

1 International Criminal Court

2 Trial Chamber I

3 Situation in the Democratic Republic of Congo - ICC-01/04-01/06

4 Case against Thomas Lubanga Dyilo

5 Hearing - *Closed Session - Reclassified as open session

6 Friday, 29 May 2009

7 The hearing starts at 9.01 a.m.

8 COURT USHER: All rise. The International Criminal Court is now
9 in session. Please be seated.

10 PRESIDING JUDGE FULFORD: Ms. Massidda.

11 MS. MASSIDDA: Good morning, your Honours --

12 PRESIDING JUDGE FULFORD: Before you proceed, we're in closed
13 session at the moment. Is what you're about to say a public matter?

14 MS. MASSIDDA: Yes, your Honour, it is. Thank you.

15 PRESIDING JUDGE FULFORD: Public session, please.

16 (Open session at 9.02 a.m.)

17 COURT OFFICER: Public session.

18 PRESIDING JUDGE FULFORD: Yes, Ms. Massidda.

19 MS. MASSIDDA: Thank you, your Honour. Good morning. During the
20 hearing yesterday you asked the Defence and the Legal Representatives to
21 consult and to inform the Chamber whether or not it would be possible to
22 sit on Tuesday, 2 June, next week. We have consulted. Our joint
23 position is that we would prefer not to sit on Tuesday morning. We have
24 informed the Office of the Prosecutor, and our suggestion, joint
25 suggestion, Defence, Legal Representatives, and Office of the Prosecutor

1 to the Chamber would be to sit on Tuesday afternoon for two sessions
2 starting at 2.00 p.m. and two sessions of one hour and a half, therefore
3 ending the hearing on Tuesday afternoon at 5.30. Thank you.

4 PRESIDING JUDGE FULFORD: Thank you very much, Ms. Massidda. That's
5 extremely clear. I imagine there's probably -- but there appears
6 to be. Yes, Mr. Sachdeva.

7 MR. SACHDEVA: Thank you, Mr. President. Just to reiterate that the
8 Prosecution would gladly accept that proposal, that schedule. It's also
9 very important for our witnesses too that we try and complete as
10 much as possible on Tuesday.

11 PRESIDING JUDGE FULFORD: And I assume that's for moving reasons,
12 Mr. Sachdeva, rather than extremely good weather this weekend reasons?

13 MR. SACHDEVA: For the former, Mr. President, absolutely.

14 PRESIDING JUDGE FULFORD: Good, I'm relieved to hear it.

15 Anything, Maitre Mabilille?

16 MS. MABILLE (interpretation): I would like to express my rather
17 chilled anger, and therefore I'm not going to say what I really think.

18 PRESIDING JUDGE FULFORD: Thank you very much. We'll reflect on this over
19 the midmorning break, Ms. Massidda. There's obviously no need for you to
20 wait, but we will at 11.00 indicate what the position is to be on Tuesday.

21 MS. MASSIDDA: Thank you very much, your Honour.

22 PRESIDING JUDGE FULFORD: Thank you very much, Ms. Massidda.

23 MS. MASSIDDA: With your leave, I will leave.

24 PRESIDING JUDGE FULFORD: Absolutely.

25 MS. MASSIDDA: Thank you.

1 PRESIDING JUDGE FULFORD: Yes, you may withdraw. Thank you very much indeed
2 Maitre Mabilille, I don't wish to make a suggestion that is in reality
3 inconsistent with the decision that we took yesterday in relation to this
4 afternoon, and I want to stress that you are wholly free and we will
5 completely understand to say if what I'm about to suggest is inconvenient
6 because you've now really got other things to do this afternoon. There are
7 one or two questions that we would like to explore with you at some
8 convenient time in relation to the matters that you raised ex parte with us
9 a little earlier this week, and the thought had crossed by mind this morning
10 that this afternoon may be a convenient moment to do that. However, as I
11 say, that immediately means that I'm going to be, by making that suggestion,
12 stopping you from undertaking the very thing that we indicated you should be
13 allowed to do, which is to get ready for the move and participate in it. But
14 it's just a thought and perhaps if you could discuss this with Mr.
15 Desalliers and Ms. Buteau and see whether there's a way in which this could
16 be incorporated. But as I say, I wholly understand if it's not convenient.
17 MS. MABILLE (interpretation): No, your Honour, I don't think there's any
18 problem except that when we finish with this witness I would like to meet
19 with the accused, and as regards the schedule I would like to have time
20 in order to do that and then be able to come back before the Bench perhaps
21 not immediately after we finished because I know that the
22 guards won't keep the accused here and
23 I will need to speak to him.
24 PRESIDING JUDGE FULFORD: I think then my idea is a bad one.
25 This is an important witness for you, Maitre Mabilille, and you should have

1 time to see him and I don't want to put pressure on you by us holding an
2 ex parte hearing which may take a little bit of time. There's no
3 immediate urgency in relation to this and we will find another convenient
4 time over the next week or two --

5 MS. MABILLE (interpretation): Perhaps I wasn't clear. I cannot
6 keep the accused more than one hour after the end of our session. I
7 believe we will be finishing at 12.30. So I need time between 12.30 and
8 1.30 to see my client. So I would be available for the Chamber as of
9 2.00. I just didn't want it to occur at 12.30.

10 PRESIDING JUDGE FULFORD: That's extremely helpful of you. Thank
11 you very much indeed. What we will do then is sit at 2.15 to deliver at
12 least one oral decision. I anticipate that will take probably about 20
13 minutes, and we will then need half an hour to or 20 minutes to
14 reconfigure the Court system. So if it's convenient with Maitre Mabilille,
15 at 3.00 or thereabouts we will hold that ex parte hearing. As we said
16 yesterday, for the oral decision that there need only be one member of
17 the bar representing everyone present at that stage. We will not take it
18 as any kind of discourtesy if there is no one else but that individual
19 present in Court. Thank you very much, Maitre Mabilille, that's very
20 helpful of you. Closed session, please, so the witness can
21 return to Court -- oh,
22 sorry, Ms. Struyven.

23 MS. STRUYVEN (interpretation): Good morning, your Honour. I
24 just have one comment. I'd like to clarify two sentences in the
25 transcript. I don't know if you want me to do it before the witness

1 comes in or once he is here.

2 PRESIDING JUDGE FULFORD: Are these matters which have not become
3 the subject of agreement at the bar, Ms. Struyven?

4 MS. STRUYVEN (interpretation): Yes, but I just wanted it to be
5 in today's transcript. What happened is that you asked me for a
6 precision yesterday and unfortunately I did not -- I omitted to do that
7 so it was regarding child soldiers and it's fairly important. And if you
8 compare the French and the English versions of the transcript, in the
9 French transcript what the witness says is very clear; unfortunately,
10 it's not at all clear in the English version.

11 PRESIDING JUDGE FULFORD: It would be very helpful if you could
12 now identify those passages, and if you have a suggestion as to what
13 should be done that would also assist.

14 Maitre Mabilille.

15 MS. MABILLE (interpretation): I apologise, I spoke to my learned
16 colleague this morning. This is an issue related to translation, in
17 other words, what is in the French transcript is not the same as what is
18 in the English transcript. So I don't think we need to re-question the
19 witness on these matters. We must ask the translation division to check
20 and find out why there is such a distortion between the French and
21 English versions. That's how I understand the matter.

22 PRESIDING JUDGE FULFORD: I don't think Ms. Struyven disagrees,
23 Maitre Mabilille. I think Ms. Struyven is simply wanting to indicate to us
24 where the difficulty lies so that a check can take place. Is that right,
25 Ms. Struyven?

1 MS. STRUYVEN (interpretation): That's exactly it, and therefore
2 I believe we can do it without having the witness in the courtroom. This
3 relates to the English transcript on page 26, precisely the sentence line
4 27, and I will read it out in French and give you the references in the
5 French version. It was line 25 in English. In French it's page 28, line
6 10. In French the witness said regarding the reasons why he was to
7 mobilise child soldiers, on line 10 it says:

8 "So they go join the army, join the UPC to fight and chase the
9 Jajambu and feel comfortable after that."

10 In the English transcript it says the following:

11 (In English) (Previous translation continues)... "that I should
12 encourage the children to go join the UPS (as interpreted) and to get rid
13 of Kisembo."

14 (Interpretation) I believe that there was a problem in the
15 English transcript.

16 PRESIDING JUDGE FULFORD: Thank you. Those passages need to be
17 resolved.

18 JUDGE BLATTMANN: Thank you, Mr. President. Well, just looking
19 at these issues of translation I found something yesterday, and I will
20 take the opportunity to maybe address the translation boxes. It's in
21 page 74 of the English version, line 21 and 22. Now, the French version
22 and what the witness said seems to me that it was:

23 (Interpretation) "The President of the UPC."

24 (In English) But the English translation says:

25 "No one was there to oppose him."

1 And that is, of course, completely different. I would like to
2 maybe have that clarified by the boxes later. Thank you, Mr. President.

3 PRESIDING JUDGE FULFORD: Thank you very much indeed.

4 Those are all areas, please, where the original audio needs to be
5 revisited by both the French and the English interpreters so that
6 agreement can be reached as to exactly what the witness said and what the
7 true interpretation is of the remarks that he made at that point. And
8 once that has been resolved, in all probability there will need in at
9 least one language to be amendments made to the edited version. But I
10 would be grateful if at a convenient moment those who sit above us would
11 address those matters. Good. Thank you, Ms. Struyven.

12 Closed session, please.

13 *(Closed session at 9.15 a.m.) Reclassified as open session

14 COURT OFFICER: Closed session.

15 (The witness takes the stand)

16 PRESIDING JUDGE FULFORD: Good morning, sir.

17 THE WITNESS (interpretation): Good morning.

18 PRESIDING JUDGE FULFORD: Sorry we kept you waiting. We had some
19 administrative matters to deal with.

20 Public or private session, Ms. Struyven?

21 MS. STRUYVEN (interpretation): I believe I will begin in private
22 session, your Honour.

23 PRESIDING JUDGE FULFORD: Private session, please.

24 *(Private session at 9.17 a.m.) Reclassified as open session

25 COURT OFFICER: Private session.

1 PRESIDING JUDGE FULFORD: Ms. Struyven.

2 WITNESS: WITNESS DRC-OTP-WWW-0014 (Resumed)

3 (Witness answered through interpreter)

4 Questioned by Ms. Struyven (interpretation): (Continued)

5 Q. Good morning, Witness.

6 A. Good morning.

7 Q. I hope you've had a good night's rest. I'd like to resume with a
8 clarification about something you said yesterday and then I will deal
9 with a new topic. First of all, the clarification. At the end of the
10 day yesterday you explained that (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted). My question is as follows: Did you learn about the
14 military goals of the UPC; and if so, who informed you about those goals?

15 A. Thank you very much for that question. (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 It was also public knowledge, you could hear about it on the radio, Radio
25 Candip, about what the UPC Army was going to do. It was not a secret.

1 The military objective, number one, was to occupy the
2 geographical territory of Ituri. A second military goal was to eliminate
3 all enemies who opposed this occupation of the territory of Ituri. And
4 to repeat what I've already said, we're talking about the army of the
5 APC within which the UPC said there were mainly the Nande, the Jajambus
6 in general; and the other main enemy were the Lendu. I didn't finish the
7 explanation given to me by (Redacted). To take over Aru would enable
8 the UPC to surround the enemy. The enemy initially targeted was
9 in Mongbwalu - I think I said this - and the other enemy were the Lendu
10 in their native territory. So the idea was to surround them, to -- that was
11 the military strategy as it was explained to me.

12 Q. Thank you very much. I'd like to deal with a new subject now:
13 Child soldiers.

14 MS. STRUYVEN (interpretation): Your Honour, perhaps we can go
15 into open session. Let me just check for one moment, if I may, something
16 with my colleague.

17 PRESIDING JUDGE FULFORD: Of course.

18 (Prosecution counsel confer)

19 MS. STRUYVEN (interpretation): Thank you, your Honour. I
20 started in private session and then we can move into open session.

21 Q. So yesterday, or rather, the day before yesterday you told us that
22 after 2002 there was an increase in number of children in the UPC Army.
23 And yesterday you said that (Redacted) asked you to mobilise children
24 in your very own village. My question now is: Do you know whether the
25 mobilisation of these children continued after Mr. Lubanga arrived; and

1 if so, in what manner? And naturally, could you tell us who your source
2 for this information is.

3 MS. STRUYVEN (interpretation): And, your Honour, I think that we
4 can move into open session for the answer -- or perhaps not. If he's
5 going to refer to sources, perhaps it's not a good idea. I apologise,
6 your Honour. My team, in fact, suggests that we do not move into open
7 session.

8 PRESIDING JUDGE FULFORD: Maitre Mabilie.

9 MS. MABILLE (interpretation): Your Honour, could my learned
10 friend provide us with a reference for the first item or issue she has
11 referred to? That is to say, when did the witness apparently say that
12 the number of children increased as of 2002? I do apologise. Perhaps
13 this is something that I missed. I would just like to be provided with
14 the reference.

15 PRESIDING JUDGE FULFORD: Ms. Struyven.

16 MS. STRUYVEN (interpretation): That's not a problem, your
17 Honour. The reference is page 60 - I'm looking at the English
18 transcript, I do apologise - but it's page 60, line 15, I'll try and
19 translate this. To answer your question --

20 (In English) "To answer your question, from what I know and what
21 I saw, what I witnessed, it did not stop in 2002, it continued, because
22 after the take-over of power, and this is just an example that I'm
23 giving, after the UPC took over Bunia under Thomas Lubanga it continued
24 on a higher scale."

25 MS. MABILLE (interpretation): I think we are faced with a

1 transcript problem again because we noted this down yesterday in French.
2 It said "all the more so" and in English it says "higher scale." Could
3 we go back to what was said in French.

4 PRESIDING JUDGE FULFORD: Thank you very much, Maitre Mabilie.
5 There is potentially an issue here. We are, in fact, discussing it in
6 front of the witness. I'm going to ask -- I'm going to add this section
7 to those that I'm going to ask the interpreters to look at for the edited
8 transcript of yesterday's hearing.

9 However, sir, you've heard the different suggestions, and
10 uninfluenced by whoever's been speaking, can you please in essence give
11 your evidence again on this subject.

12 Now, Ms. Struyven, just give me a moment.

13 The question that Ms. Struyven put to you, or rather, the
14 suggestion that she made was that a day or so ago you said that after
15 2002 there was an increase in the number of children in the UPC Army.
16 Now, the first question is - and I emphasise, please ignore the competing
17 submissions that have just been made by counsel - is your evidence that
18 there was an increase in the number of children in the UPC or has
19 Ms. Struyven misunderstood what you said a couple of days ago and is your
20 evidence, in fact, something else on that subject? Now, I hope that's
21 clear and can I ask you to deal with that first of all.

22 THE WITNESS (interpretation): Thank you very much, your Honour.
23 I regret the fact that one is dwelling on these terms, one is playing on
24 words and on these human problems that involve interpretation. But what
25 I can say is that the recruiting of child soldiers as well as of all

1 other elements of the military didn't come to an end in 2002, it continued
2. It was all the more the case after Lubanga returned from
3 Kinshasa, from detention. I remember here in your presence the
4 Prosecution to my right referred to these words in English to put their
5 question to me, but I can repeat what I said. The recruiting of child
6 soldiers and other soldiers continued and it was even more the case that
7 they were being recruited.

8 PRESIDING JUDGE FULFORD: Now, that's very clear and that really
9 deals I think, Ms. Struyven, with the second part of your question which
10 was whether the mobilisation of children continued after Mr. Lubanga
11 arrived. Now, is there anything else arising out of that?

12 MS. STRUYVEN (interpretation): Yes, your Honour. The following
13 question is:

14 Q. Were you provided with an explanation about where these child
15 soldiers came from after Mr. Lubanga arrived; and if so, who provided you
16 with this explanation?

17 A. It's true that I have certain contacts -- I have certain knowledge,
18 rather, about what happened with regard to (Redacted) request. Before
19 the departure of governor Molondo of RCD-K/ML there was a military camp in
20 Ndromo--- there were some child soldiers from my village, the village
21 that I was familiar with. There were also Lendu and Ngiti children and
22 adults who were recruits. This is just an example I'm providing you
23 with. And when Molondo left, everyone dispersed. These soldiers, these
24 recruits that Molondo was going to train dispersed. When Thomas Lubanga
25 returned from Kinshasa and assumed power, (Redacted) went to various

1 (Redacted) villages to recruit (Redacted) children whom Thomas Lubanga was
2 to train. I knew some of these children -- in fact, yes I knew them.

3 So one cannot deny this fact and I'm perfectly aware of this. He himself
4 spoke to me about it, (Redacted) spoke to me about it, and if we can
5 go back to the Gegere. (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted). To summarise what

11 they said, well, they said that the army had grown and was growing. One
12 of the terms -- one of the agreements between the UPC and Rwanda was that
13 the UPC should send elements for training in Rwanda. They were to be
14 trained on how to use heavy weapons. They were to train officers. So
15 it's within that framework that one discussed the increasing number of
16 elements within the UPC Army.

17 So if I may repeat what I have said, all of these people spoke to me about
18 the increase in the number of elements in the UPC. The proof of the fact is
19 that as far as I know the group, the armed elements in the UPC in Bunia, when
20 I was in Bunia, wasn't able to deploy in such a large area. For example, I
21 can mention Nyankunde, Mongbwalu, Aru, et cetera. And in the surroundings of
22 Bunia and small centres like Bogoro, Kasenyi (phoen), et cetera, so all of
23 this continued to a greater extent. Even if I haven't said
24 this before you, in my written statement I said that the number of child
25 soldiers under Commander Jerome had increased after the UPC had reached

1 this agreement with him. Previously there hadn't been that many of them,
2 but when the UPC elements arrived, there were a lot of child soldiers by
3 the side of Jerome Kakwavu in Aru. I believe that this answer should
4 satisfy you.

5 Q. Thank you very much. I have a few precise questions I'd like to
6 put to you and then I'd ask for clarifications. The Ndromo camp, I'd
7 like to see whether it's been spelled correctly. It's N-d-r-o-m-o if I'm
8 not mistaken. Could you just tell us where it was located and which
9 group it belonged to, just very briefly.

10 A. It's spelled N-d-r-o-m-o, Camp Ndromo. It's the official military
11 camp that was established at the -- during the Belgian period and which
12 Mobutu inherited. It's located just in front of the Bunia airport. It's not
13 in the Sukisa area. It's called Opasi (phoen), the Opasi area. It's
14 between two Bunia neighbourhoods, "passionnant" and Opsai,
15 "passionant" is the French word. That's where it's located. With regard
16 to the location of the subregion, the HQ of the district commissioner --
17 well, it's about 3 kilometres further on.

18 Q. Just a question about the 9th of August, 2002. Who was in charge
19 of the camp on the 9th of August, 2002?

20 A. Up until the 9th it was the governor Molondo from the RCD-K who
21 was in charge of the camp. And as of the 10th in the evening around 1700
22 hours, the first elements from the UPC started occupying this camp.

23 Q. Thank you. That's all I wanted to find out.

24 MS. STRUYVEN (interpretation): Your Honour, allow me to clarify
25 an expression that was used a number of times and that was perhaps behind

1 this confusion, the source of this confusion.

2 Q. When you said "continuer de plus belle," continue to do this even
3 more so. In English it was interpreted as continued. What did you mean
4 when you said "continuer de plus belle," to continue in this manner and
5 to do even more in this sense?

6 A. Well, it's true that English isn't as rich as French in terms of
7 vocabulary. "Continuer de plus belle," to continue in this manner and to
8 do even more in this way means there was an increase but not at a steady
9 pace, at an accelerated pace with regard to the normal pace, the normal
10 rhythm. The normal rhythm is the rhythm I'm familiar with when one
11 recruits into the army. An official announcement is made and there is a
12 precise number that is established, a precise number of elements one
13 wants to recruit while in this case, however, one went beyond
14 this limit -- or rather, no limits were established. One just kept
15 recruiting more and more.

16 Q. You just explained that (Redacted) went to
17 the villages if I understood you well, because I don't have the French
18 transcript in front of me, went to the villages to mobilise children.
19 Can you clarify - if he explained to you - can you clarify exactly what
20 he did?

21 A. From what he himself told me, and from my personal contacts with the head
22 of my own community, I don't know if everyone understands this concept,
23 (Redacted) went through certain elders and certain customary chiefs in a
24 certain number of villages, not in all the villages of course. So
25 certain (Redacted) elites who had influence in certain communities.

1 So he passed through them. That is how he went about it. For example,
2 he personally went to (Redacted) he personally went to (Redacted). And he
3 also went to (Redacted). He himself provided me with this information. At
4 the time this was in September 2002, just after the creation of the
5 government, and this was one of the subjects. (Redacted)
6 (Redacted)

7 Q. Did he tell you who asked him to go and carry out these missions?

8 A. From what he told me, he was making his own contribution to the struggle
9 that was being waged by the UPC. That is what he told me, and that it was
10 of utmost necessity for security reasons for the (Redacted) as a tribe,
11 to send their children to UPC to help ensure their security.

12 Q. Did he or someone else tell you that he was the only one who
13 could carry out these types of missions or were there other individuals?

14 A. Madam, he was not the only one and I can assure you about that.
15 If you ask me why and how, then you should remember that from the meeting
16 that was held -- since the meeting that was held in June 2002 in Kampala,
17 all the delegates who were in attendance were discussing on the fact that
18 each person individually had to contribute to the struggle that the UPC
19 had initiated. (Redacted)

20 This same thing was requested of - and here I'm just giving you an
21 example - of Mr. Joseph Eneko, he was asked to recruit Lugbara children.

22 The same thing was requested of Mr. Sutalu, this Alur, (as interpreted)
23 who was the first commissioner in charge of education -- well, he -- I
24 think his first name was Biri. I've forgotten his full name but I think
25 his first name was Biri. Now, these gentlemen -- that is, the UPC

1 leadership had asked him to carry out the same activities in Mahagi
2 amongst the Alur. That is what I know about him. How do I know about
3 this? (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted). And at the time,

12 he talked about that name, Biri.

13 Q. Just some clarification. You said Mr. Eneko -- Mr. Eneko was
14 asked to mobilise Lugbara children -- sorry, can you spell that for us,
15 please.

16 A. Lugbara is spelled as follows: L-u-g-b-a-r-a.

17 Q. And the gentleman who was called Mr. Biri who was in charge of
18 education, the name is spelled B-i-r-i?

19 A. That's correct.

20 Q. Several times you said they were asked to do such and such a
21 thing. Can you give us some clarification, that is, if you know who
22 ordered for these missions to be carried out?

23 A. Very often I've used the term "leadership." Now, to talk about
24 the particular individuals who issued these orders -- (Redacted)
25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Sorry, I remember Biri's name now. His first name was Adubango.

5 Q. Thank you. Can you spell it.

6 A. The spelling is A-d-i --

7 THE INTERPRETER: The interpreter didn't hear the end of what the
8 witness said, we're sorry.

9 PRESIDING JUDGE FULFORD: No, Ms. Struyven. If you look at the
10 transcript, the interpreter has indicated that the end of the witness's
11 answer wasn't heard so we must -- we need to have this clarified, please.

12 MS. STRUYVEN (interpretation):

13 Q. Now, with respect to the spelling of Mr. Adubango Biri's name,
14 can you please spell it once more, that is his first name, Adubango.

15 A. A-d-u-b-a-n-g-o.

16 Q. Now, one more question on the children. Now, the people who
17 talked to you who told you that they had already been sent on mission to
18 go and mobilise children, did they tell you about any age restrictions
19 with respect to the children who were mobilised?

20 A. Once more, to answer this question, I would like to refer to the
21 comments (Redacted). He complained that he had
22 difficulties in teaching the children who worked with him for the simple
23 reason that they were children, first of all. They did not have a full
24 understanding of the events which were taking place. That's what he told
25 me. And as we continued in our discussion, he revealed that all of this

1 stemmed from the fact that - and I repeat his words exactly, we were
2 speaking Lingala, he said, and of course I'm translating here - he said,
3 They just pick up just anybody. That's what he said.

4 Q. Thank you. Yesterday you said that when you were in Bunia in
5 August 2002 you saw training going on. Now, the persons you mentioned
6 earlier, did they talk about any form of training going on after
7 September 2002?

8 A. Yes, and I knew about this. Even though I didn't state it that
9 clearly, but I told you about the fact that Mr. Bosco Ntaganda did not
10 live in Bunia, he lived outside Bunia. And his usual place was Mandro.
11 And in Mandro (Redacted) they had another training camp at the time and
12 even later on. (Redacted)
13 (Redacted)
14 even Thomas Lubanga went there for the end of training celebration or
15 ceremony of certain recruits.
16 (Redacted) I
17 learned that the training had been accelerated and it would take about
18 two weeks. (Redacted)
19 (Redacted)
20 (Redacted) said that all
21 the national commissioners had received orders from the president, that
22 is, Mr. Thomas Lubanga, to go to that centre in Mandro for training for
23 two weeks. It was an order issued by the president, Mr. Thomas Lubanga.
24 So the centre was not closed. Rather, the centre was made open or
25 remained open in a much more official manner.

1 Q. Just to be sure, you said an order was given by Mr. President,
2 was it (Redacted) who told you this? Did I understand
3 you well?

4 (Redacted)

5 (Redacted)

6 that they had received orders from the president to go and undergo
7 military training. And the same applied to (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted). Someone saw him in military uniform, and the person was
11 astonished that he had suddenly become a soldier.

12 Q. Thank you. Now, to come back to the child soldiers, the persons
13 you talked about such as (Redacted) who explained to you that they
14 picked up just anybody, did they give you any clarifications, any
15 specific information on how these children were used, how were they used?

16 A. I think I have already given at least some form of answer to that
17 question, if I'm not mistaken I did this the day before yesterday. First
18 of all, (Redacted)

19 (Redacted) when I expressed my indignation at the young age at
20 which these children were recruited into the army. But I did this very
21 tactfully in order not to attract any danger to myself. But he explained
22 to me that the youngest children were used as informers and they were
23 trained for that. And so you can understand why Commander Idriss was
24 complaining. They were also used in combat.

25 (Redacted). He said that

1 this war was won by children. Later on he said that children are
2 generally very courageous when they are on the battle-field. That's what
3 I know. In my statement as well I think I said that later on parents
4 started complaining about their children who were going into combat,
5 especially those who were with Bosco Ntaganda.

6 Now, to answer your question very briefly, from the information I
7 obtained, the children were used for military intelligence activities and
8 for military operations on the battlefield.

9 Q. You said later on that these children were very courageous,
10 that's what came across on the English. Can you give us more
11 clarification on that.

12 A. I think you will be better to correct the term courageous. I
13 said -- I said "hardened," that is, they are bellicose, I think the
14 interpreter should use a more appropriate term for that.

15 Q. And what do you mean by that then?

16 A. What I mean is that they are children who obey orders faithfully,
17 the orders issued by their commander. There were a lot of comments. So
18 they are children who try to imitate the heroes they see in films and
19 conduct operations with a certain amount of bravery. They wish to carry
20 out their activities just as they were ordered.

21 Q. You have also explained that the parents began to complain, in
22 particular the parents of the children who were working with Bosco. Can
23 you tell us who gave you that information and why they were complaining?

24 A. This information -- of course we're referring here to the year
25 2004. The community president of the Gegere, and I'm looking for his

1 name, I'm trying to remember his name, I think he's still living in
2 (Redacted). Because as the community president of
3 the Gegere he received reports from various parents who had trouble
4 believing what had happened. They'd lost their children in the war.
5 Some had been killed, and according to what the president of the Gegere
6 community told me, those who did come back were no longer themselves.
7 They were not normal anymore, at least compared to the way they were
8 before they went to war. Those were the complaints that he had received

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 Q. One last question. Did you see child soldiers yourself after
15 September 1st, 2002; and if yes, can you give us some examples. I don't
16 necessarily want you to tell us about all of them, but some examples if
17 possible.

18 A. Yes, when I was in Bunia - and this goes back to what I was
19 saying before - when I visited the UPC headquarters there were child
20 soldiers there inside, and they were following training and I saw that.
21 I saw them behaving the way I described it earlier on. Perhaps I could
22 give you one additional, new element, which is that one day I was with

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 (Redacted) she called over a child who came over. Unfortunately for me
2 it was a (Redacted) child, so I didn't understand anything. But what I
3 was able to understand was that she had given the child the order to
4 follow someone from MONUC who had just come (Redacted). And afterwards the
5 child left and came back and reported, in (Redacted) again. This was a 9-
6 year-old child approximately. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted) in Bunia and I saw children walking by. I

20 thought they were children playing near the water, swimming and playing
21 by the river. And I realized, I drew the conclusion that it was those
22 children who had reported back to him, and I had already had a similar
23 experience in the past and he had told me that children were trained as
24 informers.

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 Q. Thank you. Now my question refers to the period after September
7 2002. Did you see any soldiers or speak to any child soldiers from the
8 UPC after September 2002? To complete my question I'm asking for
9 examples, not all the meetings.

10 PRESIDING JUDGE FULFORD: Now, Ms. Struyven, it may be that
11 I've -- I haven't understood this correctly. But as I understood your
12 question, it was -- your original question top of page 22:

13 "Q. One last question: Did you see child soldiers yourself
14 after September the 1st, 2002; if yes, give us some examples.

15 "A. Yes, when I was in Bunia - and this goes back to what I was
16 saying before - when I visited the UPC ... soldiers," et cetera.

17 I'd assumed, but tell me if my understanding is wrong, that that
18 was the question you'd asked, and the witness answered it, giving
19 examples with reference to the period after the 1st of September, 2002.
20 Now, if that's right, you've just asked him exactly the same question all
21 over again, haven't you?

22 MS. STRUYVEN (interpretation): Your Honour, perhaps we can
23 clarify with the witness, but I believe that the examples he gave dated
24 before September 2002.

25 PRESIDING JUDGE FULFORD: Good, well let's clarify that.

1 Sir, you've just given us some examples and they've included, for
2 instance, a 9 year old. Now, is that before September the 1st, 2002, or
3 after September the 1st, 2002, yes or no?

4 THE WITNESS (interpretation): It was -- it was well before September
5 2002 the examples that I just mentioned.

6 PRESIDING JUDGE FULFORD: Right. I'm going to
7 interrupt you. Can we now
8 please deal with Ms. Struyven's question, which was the period after the
9 1st of September, 2002: Did you yourself see or speak with any child
10 soldiers in the UPC after the 1st of September, 2002?

11 THE WITNESS: Thank you, your Honour -- excuse me.

12 PRESIDING JUDGE FULFORD: Please give your answer.

13 Oh, there is silence -- right, no, pause, please. I'm going to
14 turn to Maitre Mabilille and ask whether she is able now to hear me, or
15 rather, the interpretation of what I'm saying.

16 MS. MABILLE (interpretation): There was a moment where English
17 invaded us, but I think French has come back fortunately.

18 PRESIDING JUDGE FULFORD: I'm going to refrain from saying
19 anything at all.

20 Right. Post-September the 1st, 2002, did you see any child
21 soldiers in the UPC?

22 THE WITNESS (interpretation): Yes, I must have seen them in Aru
23 (Redacted). It was -- there was UPC soldiers
24 deployed under Commander Jerome in Aru. And as I said earlier, following
25 the agreement between Commander Jerome and the UPC there were fewer child

1 soldiers with Commander Jerome, so that's it. But the example I can give
2 you is the case of a child soldier that I met in the bar. He was part
3 of Commander Jerome's escort. He was small. And this was in 2003,
4 around the month of March or April 2003. He was a little boy, very cute,
5 and I spoke to him and asked him a few questions. Of course he was with
6 this very stalky, fat woman, very fat. There was quite a contrast. It
7 was like asking an elephant to marry a mosquito. It was strange.

8 Another example I can give you is the case of a child I saw when
9 I came to Commander Jerome's headquarters. The child had committed some
10 fault, some mistake, and he was being punished and he was put into
11 prison. And when the prison guards wanted to remove his weapons, the
12 child refused to give up his weapon, and the reason he gave out loud, he
13 was screaming, he said, No, Commander Bosco taught me that my weapon is
14 my father, my mother, my brother, my sister, my wife, it's everything for
15 me, and therefore I will not give up my weapon. If you want it, you have
16 to kill me first and then, then you will get my weapon.

17 It wasn't -- it was amusing, so to speak, and Commander Jerome was amused
18 as well. He told the guard to leave the boy with his weapon, and he laid
19 down with his weapon in his arms and he was holding it against
20 his chest when I left.

21 Q. To be perfectly precise, these two child soldiers were from UPC?

22 A. Yes, that's correct. And if you were to ask me how I know that they were
23 with UPC, these children, first of all, I knew all the soldiers with
24 Commander Jerome. There weren't there many. And the child in question wasn't
25 there before. He spoke Gegere Swahili. That's another aspect that is worth

1 pointing out. While he was resisting, refusing to give up his weapon, he
2 referred to Bosco Ntaganda who had trained him and that was all. He
3 tried to show what he had already done on the battle-field and that they
4 couldn't play with him. And he wouldn't give in, and through what he
5 said I understood that this child in particular, the one who was being
6 arrested, was from the UPC. The other child that I mentioned first with
7 the fat woman, he explained himself that after the fall of the UPC they
8 fled with this woman and they fled together, and the woman explained to
9 me because I asked her how she could do something so unnatural. She said
10 it was to protect herself. They'd killed her husband so she had to find
11 a soldier to protect herself and to protect her family.

12 Q. One clarification briefly.

13 MS. MABILLE (interpretation): Your Honour, the last question
14 that my learned colleague asked included a number of the elements of the
15 response, and she suggested the answer in a very strong fashion to the
16 witness, and I would like to request that she be more attentive to that
17 aspect.

18 PRESIDING JUDGE FULFORD: Thank you, Maitre Mabilille.

19 A little while ago, Ms. Struyven, you started a question with the
20 words "my final question." Before I deal with the matter raised by
21 Maitre Mabilille, how much more have you got?

22 MS. STRUYVEN (interpretation): Your Honour, I have one more
23 question for clarification on this matter and then another topic, but the
24 second topic is much shorter than what we have just dealt with.

25 PRESIDING JUDGE FULFORD: So it wasn't your final question.

1 Please bear in mind what Maitre Mabilie has said, please. We've
2 stressed on a number of occasions that on -- particularly on issues of
3 sensitivity, counsel has got to be very cautious in relation to leading
4 questions. You can set the scene, but the answer must not be suggested
5 in the question. Right. We'll take the issue of clarification, and
6 we're then going to break for a reason that I will explain in a moment.
7 Good. Clarification, please.

8 MS. STRUYVEN (interpretation):

9 Q. My last question, and I am expecting a relatively brief answer.
10 Do you know - and I'm referring here to the child that talked about
11 Bosco, saying that the weapon is your father, your mother, et cetera - do
12 you have any idea of the age of that child?

13 A. Well, if I remember correctly, the child was at the most 12, at
14 the most.

15 PRESIDING JUDGE FULFORD: Good. Thank you very much.

16 We're going to take a break now in a moment. I'm going to ask
17 you now to withdraw and we'll look forward to seeing you again at 11.00.
18 Thank you. Closed session, please, and could the usher please accompany
19 the witness out of Court.

20 *(Closed session at 10.20 a.m.) Reclassified as open session

21 COURT OFFICER: Closed session.

22 (The witness stands down)

23 PRESIDING JUDGE FULFORD: Public session, please.

24 (Open session at 10.21 a.m.)

25 COURT OFFICER: Public session.

1 PRESIDING JUDGE FULFORD: Ms. Struyven, unless something is
2 actually going wrong in Court, I'm very reluctant to intervene to suggest
3 on certain matters how counsel should go about their task, not least
4 because it is essentially a matter for counsel. And particularly when
5 the Judges are the primary finders of fact, it can create an appearance
6 of partiality on the part of the Tribunal because it gives the appearance
7 that the Chamber is attempting to assist one side in preference to the
8 other. I hasten immediately to say that the intervention that I make now
9 does in no way reflect any form of partiality on the part of any of the
10 three of the Judges of this Chamber.

11 I'm intervening because we ultimately have the obligation imposed
12 on us by the Statute to search for the truth. There have been this
13 morning, for the most understandable reasons, a fairly large number of
14 questions directed at the presence of child soldiers within the UPC at
15 different times. And the generic expression either "child soldiers" or
16 "children" have been referred to. Now, reflecting on this - and this
17 really goes back to an intervention, at least one intervention by me
18 earlier on - reflecting on this and thinking ahead to when we have to
19 determine facts, what are we supposed to do with this witness's evidence
20 when he refers to children or child soldiers?

21 For the purposes of the indictment for the charges, we are asked
22 to focus on those who are below 15. This witness has said that when he
23 uses the expression "children" he's referring to the age under Congolese
24 law which has as its end point 18. This may render unfairness to either
25 side. I have no idea. An answer given by the witness when this was

1 specifically addressed the other day arguably favoured the Defence, but
2 as it stands we do not know whether when he says -- when he refers to
3 children he's referring to those under 15 or over 15 or if it's both what
4 the proportion is who are over 15 and the proportion who are under 15.
5 That's what we're going to be asked to focus on, I anticipate, during
6 counsel's closing submissions at the end of this case, because that's the
7 category that's relevant principally for the charges the accused faces.
8 Now, I'm going to ask you to reflect on this over the break
9 that's to come. I'm not going to give you permission to go back over all
10 of the evidence again to identify it, but you may wish to - this is a
11 matter entirely for you - you may wish to see whether there are some
12 short questions which will receive relatively short answers which can
13 provide some clarification on this issue. Because I anticipate that
14 otherwise the assistance provided by this witness, either way, to the
15 Defence and the Prosecution, is going to be potentially significantly
16 diminished if this is left unresolved.

17 Now, that's a suggestion. You don't have to adopt it. It's a
18 matter for you, but I raise it because I can see potentially this causing
19 a problem later on. And I'm going to repeat. This intervention is not a
20 reflection of any kind of favour which this Chamber has for one side
21 rather than the other. It is simply in a bid to achieve clarity on
22 something that may be - I don't know - may be of importance. Thank you.

23 We'll sit again at 11.00.

24 COURT USHER: All rise.

25 Recess taken at 10.27 a.m.

1 On resuming at 11.02 a.m.

2 COURT USHER: All rise. Please be seated.

3 PRESIDING JUDGE FULFORD: Is there anything we need to discuss in
4 open session before the witness is brought back in? No. Ms. Struyven?

5 MS. STRUYVEN (interpretation): No, your Honour.

6 PRESIDING JUDGE FULFORD: Thank you.

7 Closed session, please.

8 *(Closed session at 11.03 a.m.) Reclassified as open session

9 COURT OFFICER: Closed session.

10 (The witness takes the stand)

11 PRESIDING JUDGE FULFORD: Public or private, Ms. Struyven?

12 MS. STRUYVEN (interpretation): Your Honour, the clarifications
13 I'd like to ask the witness to make could be made in open session.

14 PRESIDING JUDGE FULFORD: Open session, please.

15 (Open session at 11.05 a.m.)

16 COURT OFFICER: Open session.

17 PRESIDING JUDGE FULFORD: Yes, Ms. Struyven.

18 MS. STRUYVEN (interpretation): Thank you, your Honour.

19 Q. Witness, I'd like to ask you to clarify something that has to do
20 with the age of the children you referred to today and previously. First
21 of all, could you clarify something you said the day before yesterday?
22 And for the sake of the transcript, I'm referring to the English
23 transcript page 86, lines 1 to 18. I apologise, it's only line 18.
24 The day before yesterday you were saying with regard to the children that
25 you saw in Bunia at the HQ, you said that in your opinion there were 30

1 per cent who were 15 years old or under 15 years of age. My question
2 might seem bizarre, but we would like to know how many children were
3 under 15 years of age. So I'd like to exclude the children who were 15
4 years of age, but in your opinion what was the percentage of children
5 under 15?

6 A. Thank you very much. If I may repeat exactly what I said, I said that
7 the children of 15 years and younger could easily represent 30 per cent.
8 That's what I said. If one were to exclude the children who were aged 15,
9 in that case, in my opinion, the percentage
10 would be around 20 per cent.

11 Q. Thank you. Today you've spoke of children again and you said
12 that a number of people were asked to go and mobilise children, to go on
13 missions to mobilise children, and my question is as follows. Did you
14 find out or could you arrive at an assessment of the percentage of
15 children under 15 years of age?

16 A. I apologise. I haven't fully understood the question. I don't
17 know whether you're asking me about certain children -- which children
18 were to be mobilised?

19 Q. I apologise. I'll be clearer. On a number of occasions you
20 referred to children today. I'll provide you with perhaps more examples.
21 You mentioned a mobilisation mission, you mentioned the training of
22 children, you mentioned children participating in combat, and you also
23 mentioned complaints that the children's parents had made concerning the
24 fact that their children had to fight.

25 The question is perhaps a little difficult, I don't know, but

1 could you tell us what you yourself know about the situation? When you
2 refer to children within that context what would be the percentage of
3 children under the age of 15 in your opinion?

4 PRESIDING JUDGE FULFORD: Pause for a moment.

5 Maitre Mabilie.

6 MS. MABILLE (interpretation): Your Honour, one is asking the
7 witness to provide a general estimate with regard to a situation that
8 we're not familiar with. We don't know when this took place. You're
9 asking the witness for a general assessment about something that he did
10 not witness directly. I think that this is becoming somewhat difficult.

11 PRESIDING JUDGE FULFORD: With respect, Maitre Mabilie, I agree.
12 It was a very difficult question you put, Ms. Struyven, extremely
13 general, really, and inviting a response in relation to which it would
14 have been wholly unclear to which situation, which group the witness was
15 referring to; and secondly, what the basis was or is for him making the
16 assessment that he arrives at. I'm going to give you a moment or two to
17 discuss this with Mr. Sachdeva and Ms. Samson. But I think if this is to
18 be developed, it needs to be done clearer and more precisely, please.

19 (Prosecution counsel confer)

20 MS. STRUYVEN (interpretation): Your Honour, I'll try again by
21 providing specific examples. I'm not sure that it will be possible, but
22 I'll try.

23 Q. Witness, let's take this step by step this morning, and I won't
24 repeat the names that you mentioned. But this morning you provided us
25 with the names of certain individuals whom the leadership, as you said,

1 had asked to go and mobilise children in their respective communities.
2 Now, do you know whether at that time this mobilisation was limited to a
3 certain age group?

4 PRESIDING JUDGE FULFORD: Before you answer, sir.

5 Yes, Maitre Mabilille.

6 MS. MABILLE (interpretation): I apologise, your Honour, but this
7 question has already been put.

8 PRESIDING JUDGE FULFORD: I'm going to ask you to be a little
9 more specific, Maitre Mabilille. When you say this question has already
10 been put, what are you referring to, please?

11 MS. MABILLE (interpretation): I'm looking for the reference, but
12 I think that the very same question was put at the beginning of the
13 morning. I'm looking for the reference, though.

14 PRESIDING JUDGE FULFORD: Just pause a moment, Ms. Struyven.

15 (Defence counsel confer)

16 MS. MABILLE (interpretation): Your Honour, page 22, line 9 in
17 the French transcript.

18 PRESIDING JUDGE FULFORD: Could you just read out the question
19 that you say was put before, Maitre Mabilille. It would be of help.

20 MS. MABILLE (interpretation): I'm reading:

21 "And now another question about the children. The people who
22 said that they had already been sent on missions, could they -- to go and
23 mobilise children, well did they speak about any limits on the age of the
24 children that they could mobilise in this manner?"

25 PRESIDING JUDGE FULFORD: Thank you very much indeed. Yes,

1 that's clear.

2 (Trial Chamber confers)

3 PRESIDING JUDGE FULFORD: Ms. Struyven, I think with that example
4 in a sense the area has been dealt with in the way that Maitre Mabilie
5 has just identified. As I said earlier, I'm -- this is for you, not for
6 us. But there were a significant number of occasions, as I indicated
7 before we rose, where there was general reference to children without
8 their ages in any way being identified. Now, I don't know whether there
9 are any other ways in which you want to address this, but unless you
10 disagree with Maitre Mabilie's intervention it does seem as though with
11 this particular example it has in fact been covered.

12 MS. STRUYVEN (interpretation): With your permission, your
13 Honour, I believe that the witness's answer to this question -- well, in
14 that answer he used a certain expression if I'm not mistaken, an
15 expression that indirectly indicates the age of these children. And what
16 I could ask him is whether or not he had more precise information on the
17 exact age of the children that he was referring to. Because if I'm not
18 mistaken he referred to the fact that -- well, anyone would be sent --
19 but it was said in a somewhat indirect way.

20 PRESIDING JUDGE FULFORD: Well, as we've indicated, Ms. Struyven,
21 this may be an area where we will be assisted in terms of our overall
22 determination of the relevant factual issues. We very much take on board
23 the suggestion made by Maitre Mabilie that in a sense this is territory
24 that has already been traversed. But to assist us this must be dealt
25 with in a limited way.

1 And so, sir, can I put this directly to you. When you have
2 referred to the complaints that were made -- I pause for a moment. I'm
3 sorry. Yes, I was looking for the right part. You've made reference to
4 certain individuals whom the leadership had asked to go and mobilise
5 children in their respective communities. Are you aware of the age-range
6 covered by that attempt at mobilisation?

7 THE WITNESS (interpretation): Can I answer? Once more I am
8 relying on what I know personally, and I am relying on the contacts I had
9 in the field with the key actors, to answer this question. Well, in
10 short what I can say is that as far as I know there was actually no age
11 limit in the recruitment of children in the villages or anywhere else as
12 far as I know. I can give you an example. (Redacted) carried this out in
13 our village, and I can confirm this to you, your Honour, amongst the
14 children who were recruited they took just anybody, irrespective of age,
15 irrespective of their health situation so on and so forth.

16 And still to answer this question, I would like to cite an event
17 which I witnessed and which unfortunately I did not mention earlier.
18 When I was there on site at that time what I noticed is that certain
19 children were taken from the streets. There were many war-displaced
20 people in the town of Bunia and in other neighbouring centres or areas.
21 And I would like to refer to a message of which you have been informed, I
22 think. I don't know if I should cite the person's name here. The
23 gentleman who reacted after the departure of Molondo from Bunia said that
24 now there were no longer any displaced people in the streets. And that's
25 what I'm saying. There were children who were taken, children whom I saw,

1 I knew children who were enlisted by force, I think,
2 into the army.

3 Your Honour, this is to tell you once more that to my knowledge
4 and on the basis of the facts I know there was no age limit in the
5 recruitment of the soldiers who were enlisted into the army of
6 Mr. Lubanga.

7 PRESIDING JUDGE FULFORD: Thank you very much.

8 Yes, Ms. Struyven.

9 MS. STRUYVEN (interpretation):

10 Q. Now, with regard to these children whom you saw enlisted by force
11 in the streets as you said, can you help us provide information on their
12 age and not specifically talk about those who were under 15
13 or above 15?

14 A. Yes, I can give an estimate with respect to the children whom I
15 saw arrive, especially those who came from the streets. These were
16 children who ranged in age from 8 to 15, that is, among the children I
17 saw who were taken by force from the streets.

18 Q. Just to be sure, when you say up to 15 is it less than 15 or you
19 are also talking about children aged 15?

20 A. Yes, I can state that it's up to 15 inclusive, that is, including
21 those who were aged 15.

22 Q. If we talk about children aged 14 and below, can you give us a
23 percentage of how many they were?

24 A. Those who were brought on that day, for example, there were five
25 of them and they were all under the age of 15. There was no doubt about

1 that.

2 Q. Thank you. I will repeat the same question with respect to
3 children you spoke about when you -- when we were discussing training. I
4 am referring to the training that you were informed about after September
5 2002. Can you help us, tell us something about the age of the children
6 who were undergoing this training?

7 A. Well, going by what the first gentleman in charge of the military
8 intelligence office of Thomas Lubanga told me, and (Redacted)
9 (Redacted). So

10 after this complaint I would like to tell you here that I do not have precise
11 figures. My impression is that the number was probably more, especially
12 if he complained about this because these were children who were sent to
13 him for training. That is all I can say on this point.

14 MS. STRUYVEN (interpretation): Your Honour, can I ask him a
15 question and mention the name of this person in private session just so
16 that we get a clearer answer?

17 PRESIDING JUDGE FULFORD: Certainly. Private session, please.

18 *(Private session at 11.28 a.m.) Reclassified as open session

19 COURT OFFICER: Private session.

20 MS. STRUYVEN (interpretation):

21 Q. Sir, can you tell us the name of the person who talked to you
22 about this?

23 (Redacted)

24 (Redacted)

25 (Redacted)

1 Q. Thank you.

2 MS. STRUYVEN (interpretation): We can go back to open session,
3 your Honour.

4 PRESIDING JUDGE FULFORD: Thank you.

5 Public session, please.

6 (Open session at 11.29 a.m.)

7 COURT OFFICER: Open session.

8 MS. STRUYVEN (interpretation):

9 Q. We will now look at the third context. You talked about participation
10 in combat. You even stated that the children were even more courageous, but
11 that's not precisely what you said. In any case, in that context, you talked
12 about children participating in combat.

13 Did you get any information with respect to
14 the age of the children who were participating in combat?

15 A. Of course when I said that the children -- children were
16 preferred because they were docile, they obeyed the orders of their
17 commanders, and that they would try to mimic or imitate the heroes they
18 see in films, they were more determined and more active during combat. I
19 can tell you right away that there were some who were -- there were
20 injured soldiers among them and Thomas Lubanga would have them treated in
21 Kampala. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted). I also saw some children aged below 15 who were injured, who were

1 treated, first of all, in the hospital in Mulago and in a certain number
2 of clinics, amongst the injured there were children. And we're talking
3 about gun-shot wounds, gun-shot injuries. I also obtained other
4 information. For example, I just described the situation of two small
5 children whom I met in the zone which was under the control of -- which
6 was being commanded by Jerome Kakwavu. They talked about their
7 participation in the war. Now, those were the people I saw as children,
8 and fortunately I had contacts with a certain number of them. In other
9 words, I spoke to them. There is no doubt about that.

10 Now, the other information is information I got from certain
11 officials of the UPC themselves who talked about such situations. I
12 would like to point out here without going into detail that this was a
13 military secret.

14 Q. I'm going to ask you a few questions on that. First question,
15 you have referred once more to the concept of children. You said you saw
16 children who had sustained gun-shot injuries. You said you had contacts
17 in the region under Mr. Jerome Kakwavu, you had contacts with children,
18 you spoke to these children. Now, let's talk about age. When you talk
19 about children are you talking about children under 15, children above
20 15, or none of the above?

21 A. I will strive to adapt to the situation. When I talk about
22 children here, in the instant case I am talking about children aged 15
23 and below. That's what I mean when I talked about children here
24 precisely.

25 Q. Well, excuse me, but this is an important question. Now, if you

1 were to focus only on children who are aged below 15, can you give us the
2 percentage that they represented in the group?

3 A. I can give you the figures, the numbers of those I saw. Now,
4 talking about children aged 14 and below, I saw two of them amongst the
5 injured who were in Kampala. A short while ago I talked about the other
6 two I met. They were not injured soldiers. They survived the war
7 without any wound at all. That is those I saw at Kakwavu's place. This
8 was in March and April 2003. Those I saw at Kakwavu's. So to restate it
9 I saw the injured in Kampala in the month of October 2002.

10 Q. Just to be clear, now the children you saw, to which group did
11 they belong?

12 A. The children I saw, the injured children I saw in Kampala, were
13 Gegeres and Hemas. There was no doubt about that, whereas the two boys I
14 talked about were both Gegeres.

15 Q. And which military political group did they belong to?

16 A. They were Gegeres who were fighting under the UPC.

17 PRESIDING JUDGE FULFORD: Yes, Maitre Mabilille.

18 MS. MABILLE (interpretation): Your Honour, my colleague has just
19 suggested that these children belonged to a political or military group.
20 I think in your question you are suggesting an answer.

21 PRESIDING JUDGE FULFORD: Right.

22 Sir, don't take it from Ms. Struyven that they belonged to a
23 military group, but if they did your answer remains the same?

24 (Redacted)

25 (Redacted)

1 I knew why he was there. I knew about some of his activities. I had
2 perfect knowledge of that. So he was from UPC.

3 PRESIDING JUDGE FULFORD: Ms. Struyven, forgive me.

4 Maitre Mabilie's intervention was well founded. The question - which
5 military political group did they belong to? - includes the assertion
6 that they did belong to a military group. Arguably, it's a textbook
7 definition of a leading question. So be careful, please. But let's not
8 spend time with this. You've been moving through the categories. Are
9 there any more that we need to consider?

10 MS. STRUYVEN (interpretation): Your Honour, just a clarification
11 with respect to the name of the person who was in Kampala and I would
12 like to do that in private session.

13 PRESIDING JUDGE FULFORD: Absolutely.

14 Private session, please.

15 *(Private session at 11.39 a.m.) Reclassified as open session

16 COURT OFFICER: Private session.

17 PRESIDING JUDGE FULFORD: Right.

18 Yes, Ms. Struyven.

19 MS. STRUYVEN (interpretation):

20 Q. Witness, you understood the question. What was the name of the
21 person who was in Kampala and to whom you made reference a short while
22 ago?

23 (Redacted)

24 (Redacted)

25 Q. Thank you.

1 MS. STRUYVEN (interpretation): Thank you. We can return to open session for
2 the next subjects, your Honour.

3 PRESIDING JUDGE FULFORD: Thank you, Ms. Struyven.

4 Public session, please.

5 (Open session at 11.40 a.m.)

6 COURT OFFICER: Open session.

7 MS. STRUYVEN (interpretation):

8 Q. Witness, the last topic I would like to discuss is Radio Candip
9 that you have referred to, and my first question - and this can be fairly
10 brief - my first question is: What was the territory covered in the news
11 on Radio Candip, or rather, how far did Radio Candip broadcast its news?

12 A. I am absolutely certain that under normal operating
13 conditions - and when I say "normal," I mean when the emitter was using
14 full capacity - we could hear Radio Candip over short wave and you could
15 hear Radio Candip under those circumstances everywhere very clearly: In
16 the so-called province Orientale, in a large part in the north and west of
17 Uganda, in the Kivu, in certain parts of the Kivu -- both Kivus, both
18 Kivus you can listen to Radio Candip on short wave. And as regards the
19 FM band, you could hear those very clearly, more clearly, in Ituri,
20 throughout Ituri, and in part of the west and the north-west of Uganda.
21 Often I listened on the FM band because it was much clearer compared to
22 the short wave programmes.

23 Q. To have an idea you explained yesterday and the day before that
24 messages - and here I hesitate to quote what you said because I'm not
25 certain to remember your exact words - but you did say that some

1 decisions that were taken by the UPC were broadcast over Radio Candip.
2 Can you tell us what kind of information, what kind of news, was
3 broadcast over Radio Candip by the UPC if there are others than what you
4 have already mentioned.

5 A. Well, perhaps I could add one other bit of information for everyone in
6 the courtroom. First of all, Radio Candip is a community radio, and
7 therefore it should be managed in principle by ISP, the "L'Institut
8 Superieur Pedagogique" in Bunia. Unfortunately politics became involved
9 and therefore the state has a fairly firm hand in the radio station. And
10 therefore starting in the days of the late President Mobutu all of the
11 political leaders were involved in the management of the news. In other
12 words, before news was broadcast it was censored by someone from the
13 governor's office or the district commissioner. And at the time of the
14 UPC, when the UPC took power, they were in control; in other words, they
15 put Radio Candip under their control and there were many changes that I
16 saw as to how the programmes were organised on this radio channel.

17 Traditionally, in the morning there were morning programmes which
18 would be done in various ways depending on the day. There was a wake-up
19 show which included a prayer and very often Lotsove spoke on the radio to
20 make her own sermon, so to speak. And Mr. Floribert Kisembo, the Chief
21 of Staff of the UPC, also spoke on the radio. There was news about some
22 of the activities that could be made public, the UPC activities. There
23 were other press releases that were given and other things, certain
24 educational programmes. That was basically what you had. That was the
25 basic programme on Radio Candip under the UPC, or rather, at the time of

1 the UPC.

2 Q. When Mr. Floribert Kisembo spoke on the radio, can you tell us,
3 if you heard him of course, what kind of message he pronounced on the
4 radio?

5 A. Yes, of course. Every time I heard him on the radio he spoke as
6 a military man. The message was a military one and favourable to the
7 military. To be perfectly clear, let me give you one example of
8 something I myself heard. In his opinion peace could only be won with
9 weapons; that's basically how you could summarise his message. When he
10 talked about the enemies he was referring essentially to the Lendus.
11 They were the natives of Ituri and when he called for them to put down
12 their weapons, at the same time he was threatening to attack if they
13 didn't obey. So basically his message was always a very war-faring
14 message and it was full of hatred, and he referred to ethnic and tribal
15 hatred.

16 Q. Before we go on to the video, I have another question. Was there
17 a name given by the Gegere community to Mr. Lubanga? Do you know that?

18 A. Yes. Over time I found out how the supporters, his firm
19 supporters, called him. Today, for example, if you go to that region
20 those who still support him don't call him Thomas but Thoms. Those who
21 have a more distant attitude call him "raisi." "Raisi" means president
22 in general, but in this context if you think in terms of the meaning of
23 the word which is an Arabic word in origin, I always regretted that you
24 don't translate a word precisely. If you translate "raisa" by president,
25 it's a softer meaning, so to speak, and they call him "raisi." Amongst

1 other names, they called him president, they called him commander, et
2 cetera.

3 Q. Could you explain what you mean about the translation of "raisi"
4 by president as being not strong enough?

5 A. Well, I think if we had an Arabic speaker here it would be most
6 useful to understand the root of this word. I think that even in light
7 of our concept of authority, authority is sacred. So when you call
8 someone "rais," in fact president -- president comes and goes. In a
9 democracy that's how it works, whereas the concept of authority as we are
10 familiar with it and a person of authority is permanent. That's how we
11 think of it. You don't change them. You have a local king. I could
12 explain in further detail if you like. So you see, for me, it really
13 struck me as being a very strong way of referring to him to call him
14 Rais.

15 Q. Thank you.

16 MS. STRUYVEN (interpretation): Your Honour, we just have the
17 video, that's all that's left. It's not very long. It lasts four
18 minutes. So I would like to suggest that we view this video now and that
19 we ask the witness at the end to identify if he recognises where the
20 video was shot and if he recognises the individuals or not.

21 PRESIDING JUDGE FULFORD: Now, do we understand, therefore, that
22 it's not suggested that the witness was present when the video was filmed
23 or is that a possibility, Ms. Struyven?

24 MS. STRUYVEN (interpretation): No, your Honour. No, he was not
25 present.

1 PRESIDING JUDGE FULFORD: Right. So what we're asking the
2 witness to do when he views this video is simply to see whether he
3 identifies any particular individuals who appear in the sequence that's
4 to be shown; is that right?

5 MS. STRUYVEN (interpretation): That's correct, your Honour.

6 PRESIDING JUDGE FULFORD: Good.

7 (Trial Chamber confers)

8 PRESIDING JUDGE FULFORD: People alone or places as well,
9 Ms. Struyven?

10 MS. STRUYVEN (interpretation): The people and the place where
11 the video was shot, if he's familiar with it.

12 PRESIDING JUDGE FULFORD: Good. Can it be shown to the public
13 generally?

14 MS. STRUYVEN (interpretation): Yes, your Honour.

15 PRESIDING JUDGE FULFORD: Right. Now, you've historically had
16 someone sitting in Court to help show it. You've got the machine there
17 yourself? Right. Multi-talented, Ms. Struyven. All right. Do you want
18 to show it then, please.

19 MS. STRUYVEN (interpretation): Shall I play it with the
20 soundtrack or without the soundtrack? I'm not going to ask any questions
21 about the content of the video, but do you want to hear it with or
22 without the soundtrack?

23 PRESIDING JUDGE FULFORD: Well, do we take it then that the
24 soundtrack is not a relevant part of the exercise that the witness is
25 going to be asked to engage in; is that right?

1 MS. STRUYVEN (interpretation): Well, I wasn't going to say this
2 but one of the things to take into consideration -- well, I take that
3 back. Let's keep things simple. The answer to your question is no.

4 PRESIDING JUDGE FULFORD: Well, Ms. Struyven, if it's a question
5 of recognising someone and one relevant feature may be the sound of the
6 person's voice, then that would be a reason for the sound being played.
7 If you do not believe that to be a relevant factor, then at the moment I
8 can't see any reason for it being played with any sound. So which is it,
9 please?

10 MS. STRUYVEN (interpretation): Well, since we're discussing this
11 as regards the person or persons that may be recognised, the soundtrack
12 could be relevant in order to recognise the ethnic origin. Initially, I
13 wasn't going to ask the question regarding whether or not you could
14 recognise by the physical appearance voice or the accent whether -- which
15 ethnic group someone belongs to, but perhaps I could ask that question
16 directly to you. Will you allow me to ask such a question; and in that
17 case, of course, yes, I would need to have the soundtrack.

18 PRESIDING JUDGE FULFORD: Well, play it with the soundtrack and
19 we'll then see what questions you formulate once the witness has watched
20 the video and listened to the sound. Right. Video played, please.

21 Maitre Mabilille, certainly, yes.

22 Don't play it.

23 You're more than entitled to intervene.

24 MS. MABILLE (interpretation): Your Honour, I apologise for
25 interrupting, but we know that the witness has said that he was not

1 familiar with this video. I understand that the only reason for showing
2 this video is to see whether or not the witness recognises the
3 individuals in this video. I have trouble understanding why the
4 soundtrack would be of any use because you identify people without the
5 sound. If we add the sound, I think we might orient the witness because
6 if you have the sound you also have the meaning of the words, and we've
7 been uncomfortable with this exercise right from the start. And I
8 wonder, therefore, whether showing the video without the soundtrack and
9 limiting the use of the video, since the witness has said he was not
10 familiar with the video, to find out whether or not he can thus identify
11 on sight the individuals. That's my comment, your Honour.

12 (Trial Chamber confers)

13 PRESIDING JUDGE FULFORD: Ms. Struyven, you were hesitant, the
14 original reason given to us was that this is to identify --
15 identification of people, possibly places, and as an afterthought you
16 added in the last matter which I'm not going to rehearse. Given Maitre
17 Mabilille's objections, we will listen to this without sound.

18 MS. STRUYVEN (interpretation): No problem, your Honour.

19 For purposes of identification, this is DRC-OTP-0159-0441. And
20 I'm going to begin at minute 00.43. -- sorry, 00.00.43.

21 Q. Witness, I would like to ask you to watch this video, and the two
22 matters of interest are: Do you recognise the place where this video was
23 shot; and secondly, do you recognise the individuals in the video? So
24 please signal to me if you recognise someone.

25 (Video-clip played)

1 PRESIDING JUDGE FULFORD: Ms. Struyven, I'm told there is a new
2 technical problem. There is a discrepancy between the French and the
3 English transcripts which will make redactions difficult if not
4 impossible and the only -- the only two ways of avoiding the problem are
5 either to adjourn or to go into private session. Given that this is at
6 the end of your examination-in-chief we'll carry on, but we'll have to
7 carry on in private session.

8 Private session, please.

9 *(Private session at 12.05 p.m.) Reclassified as open session

10 COURT OFFICER: Private session.

11 PRESIDING JUDGE FULFORD: Yes, Ms. Struyven.

12 MS. STRUYVEN (interpretation):

13 Q. Sir, the first two questions I have -- well, the first one
14 is whether or not you're able to recognise the place
15 that this was shot?

16 A. At the beginning what I saw, and when I saw buildings, most of
17 the buildings were governmental buildings -- or rather, most of the
18 governmental buildings built in Bunia are built in this way. I'm
19 referring to residential buildings. And these residential buildings, the
20 houses that I saw here are the governor's official residence, the
21 commissioner of the subregion, it's in Camp Ndromo and also at the place
22 called Camp PM, the military police. According to what I saw here, it
23 seems to me that the video was shot at this location that one calls the
24 subregion.

25 Q. And did you recognise any individuals in the video or not?

1 A. Personally I don't know anyone from the group, but I could tell
2 you which group they belong to. Given the way they appear, they are
3 soldiers, UPC soldiers. I can say this with certainty, much certainty.

4 MS. STRUYVEN (interpretation): Your Honour, may I ask a question
5 about how he knows this? I'm asking for your leave, in fact, to put a
6 few questions about how it is that he knows that these are people from
7 the UPC.

8 PRESIDING JUDGE FULFORD: I mean, the -- I'm not sure whether
9 this is really going to improve the position, Ms. Struyven. Because as
10 it stands this is a -- this is a piece of video in relation to which we
11 don't know when it was taken or the circumstances. The witness is unable
12 to assist us at all with that nor does he recognise anybody within the
13 video. I think in those circumstances asking him to give, as it were,
14 supplementary information about a stretch of video that really he knows
15 nothing about is going to have very, very limited utility for us.

16 MS. STRUYVEN (interpretation): With your leave though, your
17 Honour, could I point out that there are two other videos that relate to
18 this one. The Prosecution wanted to make or submit written applications
19 containing various explanations that also indicate time-periods, because
20 we have additional information that would allow us to situate the video
21 within a time-period. So we wanted to make written submissions to apply
22 for this video to be admitted separately, but we also wanted to ask the
23 witness to provide additional information.

24 PRESIDING JUDGE FULFORD: Let's have clarity, Ms. Struyven. The
25 additional information then you want to ask this witness to provide is

1 limited to how he is able to describe some or all of the individuals on
2 the video as having come from a particular group; is that right?

3 MS. STRUYVEN: If you allow me to answer in English because the
4 vocabulary is more difficult in French. What we intended to do is to
5 submit a bar table motion in respect of this video --

6 PRESIDING JUDGE FULFORD: No, no, I don't want to know about the
7 future, Ms. Struyven. I want to know about now, this witness, and the
8 limit of the question, because I'd understood that this video was about
9 identifying people and places. You've dealt with places, you've dealt
10 with people, the witness has answered both. You're now extending it.
11 Now, I want to know into what you wish to extend it.

12 MS. STRUYVEN: Yes, Mr. President. That is absolutely correct.
13 Since the witness has indicated that in his opinion the people that he
14 saw in the video are UPC, members of the UPC, my question to the -- to
15 your Honours was whether or not I could ask him an additional question,
16 namely, why he knows that these people that he saw in the video are from
17 the UPC.

18 PRESIDING JUDGE FULFORD: Right.

19 One final question on this --

20 MS. MABILLE (interpretation): I do apologise for intervening
21 again, but I believe that we are asking the witness to speculate now. He
22 doesn't know these individuals, he knows nothing about these individuals,
23 and you are today asking him to tell you something that is in my belief
24 tantamount to speculation, but perhaps I am mistaken.

25 (Trial Chamber confers)

1 PRESIDING JUDGE FULFORD: Ms. Struyven, thank you. This -- we
2 were told that this material was being introduced for a very specific
3 purpose. You have addressed with the witness the issues that you told us
4 you wished to be dealt with by him in relation to the video, and we are
5 going to draw stumps in relation to this piece of evidence at that point.

6 Good. Any more questions, Ms. Struyven?

7 MS. STRUYVEN (interpretation): I have one more question,
8 something I would like to clarify with regard to Radio Candip.

9 Q. You said that Mr. Kisémbó issued messages, do you know whether
10 there were any other individuals who spoke on the radio, other members of
11 the UPC?

12 A. Yes, I listened to the radio. Apart from Kisémbó, I have already
13 mentioned the names of Adele Lotsove and also you could occasionally
14 hear, not very frequently, Thomas Lubanga's voice over the radio. He
15 was the person who took the minutes for the executive. He would
16 sometimes speak, once a week he'd go over the points discussed at
17 meetings of the executive.

18 (Technical difficulty)

19 Q. Thank you very much. That concludes my examination-in-chief.

20 PRESIDING JUDGE FULFORD: Right. Anything else, Ms. Struyven?

21 MS. STRUYVEN (interpretation): No, your Honour. But I believe
22 that the witness's answer has unfortunately not been recorded in the
23 transcript.

24 PRESIDING JUDGE FULFORD: That's right, and that's going to have
25 to be dealt with. Good. That concludes evidence in chief?

1 MS. STRUYVEN (interpretation): Yes, your Honour.

2 PRESIDING JUDGE FULFORD: EVD number please.

3 for the video.

4 COURT OFFICER: The EVD number of the excerpt of video will be
5 EVD-OTP-000461.

6 MS. MABILLE (interpretation): Your Honour, you won't be
7 surprised to hear that the Defence objects to having this video admitted
8 into evidence. So the question I'm posing is whether this video should
9 be given an EVD number or an MFI number instead.

10 PRESIDING JUDGE FULFORD: I think what has been established so
11 far, Maitre Mabilles, is that certain buildings within the video can be
12 identified as being at a particular location. Now, whether or not that
13 actually has any evidential significance in the case at all, we will have
14 to wait to hear. But at the moment as I see it its evidential
15 significance goes no further than that. Now, on the basis that unless
16 and until we receive a further application by the Prosecution to admit
17 this video for other reasons, do you object to it being given an EVD
18 number on the understanding that at present we don't see that it has any
19 value beyond that?

20 MS. MABILLE (interpretation): That's not a problem, your Honour.
21 My answer was that it's not a problem to give the document an EVD
22 number under such circumstances.

23 PRESIDING JUDGE FULFORD: Thank you, Maitre Mabilles.

24 Then, it is given an EVD number for those with the understanding
25 that that is at present its limited evidential value. Ms. Struyven, if

1 the Prosecution wishes in due course to argue that this sequence of video
2 has wider evidential significance, you've going to have to argue for that
3 in due course.

4 MS. STRUYVEN (interpretation): Thank you, your Honour.

5 PRESIDING JUDGE FULFORD: Right. Now, Maitre Mabilie, we're at 20 past

6 12.00. We're not sitting on the evidence this afternoon. We have

7 unsynchronised transcripts, we have gaps that have appeared in the English

8 transcript, unless you have a burning desire to do so, I'm not going to ask

9 you to occupy the next ten minutes with questioning this witness.

10 MS. MABILLE (interpretation): It's not absolutely necessary,

11 your Honour.

12 WITNESS: No interpretation.

13 PRESIDING JUDGE FULFORD: In a moment, sir.

14 (Trial Chamber confers)

15 PRESIDING JUDGE FULFORD: Thank you, Maitre Mabilie. We have

16 reflected carefully on the application that was made by all counsel

17 earlier this morning in relation to what should happen next week. For

18 reasons that we have already outlined, and I needn't repeat, we are in a

19 general sense sympathetic to the position of those appearing in this

20 trial having to deal with, however efficiently it is conducted, a move

21 from one building to another whilst also being expected to appear in

22 Court. Therefore, we will sit on Tuesday afternoon, not Tuesday morning,

23 and could someone please remind me of the time that Ms. Massidda

24 suggested that we should commence.

25 Mr. Sachdeva.

1 MR. SACHDEVA: Mr. President, I understand it was from 20'clock but
2 to have two one-and-a-half session periods if we can.

3 PRESIDING JUDGE FULFORD: Good. We should --

4 MR. SACHDEVA: Might I just clarify that the Prosecution - I
5 apologise to do this now - but the Prosecution had preferred to start in
6 the morning, but we understand the predicament that our learned
7 colleagues are in and therefore we accept the 2.00 start, but we would
8 like to see if we can have a further one-and-a-half hour session in the
9 afternoon.

10 PRESIDING JUDGE FULFORD: Three one and a half hour sessions or
11 two?

12 MR. SACHDEVA: Still two, Mr. President.

13 PRESIDING JUDGE FULFORD: Two.

14 MR. SACHDEVA: Yes.

15 PRESIDING JUDGE FULFORD: Right. Thank you. Two
16 one-and-a-half-hour sessions beginning at 2 0'clock.

17 Now, sir, I think there was something that you wanted to say.

18 THE WITNESS (interpretation): Yes. Your Honour, I wish to ask
19 you permission to see the videos again because I tried to pay attention
20 to the children in the video, but I did not pay attention to the adults
21 in the video.

22 PRESIDING JUDGE FULFORD: Any objections?

23 (Defence counsel confer)

24 MS. MABILLE (interpretation): The position of the Defence is
25 that this exercise has already been carried out. The Defence does not

1 think that there is any interest in repeating the exercise, especially as
2 the witness has already seen this video once. And so as far as we are
3 concerned, that exercise has been completed.

4 PRESIDING JUDGE FULFORD: Thank you, Maitre Mabilille.

5 Wait a moment, Ms. Struyven, please.

6 (Trial Chamber confers)

7 PRESIDING JUDGE FULFORD: The witness has been asked to identify,
8 if he can, individuals on this video. He's seen it once. He has
9 requested to see it again. It seems to us in those circumstances that's
10 the appropriate course to take. It lasts four minutes. Play it again,
11 please, Ms. Struyven.

12 MS. STRUYVEN (interpretation): Thank you, your Honour. So I'm
13 going to start at minute 00.43.

14 (Video-clip played)

15 PRESIDING JUDGE FULFORD: Pause it for a second, please,
16 Ms. Struyven.

17 Sir, if at any stage you do see someone who you recognise, could
18 you please immediately put up your hand so that we can pause the video so
19 as to identify who it is that you're referring to.

20 THE WITNESS (interpretation): Thank you.

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

22 (Video-clip played)

23 PRESIDING JUDGE FULFORD: Pause.

24 Now, sir, on the -- is your attention on the frame now in front
25 of us or do we need to rewind?

1 THE WITNESS (interpretation): I think we can focus on the screen
2 in front of me.

3 PRESIDING JUDGE FULFORD: Right. And what comments, sir, would
4 you wish to make about that screen that we now see in front of us?

5 THE WITNESS (interpretation): I would like to apologise for not
6 paying attention to the adults. When I watched the video the first time
7 I focused on the children. The face I see in front of me, the gentleman
8 I can see on the screen, who is in civilian clothes, is a gentleman whom
9 when I visited the HQ of the UPC I would see that he came there too
10 sometimes. And from what he did and from what I saw, he used to come to give
11 a report and he would often talk to Mr. Richard Lonema, to Mr. Kisémbó,
12 and the officials he found there. That is a face I recognise.

13 PRESIDING JUDGE FULFORD: What -- are you able to give an
14 approximate date as to when you saw him or a time-period within which you
15 saw him?

16 THE WITNESS (interpretation): Thank you. The first time I saw
17 him I remember was after the event of 9 August 2002. I saw him in the
18 building, (Redacted)
19 (Redacted). This gentleman came to talk, as I
20 said before, to talk to Mr. Lonema. That is the first person he
21 contacted in the group, but he stood apart. When we came he was with the
22 group of Pilo Kamaragi and that the other people who were with him, it
23 was a group of about six people. And when we arrived he left his group
24 and came and spoke to Richard Lonema. That is what I remember.

25 PRESIDING JUDGE FULFORD: And do I take it from the way that

1 you've framed your answer that you do not know his name?

2 THE WITNESS (interpretation): That is very correct. I don't
3 know his name.

4 PRESIDING JUDGE FULFORD: Right.

5 Finally, just for clarity, you're referring to the person who is
6 standing closest to the camera?

7 THE WITNESS (interpretation): That's right, yes.

8 PRESIDING JUDGE FULFORD: Thank you.

9 Before we move on, Ms. Struyven, any supplementary questions?

10 MS. STRUYVEN (interpretation): No. I simply wish to say that
11 the person was recognised at the time marker (Redacted)

12 PRESIDING JUDGE FULFORD: Thank you. Please continue.

13 (Video-clip played)

14 PRESIDING JUDGE FULFORD: Good. Thank you very much indeed, sir.
15 That's very helpful.

16 Therefore, we adjourn until 2.15 when we will deliver one oral
17 decision. We will then sit again at approximately 3.00 ex parte Defence
18 only. And for those involved in the trial, we will sit at 2.00 on
19 Tuesday afternoon next week.

20 Closed session, please, so the witness can withdraw.

21 *(Closed session at 12.32 p.m.) Reclassified as open session

22 COURT OFFICER: Closed session.

23 (The witness stands down)

24 PRESIDING JUDGE FULFORD: Quarter past 2.00.

25 Luncheon recess taken at 12.33 p.m.

1 On resuming at 2.17 p.m.

2 COURT USHER: All rise. Please be seated.

3 PRESIDING JUDGE FULFORD: Private session, please.

4 *(Private session at 2.18 p.m.) Reclassified as open session

5 COURT OFFICER: Private session.

6 PRESIDING JUDGE FULFORD: Ms. Massidda, I'm in the slightly unusual position
7 of having, first of all, to thank you and Ms. Mulamba for your attendance
8 this afternoon, but the content of this decision is going to need to be
9 reviewed before it is made available to the representatives of
10 participating victims. So thank you both for your courtesy in attending
11 this afternoon, but you can now return to your packing obligations.

12 Thank you, if I could ask you to withdraw.

13 MS. MASSIDDA: Thank you, your Honour. We will enjoy the packing.

14 PRESIDING JUDGE FULFORD: In the edited version of this transcript could I
15 ask the stenographers please, as much as is sensible, to follow the
16 punctuation as set out in the draft. This is our decision on the
17 Prosecution's application for protective measures for documents relevant to
18 trial witnesses 0012 and 0010.

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

1

2

3

4

5

6

7

8

9

10

11

12 Page 61 redacted.

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12 Page 62 redacted.

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12 Page 63 redacted.

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12 Page 64 redacted.

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 65 redacted.

1

2

3

4

5

6

7

8

9

10

11

12 Page 66 redacted.

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
16
17
18
19
20
21
22
23
24
25

Page 67 redacted.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page 68 redacted.

1

2

3

4

5

6

7

8

9

10

11

12 Page 69 redacted.

13

14

15

16

17

18

19

20

21

22

23

24

25

1

2

3

4

5

6

7

8

9

10

11

12 Page 70 redacted.

13

14

15

16

17

18

19

20

21

22

23

24

25

1 (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
17 (Redacted)

18 The hearing ends at 2.55 p.m.

19 RECLASSIFICATION REPORT

20 Pursuant to Trial Chamber I's email instruction dated 9th November 2011,
21 the transcript is reclassified as public after the indicated redactions
22 have been implemented as ordered by the Chamber. All private and closed
23 sessions (*) are now available to the public with the exception of the
24 portions the transcript that have been redacted.

25