and attacked our villages, and it's
24 on that occasion -- for that reason that the self-defence groups were set
25 up, i.e., to protect the villages and stave off the attackers.

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1 Q. And on that point, your interests and those of the UPC were the
2 same.

3 A. The UPC came after self-defence groups were set up. The UPC had
4 existed for quite a while, but when the UPC arrived with the RCD-/K-ML
5 that the UPC came in, but the UPC helped the population after those
6 attacks, and the fighters or self-defence groups were there when these
7 attacks occurred.

8 Q. It's true, isn't it sir, that the UPC and its armed wing fought
9 with self-defence forces in certain villages?

10 A. Could you please rephrase that question.

11 Q. Certainly. It's true, isn't it --

12 A. I did not hear you clearly.

13 Q. I will repeat the question. It's true, isn't it, that there were
14 attacks on Hema villages in which the UPC and its army fought with
15 villagers from self-defence forces; isn't that right?

16 A. No. The defence -- self-defence groups were not made up of
17 trained soldiers, so it would have been difficult for such fighters to
18 fight side by side with trained soldiers.

19 Q. Knowing the attacks on Hema villages as you do, it's right, isn't
20 it, that the FPLC pushed back Lendu combatants in Dendro (* phon) at the
21 end of October 2002?

22 A. FPLC troops arrived when the fighters had already pushed back the
23 Lendu attackers, and they came afterwards. So I cannot say that they
24 fought side by side with the members of the self-defence groups.

25 Q. And in Kau, K-a-u, in November 2002, the FPLC pushed back APC

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1 combatants? Do you remember that?

2 A. I do not remember that date.

3 Q. And in Tsaa, T-s-a-a, the FPLC militaries -- military, excuse me,
4 was involved in pushing back Lendu and APC combatants? That's right,
5 isn't it?

6 A. No. I have already told you that very often the population would
7 go to call the soldiers, and when they would flee, where -- they would
8 flee to military camps, and the combatants of the Hema self-defence
9 groups would fight against Lendu attackers at that point in time.

10 Q. After August 2002 when the UPC took control of Bunia, you will
11 agree that it held military control over most of Ituri?

12 A. In general, yes, because they had soldiers in Aru, Mahagi,
13 Mambasa, Irumu, and Djugu.

14 Q. And these areas that you are describing are areas in the
15 north-east part of Ituri?

16 A. Ituri is made up of five territories, and I have just cited for
17 you the names of those territories, the territory of Mambasa, Irumu,
18 Djugu, Mahagi, and Aru.

19 Q. Taking the north-east part, it's right, isn't it, that the UPC
20 had set up battalions in the Hema villages of Fataki and Djugu?

21 A. The UPC had its battalions all over in the districts of Ituri.
22 In all territories. There were battalions in Irumu. I don't know the
23 number of battalions they had. I don't know how many battalions they had
24 in Mambasa or Irumu, but soldiers were almost everywhere within the
25 territory under their control.

1 Q. You must have been aware of the military presence in the sector
2 of the north-east where you were from and where you were coordinating
3 Hema self-defence forces, no?

4 A. Yes. There were soldiers everywhere. That's what I just told
5 you. I said there were soldiers in Djugu, and there were some in the
6 *collectivités* and in certain groupings or what they call *groupement* in
7 French, which is an administrative unit.

8 Q. In fact, it was in your interest to know what the UPC military
9 strength was in those areas so that you could coordinate between the UPC
10 positions and your self-defence forces.

11 A. The number of soldiers and their positions were not of concern to
12 me. We did not depend on the soldiers. And I told you a short while ago
13 that they always came late. However, the fighters in the self-defence
14 groups were present all the time, and so there was no need to coordinate
15 with the soldiers before we go to fight, because our fate was squarely in
16 our own hands.

17 Q. Sir, you know, don't you, that many Hema leaders sought
18 protection from the UPC for their own villages?

19 A. But there are many Hema villages. The UPC was not present in
20 every village. If the UPC was in Katoto, it was not in Molabo which was
21 a few kilometres away. If they were in Mandro, they would not be in
22 Lonio which was 8 kilometres away. So the UPC deployed its soldiers all
23 over the territory under their control because such territory was under
24 their control. The self-defence groups were present in every village.

25 Q. So is it your evidence that the Hema self-defence forces were not

1 interested in benefiting from the military protection of the UPC?

2 A. Very often the soldiers would underrate the fighters in the
3 self-defence groups. This was because the soldiers thought that they
4 were superior to these civilians who had not undergone any military
5 training. So there was no great harmony between them. When the soldiers
6 came to attack, to fight back attackers, they only came because it was
7 their responsibility to ensure security within the territory that was
8 under the control of the UPC.

9 Q. Sir, you've said earlier that the self-defence forces had
10 weapons. Are you saying that the UPC was not interested in coordinating
11 with you're group?

12 A. I said that the self-defence groups had weapons which we bought.
13 However, it was difficult for us to work hand-in-hand with UPC soldiers,
14 because UPC soldiers considered the combatants from the self-defence
15 groups as upstarts who did not understand military regulations, so they
16 minimised them, and they even threatened to disarm them.

17 Q. You must be familiar in your position as coordinator with leaders
18 of the Hema communities in -- of the Hema community in Fataki.

19 A. Certainly.

20 Q. Do you know a person named Tharcisse Ndrukadjo, N-d-r-u-k --

21 A. Wait. I know him. I know Tharcisse as Tara.

22 Q. I'll just finish spelling the name of this individual for the
23 transcript. His last name is N-d-r-u-k-a-d-j-o, first name Tharcisse,
24 T-h-a-r-c-i-s-s-e?

25 A. I know him. We used to call him Tharcisse Tara. He was also a

1 head of the post in Fataki, yes.

2 Q. What was the post that he was head of, if you can recall?

3 A. I do not know his real function. However, he was in Fataki.

4 They were in a leadership position in Fataki at that point.

5 Q. (* Microphone not activated) ... PC to protect the Hema of Fataki
6 from Lendu attacks.

7 A. I was not informed of that.

8 Q. As coordinator of Hema self-defence forces, were you aware that
9 Mr. Ndrukadjo in end of November and early December 2002 also wrote to
10 the UPC confirming that he was working towards the mobilisation and mass
11 integration --

12 A. I was not informed. Please --

13 Q. I'll just put my question again, and when I'm finished, you can
14 provide an answer.

15 A. Very well.

16 Q. Were you aware that in November and early December 2002
17 Mr. Ndrukadjo wrote to the UPC confirming that he had begun mobilising
18 and raising awareness for youth to integrate in large numbers into the
19 FPLC?

20 A. I was not informed of that. Fataki had a president of a
21 self-defence group. Tharcisse was head of a training post or what they
22 call *poste d'encadrement*. However, I was not informed that he had
23 carried out any sensitisation or awareness raising or that he had written
24 such a letter to the UPC.

25 Q. When you sent young boys to be trained at Mandro, you must have

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1 also, through the various villages, tried to raise awareness for the
2 youth to join the FPLC and be trained by them?

3 A. I raised the awareness of the population and the self-defence
4 groups in the villages asking them to send young people for military
5 training in the belief that after the training they would return to their
6 respective villages in order to provide security to the population in the
7 various villages.

8 MS. SAMSON: May I have one moment, your Honour.

9 (Prosecution counsel confer)

10 THE WITNESS: (Interpretation) Could you repeat what you just
11 said?

12 PRESIDING JUDGE FULFORD: Don't worry, sir. Ms. Samson is just
13 having a word with one of her colleagues. It wasn't a question, in fact.

14 THE WITNESS: (Interpretation) Very well.

15 MS. SAMSON:

16 Q. Sir, I have some questions on the meeting that you held with
17 Mr. Lubanga. Who was there on behalf of the UPC along with Mr. Lubanga?

18 A. Lubanga had his staff at his residence. The meeting did not take
19 place in his office. It took place at his residence where he invited us,
20 and I do not know the names of everyone who was present. There were
21 body-guards, there were his close aides whose names I cannot remember.

22 Q. Can you remember approximately how long the meeting lasted?

23 A. The meeting started at 9.00 and ended at 1.00 p.m.

24 Q. You've said your secretary was present?

25 A. Yes.

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1 Q. But he didn't draft the minutes of the meeting, you did?

2 A. He is -- he has not -- his level of education is not very high,
3 and he's not fast, so I had to take the minutes myself, especially as I
4 had to go to the villages to report on the deliberations of the meeting,
5 report to the grassroots population, and that is why I prepared the
6 document myself.

7 Q. And the president of the self-defence committee of Lopa, is he
8 Hema North?

9 A. The president of the self -- could you please repeat the
10 question.

11 Q. Those persons who went with you to the meeting included the
12 president of the self-defence committee from Lopa. Was he a member of
13 the Hema North?

14 A. I said at the very beginning -- I said at the very beginning that
15 the head of the committee in Lopa came late, after we had already ended
16 the meeting.

17 Q. Is he Hema North?

18 A. Yes.

19 Q. And your secretary, is he Hema North?

20 A. Yes.

21 Q. And the president of the committee in Fataki, is he Hema North?

22 A. All those who signed there were Hema North, because in the Hema
23 South *collectivité*, they did not have any committees, because they had
24 already withdrawn their young people from the APC, and they had already
25 deserted the APC therefore, and these young people who had deserted were

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1 defending their village, and the majority of the Hema South community had
2 fled and were in Bunia. It was only in the villages of the north in
3 Djugu that the Hema remained and had to defend itself using self-defence
4 groups.

5 Q. And, sir, your mother tongue is Kilendu?

6 A. My mother tongue is Kilendu, yes.

7 Q. You also speak Swahili and Lingala?

8 A. Yes.

9 Q. Wouldn't it have -- wouldn't this meeting have taken place in
10 Swahili or Kilendu or Lingala?

11 A. The meeting was conducted in Swahili, because everyone who was
12 present there understood Swahili. There were some who did not even know
13 how to speak French. I am able to translate. When someone is speaking
14 Swahili, I can take notes in French. That is something I'm very used to.

15 Q. And the purpose of the minutes, as you've indicated, was to
16 disseminate them to the other heads of self-defence committees? That's
17 right?

18 A. In the Hema villages, yes.

19 PRESIDING JUDGE FULFORD: Ms. Samson, I'd like to give the
20 witness a short break. Is now convenient, or do you want to finish off a
21 point?

22 MS. SAMSON: May I ask one more question?

23 PRESIDING JUDGE FULFORD: Of course.

24 MS. SAMSON:

25 Q. Sir, wouldn't it have been more practical to then take the

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1 minutes in Swahili rather than in French?

2 A. We learned French right from primary school right up to
3 post-secondary level. Now, with respect to Swahili, we have never learnt
4 it in a classroom. This means that our spoken Swahili is better than the
5 written, and we write French.

6 PRESIDING JUDGE FULFORD: Sir, we're going to take a short break
7 now for your benefit but also for the interpreters and transcribers.
8 It's now five to 3.00 in The Hague. We'll sit again at 10 past 3.00.

9 Thank you all very much.

10 COURT USHER: All rise.

11 THE WITNESS: (* No interpretation)

12 Recess taken at 2.56 p.m.

13 On resuming at 3.11 p.m.

14 (Open session)

15 COURT USHER: All rise. Please be seated.

16 PRESIDING JUDGE FULFORD: Yes, Ms. Samson.

17 MS. SAMSON: Thank you.

18 Q. During the meeting with Mr. Lubanga in February 2003, you
19 discussed matters related to your security?

20 A. Indeed.

21 Q. You mentioned a number of villages in which there had been
22 attacks by Lendu and loss of life?

23 A. That's true.

24 Q. And you and the other members of your group asked the president
25 to protect your population?

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1 A. We asked the president of the UPC to give orders to the soldiers
2 before disarming us to push them further away from us, push the Lendu
3 combatants further away from us, because usually the Lendu combatants
4 where the pop -- where you had the people and the Hema people, they often
5 live in neighbouring villages most of the time, and you were lucky to
6 find villages which were, for example, 5 to 10 kilometres away without
7 finding a Hema or indeed a Lendu village next to it, and that's the
8 reason why we asked for the president of the UPC to order his troops to
9 push the Lendu combatants away from us so that there wouldn't be a
10 massacre before disarming us.

11 Q. Yes, because you wanted to protect your population. That's
12 right; isn't it?

13 A. Yes.

14 Q. And the president, Mr. Lubanga, promised that he would give
15 orders to the FPLC to protect your population?

16 A. I said that Lubanga had submitted the request to us, but he was
17 making an effort to negotiate with the Lendu so that hostilities would
18 cease so that peace would reign in the region.

19 Q. And in order for peace to reign in the region, Mr. Lubanga
20 promised that he would give orders to the FPLC to protect your
21 population. That's what happened at the meeting, isn't it?

22 A. We submitted the request, but there he didn't give orders then.
23 I don't know if he did it afterwards.

24 Q. My question was whether he promised during the meeting to --
25 after the meeting to give orders to the FPLC to protect your population.

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1 Did he make that promise at the meeting?

2 A. He said that he had heard our request.

3 Q. So you took these minutes during the meeting; is that right?

4 A. That is correct.

5 Q. May I ask that you turn to the document --

6 MS. SAMSON: We can use the Defence binders if they've been
7 circulated. It's the document at DRC-D01-0003-2176, and it's been given
8 an EVD number today of EVD-D01-01095.

9 PRESIDING JUDGE FULFORD: Yes. Court Officer, I can see the
10 witness has been handed the document.

11 Yes, Ms. Samson.

12 MS. SAMSON:

13 Q. Sir, approximately in the middle of the first page of your notes,
14 the page that has -- that ends in 2176, can you see where it reads, and
15 I'm going to read in French:

16 "(Interpretation) The president promised that he would give
17 orders to the FPLC troops to make it safe for our population."

18 (In English) Coming back to my question, sir, isn't it right that
19 Mr. Lubanga promised to make it safe for your population?

20 A. He accepted to make it safe for the population and it was he and
21 his troops and his movement that controlled the territory.

22 Q. And isn't it right that he and his military also controlled the
23 self-defence forces that you coordinated?

24 A. Please could you ask your question again.

25 Q. Certainly. Isn't it right that Mr. Lubanga and the UPC with its

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1 military also controlled the Hema self-defence forces that you
2 coordinated?

3 A. No.

4 Q. The date of this meeting, it was the day after the attack on
5 Bogoro, wasn't it?

6 A. We listed the villages which had been attacked during the period.
7 We didn't say that it was the day after the Bogoro attack.

8 Q. The date of the meeting was February 25, 2003, wasn't it?

9 A. Yes.

10 Q. And a significant attack on the village of Bogoro took place the
11 day before, on the 24th of February, 2003; isn't that right?

12 A. I don't remember very well. I don't remember the date very well.

13 Q. If you again refer to your -- the minutes of the meeting and the
14 document in front of you, you will see about one-third of the way down

15 the page on the first page referenced as 2176 that when you are listing
16 various attacks that had taken place in villages around Bunia, you
17 mention as the first point the attack of Bogoro where there were many
18 civil deaths. Do you see that?

19 A. Yes.

20 Q. In fact, the attack on Bogoro was one of the most significant
21 attacks in the area at that time with over 200 civilian losses; isn't
22 that right?

23 THE INTERPRETER: The interpreter didn't hear what the witness
24 said.

25 THE WITNESS: (Interpretation) There were several places where

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1 there were a lot of people who died after that as well.

2 MS. SAMSON:

3 Q. Sir, if you could just remember to pause for several seconds
4 before you answer my question, it will allow the interpreters to properly
5 and fully interpret your answer.

6 A. I said that there were a lot of attacks during the period, and it
7 was these attacks that we've listed, and I don't remember the dates
8 anymore, the dates on which the attacks on Bogoro or
9 (* indiscernible) -- Blukwa took place, but these were attacks that had
10 happened at that time.

11 Q. You don't remember that the day before this meeting Hema
12 civilians were killed to the tune of approximately 200 persons dead by
13 Lendu and Ngiti forces in Bogoro? That didn't come to your attention at
14 the time of the meeting?

15 A. I answered you straight away that all these cases are listed
16 here. These are all attacks which were recent, which had recently
17 occurred in the period before the meeting. So I can't remember the
18 dates. If -- if certain events remained, that's because they were
19 written up at the time of the meeting.

20 Q. Leaving the particular minutes aside for one moment, do you have
21 an independent recollection of this attack on Bogoro? This particular
22 attack on Bogoro at the end of February, 2003, in which UPC soldiers were
23 forced withdraw and 200 or so civilians were killed? There was
24 significant looting and pillaging and rapes of the Hema population. Do
25 you have an independent recollection of that attack?

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1 A. I don't remember the date of the attack, because there were
2 attacks everywhere. When they attacked, they always killed a lot of
3 people. They pillaged. They raped. That was their custom. That
4 doesn't mean that it was the case of Bogoro that was specific in some
5 way.

6 Q. And yet according to the minutes of the meeting with Mr. Lubanga,
7 you would have met with him for four hours starting at 9.00 a.m. on the
8 day after one of the most significant losses for the UPC at that time?

9 A. It wasn't only that defeat. There were also the Musaka and
10 Mabanga where there were lots of people who died, on top of Bogoro as
11 well, but I don't remember all the dates. These dates I can -- I can't
12 remember because I didn't write them down at the time.

13 PRESIDING JUDGE FULFORD: Mr. Desalliers.

14 MR. DESALLIERS (interpretation): Please excuse me, your Honour,
15 just to mention that the question was put to the Witness. It was
16 suggested that it could be the most significant attack and he ruled that
17 out in his answer. He just said it was one attack among others, and I
18 think that we have to be careful not to -- or that my co-sister doesn't
19 testify in the place of the witness by saying that it was one of the most
20 significant attacks when there is a direct contradiction to that in the
21 answer of the witness.

22 PRESIDING JUDGE FULFORD: I think Ms. Samson was suggesting that
23 it is -- that it was one of the most significant attacks, and I think the
24 witness has been clear in his answer that it was one of a number
25 or one of many, but thank you for raising it.

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1 Please carry on, Ms. Samson.

2 MS. SAMSON: Thank you.

3 Q. Sir, accepting that there were a number of attacks on villages at
4 this time, some significant, some perhaps less significant, but a number
5 of attacks, your evidence is that Mr. Lubanga's prime preoccupation
6 following these attacks was demobilising persons. That's right?

7 A. I didn't say that the objective of Lubanga was demobilisation of
8 persons after these attacks. What were reported -- we reported in the
9 minutes of the meeting, and we noted that Mr. Lubanga wanted us to be
10 able to disarm the children of our self-defence groups and provide the
11 arms to the soldiers. However, it wasn't Lubanga who provided us with
12 the weapons. They were -- we bought them, and they constituted security
13 in the first place. If they were provided with the weapons, that didn't
14 mean that they were going to do anything better with them. Our fighters
15 also knew how to fight and how to defend the population.

16 Q. Sir, isn't it right that the meeting discussed demobilisation of
17 the self-defence forces, including children, but demobilisation of the
18 adults as well?

19 A. No. There was no question of demobilising adults. It was taking
20 the weapons from the hands of children who were still minors. They did
21 not adult age and providing these two FPLC soldiers. At the end of the
22 day we agreed that certainly we were going to accept to withdraw the
23 weapons, but we were going to keep them ourselves, not provide them to
24 the UPC soldiers.

25 Q. Sir, I'm going back to your testimony earlier today at page 25,

1 lines 11 through 16.

2 PRESIDING JUDGE FULFORD: French or English.

3 MS. SAMSON: In the English transcript.

4 PRESIDING JUDGE FULFORD: Thank you.

5 MS. SAMSON: Realtime transcript.

6 Q. Where you said that:

7 "The President asked us to give these weapons to the UPC
8 military, and we didn't agree with that, and we were reluctant, because
9 if we handed in these firearms to the military we were going to be
10 defenseless. We could not protect ourselves. Moreover, those troops,"
11 and then there's a gap in the transcript "so we really objected that our
12 rifles would be taken away and we had no way to defend ourselves when we
13 had bought these guns with our own money."

14 So, sir, wasn't Mr. Lubanga discussing taking all your weapons
15 away? Isn't that what you said this morning?

16 A. I can't answer. You can ask Mr. Lubanga if he wanted to take all
17 our weapons, but he did during the meeting say that he wanted arms to be
18 taken away from children, and we -- so they didn't fight any more, and we
19 accepted to do so, not to hand those weapons over to FPLC troops, but we
20 decided that we would disarm these children ourselves and keep these
21 weapons in our respective communities.

22 Q. So are you amending what your earlier testimony was? Did
23 Mr. Lubanga ask you for weapons, or did he not ask you for weapons?

24 A. He asked us to demobilise, disarm the underaged children who --
25 that's basically was the main point in that meeting. He did not ask for

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1 the adults to hand over their weapons to him.

2 Q. And, in fact, he said, I believe according to your testimony,
3 that if you didn't do it, he could force you to do so?

4 A. Absolutely. That was during our debate. He said that if we
5 refused to disarm the children, he was going to send his troops
6 themselves to come and take their weapons away from the children. That's
7 why we refused because those weapons weren't hidden. Everybody kept arms
8 within reach because we never knew when we could be attacked.

9 Q. And during this meeting you also discussed the need to increase
10 the military presence in all targeted villages, didn't you?

11 A. We asked the president of the UPC to give us troops in our
12 villages where -- as the Lendu fighters were still close so they could
13 provide safety for these villages.

14 Q. Sir, the children under 15 in your self-defence, your Hema
15 self-defence forces, they were manipulating or using weapons?

16 A. Not all the children. The children who could use firearms, yes,
17 they did.

18 Q. And this is a slight repeat but I want to be clear, some of the
19 children who could use weapons were under the age of 15. That's right,
20 isn't it?

21 A. That's what I said.

22 Q. And, sir, I'm going to suggest to you, and this is my
23 proposition, that those children under 15 who could use a weapon were not
24 only candidates but were in fact sent for training with the UPC.

25 A. That's not what I said. That's not what happened. I spoke about

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1 our armed wing, our self-defence group, in which we did not take age into
2 account, because anybody who could use a weapon, whether a knife or a
3 weapon or a blade or a firearm, well, we would give them a weapon.

4 Q. Some of the weapons that they were using were not swords or
5 machetes or bows and arrows, but they were SMG rifles, were they not?

6 A. Absolutely.

7 MS. SAMSON: May I have one moment, your Honour.

8 PRESIDING JUDGE FULFORD: Certainly, Ms. Samson.
9 (Prosecution counsel confer)

10 MS. SAMSON: Thank you very much, your Honour.

11 Q. Sir, I take it from your earlier testimony that you had not
12 received any earlier orders from Mr. Lubanga or the FPLC not to use
13 children under the age of 15 in your Hema self-defence groups?

14 A. No.

15 Q. And, sir, these Hema self-defence forces that you coordinated,
16 were they mobile or did each village have its own force that remained in
17 that village?

18 A. In each village, you had troops that remained there, I mean, but
19 they weren't mobile forces.

20 Q. So to be clear, if Fataki had a self-defence force, then the
21 self-defence force from Blukwa did not go and assist Fataki when there
22 was an attack; is that right?

23 A. That's right.

24 Q. So if a child under the age of 15 took part in an attack in a
25 village that was not his or her own village, that child was not part of a

1 self-defence force, was he?

2 A. There were no self-defence group combatants who would leave their
3 village to go to another village. Let's take, for instance, the defence
4 between Blukwa and Fataki. It's about 35 kilometres. Well, when there
5 was an attack at 4.00 a.m. and maybe by 10.00 in the morning the
6 assailants had already left, how could combatants from Blukwa come over
7 to help the Fataki group? It's virtually impossible. Therefore, every
8 village had its committee and its self-defence troops.

9 MS. SAMSON: Your Honour, an indulgence, please.

10 (Prosecution counsel confer)

11 MS. SAMSON: Many thanks for the indulgence, your Honour. I have
12 no further questions.

13 PRESIDING JUDGE FULFORD: Thank you very much, Ms. Samson.
14 Anything, Mr. Desalliers?

15 MR. DESALLIERS (interpretation): No, your Honour.

16 PRESIDING JUDGE FULFORD: Sir, that concludes your testimony, and
17 before you leave the witness box, I want to extend the sincere thanks of
18 the Court, and particularly the Judges of this Chamber, for the time and
19 trouble that you've taken to come to give evidence before us today. We
20 are acutely aware of the inconvenience to you in doing so and the
21 potential dangers that accompany witnesses when they cooperate in the way
22 that you have done in the process of giving evidence.

23 This Court can only function if witnesses on both sides are
24 prepared to come to give evidence and to assist us in our search for the
25 truth. So thank you, and you're now free to go.

1 THE WITNESS: (Interpretation) I would like to thank you, your
2 Honour, and I believe that justice will be given and that will be a
3 ground for praise for the court.

4 PRESIDING JUDGE FULFORD: Well, I hope you're right. Thank you
5 very much indeed, sir.

6 And thank you, Court Officer. For this afternoon, we can
7 terminate the link with the DRC, because as I understand it, the next
8 witness is not going to be ready to give evidence until tomorrow.

9 THE WITNESS: (Interpretation) I would like to thank the entire
10 court and the Defence team, as well as the Prosecutor's team, and thank
11 you for all the hard work you're providing to establish truth throughout
12 world.

13 PRESIDING JUDGE FULFORD: Thank you very much.

14 Good. If we terminate the link.

15 (Witness's evidence via videolink concluded)

16 PRESIDING JUDGE FULFORD: Mr. Desalliers, we therefore have the
17 next witness, Witness 0037, tomorrow. Two days?

18 MS. MABILLE: (Interpretation) The main questioning, your Honour,
19 I believe will last about two hours and a half.

20 PRESIDING JUDGE FULFORD: Perhaps Witness 0036 ought to be ready
21 potentially to start giving evidence tomorrow afternoon.

22 Mr. Sachdeva.

23 MR. SACHDEVA: Mr. President, of course it's a bit difficult to
24 say at this stage, but I do intend to be some time with Witness 0037.

25 PRESIDING JUDGE FULFORD: Friday then for Witness 0036? Tuesday

1 today, Mr. Sachdeva.

2 MR. SACHDEVA: Thursday, Mr. President, perhaps.

3 PRESIDING JUDGE FULFORD: Thursday. Right. So not tomorrow but
4 sometime on Thursday.

5 MR. SACHDEVA: Indeed.

6 PRESIDING JUDGE FULFORD: All right. Witness 0036 then stood
7 down for tomorrow, please, to be asked to be ready to give evidence
8 sometime on Thursday.

9 Right. I don't think there's anything else we can do this
10 afternoon unless there are any matters that anybody wishes to raise. No?

11 Thank you all very much indeed for your assistance. We meet
12 again then at half past 9.00 tomorrow morning.

13 COURT USHER: All rise.

14 The hearing ends at 3.48 p.m.

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