

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Open Session)
Questioned by Ms. Struyven (Continued)

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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 Thursday, 28 May 2009
7 The hearing starts at 9.30 a.m.
8 COURT USHER: All rise. The International Criminal Court is now
9 in session. Please be seated.
10 PRESIDING JUDGE FULFORD: Good morning. Witness, please.
11 Ms. Struyven.
12 MS. STRUYVEN: Just as a small remark, the first type of
13 questions or the first set of questions I intend to ask in closed
14 session -- well, private session.
15 (The witness entered court)
16 PRESIDING JUDGE FULFORD: Good morning, sir.
17 THE WITNESS (interpretation): Good morning.
18 PRESIDING JUDGE FULFORD: Private session
19 please.
20 (Trial Chamber confers)
21 *(Private session at 9.32 a.m.) Reclassified as open session
22 COURT OFFICER (interpretation): We're in private session.
23 PRESIDING JUDGE FULFORD: Yes, Ms. Struyven.
24 MS. STRUYVEN (interpretation): Thank you, your Honour.
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1 (Witness answered through interpreter)

2 Questioned by Ms. Struyven: (Continued)

3 Q. (Interpretation) Good morning, Witness. Before we continue

4 discussing the training that you saw in Bunia in (Redacted) of 2002,

5 I'd like to ask you a few questions about what you explained yesterday.

6 I would like to begin with a question that deals with the creation of the

7 Ituri province. (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)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 PRESIDING JUDGE FULFORD: Ms. Struyven, at line 14 there's a name

25 that I think is unclear.

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted) yesterday you explained that the goal of creating the province
9 was to be able to express themselves at national level. Can you explain
10 further what she told you about that?

11 (Redacted)

12 Iturians, ever since the Congo became the Congo, the Iturians had never been
13 recognised at national level, which means that when positions - when people
14 are appointed at certain positions within the state administration
15 or political posts, they were never recognised as such and there
16 were numerous examples given. (Redacted) emphasised the fact that Ituri,
17 in spite of its wealth, in spite of its great wealth, this wealth was not
18 distributed in an equitable fashion. And those who were not from Ituri
19 got rich but did not reinvest in Ituri and the locals did not benefit
20 from the natural wealth of the province. (Redacted)
21 was that Iturians needed to be able to confirm themselves and cry out
22 loud and strong that they had a right to the natural wealth, the natural
23 resources, in their province.

24 PRESIDING JUDGE FULFORD: Ms. Struyven, line 5, same problem.

25 MS. STRUYVEN (interpretation):

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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 Q. Thank you. Yesterday on that same topic, the creation of Ituri,
15 you explained that there were economic interests at stake. What were the
16 economic interests at stake at that time as regards the creation of
17 Ituri?

18 PRESIDING JUDGE FULFORD: Can you pause for a moment, please,
19 sir.

20 Maitre Mabilie.

21 MS. MABILLE (interpretation): Your Honour, it seems to me that
22 this question brings us right back to the difficulties we had yesterday,
23 we're asking the witness to provide elements as if he were an expert,
24 whereas we agreed that he was to concentrate on what he saw and not
25 opinions that he might formulate. So I fear that we are falling into the

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1 same difficulties, and therefore I object.

2 PRESIDING JUDGE FULFORD: Yes, I think it's right, isn't it,
3 Ms. Struyven, that with your initial questions this morning, particularly
4 about the self-proclaimed governor, you were addressing matters that were
5 clearly directly within the knowledge of this witness. If you're now
6 going to go into the -- generally the creation of Ituri and economic
7 interests being at stake, we need to establish how it is that this
8 witness is in a position to provide meaningful and helpful evidence to us
9 on the point.

10 MS. STRUYVEN (interpretation): Yes, that's correct. I should
11 have rephrased my question. I will endeavour to do so to ask him what
12 she explained to him about the economic interests.

13 PRESIDING JUDGE FULFORD: Well, let's see how we do with
14 establishing the foundations, Ms. Struyven. Thank you very much.

15 Thank you, Maitre Mabilie.

16 MS. STRUYVEN (interpretation):

17 Q. I'm going to rephrase the question, Witness. (Redacted)
18 (Redacted) what the economic interests were or
19 not if there were economic interests in the province?

20 A. Thank you. I'm very comfortable in answering that question, but
21 if -- your Honour, if you will allow me, I think that counsel can feel
22 perfectly comfortable. I don't know what she means by "expert," but I
23 was there, I'm familiar with the place, and I saw and heard the things
24 I'm going to say. So I think there is -- everyone can be perfectly
25 comfortable with that. If I don't know the answer, I will say so.

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1 As regards this particular question, it's not just (Redacted)
2 (Redacted)
3 (Redacted). I personally saw what happened on site, so
4 this is not gossip or hearsay that I'm relating here. (Redacted)
5 about it, yes, remember what (Redacted) said about natural resources that
6 hadn't been shared in an equitable fashion or that didn't benefit Iturians.
7 Based on that of course I was interested in finding out how (Redacted) was
8 going to proceed in order to better share these natural resources amongst
9 Iturians.

10 (Redacted) it was important to
11 give key posts, key jobs, in the administration to Iturians; and then
12 encourage local business people to import and export natural resources,
13 underground resources and other resources, and that the administrative
14 provisions (Redacted) had in mind would make everyone feel comfortable. And
15 what I saw on site is that, thanks to my contacts with the customs officers,
16 there were fake companies that had been set up. And those companies were
17 trading and didn't pay any taxes. I saw that myself. And when you talk about
18 economic interests, what I saw personally was that this did not profit --
19 this did not benefit the population of Ituri. This is something I know.

20 PRESIDING JUDGE FULFORD: Ms. Struyven, can -- I'm most certainly
21 not stopping you, but we're quite a long way from the accused and the
22 charges at the moment. As I say, I'm not stopping you but can you make
23 sure that this is proportional.

24 MS. STRUYVEN (interpretation): I'd like to ask another question,
25 your Honour, regarding that.

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1 Q. When you say that it did not benefit the population, you were
2 saying earlier that the goal was to enable Iturians to better benefit
3 from these resources. How can you explain this difference?

4 A. Well, to answer your question - this concern expressed by the
5 Prosecutor - the money earned by these smoke-screen companies, these fake
6 companies, private companies, in fact went straight into the pocket of
7 certain individuals who, remember, were running -- there were military
8 camps and militia that needed to be trained. And facts proved later on
9 that this money was used to train soldiers, and the money came from these
10 transactions, these economic transactions. And therefore, the money
11 served a small group. And in this particular case regarding

12 (Redacted)

13 (Redacted). Of course, the Ugandans also got their
14 share of the deal.

15 Q. Thank you. I'd like to go on now to the meeting (Redacted) in June
16 2002 (Redacted) Mr. Lubanga. Yesterday, you explained
17 that he had not been invited to Sun City and you also explained that in
18 Sun City the goal of the Sun City meeting was to identify the parties that
19 could be part of the government if I've understood correctly. (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted) and

24 when he referred to himself he also meant the UPC - he said that the UPC
25 was a political party and was a choice partner for Mbusa and the

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1 government that should be considered. He didn't get his share because
2 the UPC was not invited to the Sun City inter-Congolese negotiations.

3 Q. Thank you. To go back to this very same meeting again.
4 Yesterday, you said that on the one hand there were these meetings
5 between the members of the delegation, and then we moved on to the time
6 when Mr. Lubanga was detained, or rather, transferred from Kampala to
7 Kinshasa. That's where he was detained. Could you briefly - but very
8 briefly - explain to us what the purpose of these meetings with the
9 Ugandans was and what happened in the course of these meetings with the
10 Ugandans?

11 A. According to the message that I received through (Redacted),
12 well he said that it was a meeting of people from Ituri and they were
13 looking for solutions for Ituri, to problems in Ituri. And this meeting
14 was going to be held in Kampala. You need a brief explanation. My
15 conclusion was that the majority of the delegates were Gegere and Hema,
16 whereas the other tribes who were, in fact, in the majority weren't
17 really well represented. During these so-called meetings with the
18 Ugandans, the meeting was, in fact, with General Tinyefunza,
19 T-i-n-y-e-m-z-a (as interpreted). Well, instead of discussing the
20 problems of people in Ituri, the discussions had to do with the Hema
21 Lendu problems, (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)

25 Q. And in Kampala while these meetings with the Ugandans were held,

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1 well what happened later?

2 A. As I have briefly explained -- I apologise. There really weren't
3 any conclusive meetings. What in fact happened was that by using a ruse,
4 the Ugandans managed to obtain from the people whose names I mentioned
5 certain things, they transferred these people to Kinshasa. I came to the
6 conclusion that this was perhaps the Ugandans' objective naturally. One
7 day prior to the departure of this group with Thomas Lubanga to Kinshasa
8 there was another delegation from the RCD-K/ML, which was a surprise for
9 me because there was one surprise after another. So they were there and
10 then they left, but there was not a conclusion as such to the
11 discussions. As I said yesterday, when Lubanga had been transferred to
12 Kinshasa with his group, on the following day the Ugandan protocol department
13 in charge of the delegation came to drive out the other delegates very
14 unceremoniously from the hotel of course.

15 PRESIDING JUDGE FULFORD: Can we go into public session,
16 Ms. Struyven?

17 MS. STRUYVEN (interpretation): I think so, your Honour.

18 Q. The following question concerns (Redacted)
19 (Redacted) in Bunia in 2002, and more particularly it has
20 to do with the phone contact that he had with Mr. Lubanga with regard to
21 the fact that Mr. Kahwa and Mr. Beiza had gone to Rwanda to obtain
22 weapons. As long as the witness does not refer to (Redacted), we can
23 move into open session.

24 PRESIDING JUDGE FULFORD: Let's see how it goes, Ms. Struyven.

25 Do we need to find a device for referring to (Redacted), the gentleman

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1 whose name is not to be mentioned, something like that?

2 MS. STRUYVEN (interpretation): We could quite simply say Mr. A
3 or Mr. B. Mr. A perhaps.

4 PRESIDING JUDGE FULFORD: All right. For the purposes of the
5 next questions (Redacted) will be known as Mr. A. Good. Public session,
6 please.

7 (Open session at 9.56 a.m.)

8 COURT OFFICER (interpretation): Open session.

9 MS. STRUYVEN (interpretation):

10 Q. Sir, as I was saying, I wanted to deal with this subject, the
11 subject of weapons that were to be obtained and also the fact that
12 Mr. Lubanga was familiar with this at the time. Yesterday, you said that
13 you too had had contact with the people who were being held in detention
14 in Kinshasa at the time. Do you know whether other members of the
15 delegation in Kinshasa were also aware of the fact that weapons had been
16 obtained?

17 A. I'm quite certain of the fact. Why? Because the discussion in
18 the group was an open discussion. Everything was shared quite liberally.
19 You must understand that this group was the core of what was later to
20 become Thomas Lubanga's executive. So everything was freely shared. I
21 put it that way (Redacted)
22 (Redacted). They
23 had information from the field.

24 MS. STRUYVEN (interpretation): Your Honour, I don't know if this
25 will work, but could we perhaps try to identify these individuals as

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1 Mr. A, B, and C, and we could put this down on paper for the witness and
2 when he wants to refer to these individuals he could use the letters
3 mentioned.

4 PRESIDING JUDGE FULFORD: I think this is going to start to
5 become very complicated, Ms. Struyven. If this really extends beyond one
6 person, then I think we need to go into private session. And so do we
7 need a redaction for those two names? We do. Well, we've tried.
8 Private session, please.

9 *(Private session at 9.58 a.m.) Reclassified as open session

10 COURT OFFICER (interpretation): Private session.

11 MS. STRUYVEN (interpretation):

12 (Redacted)

13 (Redacted), this was at the time that they were in
14 detention if I have understood you correctly, or was that not the case?

15 A. Yes, naturally. This was when they were still being held in
16 detention in Kinshasa. This was before and after the fall of the UPC in
17 Bunia, (Redacted) about certain situations in the field in
18 Bunia. That was why they were in detention. And this proves quite
19 sufficiently that the contact that they had was really quite open.

20 Q. When you say that you mean the people in detention?

21 A. Yes, the discussion in the -- among the people in the group who
22 were in detention.

23 Q. Thank you.

24 MS. STRUYVEN (interpretation): Mr. President, I think we could
25 try to move back into open session.

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

2 Open session, please.

3 (Open session at 10.00 a.m.)

4 COURT OFFICER (interpretation): Open session.

5 MS. STRUYVEN (interpretation):

6 Q. One further clarification with regard to what you said yesterday,
7 you said that Mr. Lonema supervised the army and you said that
8 Mr. Kisémbu was the Chief of Staff at that time. Who had authority over
9 whom? Did anyone explain this to you?

10 A. Without having explained this to me before Mr. A himself
11 (Redacted), I could see that Mr. A was in charge. As I have
12 already said, he coordinated all the activities. I can provide you with
13 a specific example. Whenever there was the issue of the governor of the
14 RCD-K/ML there, well the Chief of Staff would tell me quite clearly, "As
15 a soldier, I can only take one order. You politicians speak a lot." So
16 if he wasn't subordinate -- subordinated to another authority, he would
17 have already acted, (Redacted)
18 (Redacted)

19 Q. And yesterday you spoke about Mr. Kisémbu and you also mentioned
20 Mr. Bosco Ntaganda. Could you tell us who the main players were in the
21 main staff at the time?

22 A. At the time, naturally, I assume that you are speaking about the
23 army. Naturally, the names that cropped up frequently were the names of
24 the Chief of Staff and then the name of Bosco Ntaganda. There was the
25 name of Chief Kahwa as well. So these were the key names in the army at

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1 that time.

2 Q. At the time -- well, we're referring to July/August 2002; is that
3 correct?

4 A. That's quite right.

5 Q. Thank you.

6 PRESIDING JUDGE FULFORD: Yes, Maitre Mabilie.

7 MS. MABILLE (interpretation): Your Honour, I don't want to
8 systematically interrupt the proceedings, but my learned friend in the
9 last five questions has put leading questions that practically contain
10 the answer. I think we have to be very cautious. I don't like to raise
11 the issue, but I think it's somewhat sensitive, somewhat delicate.

12 PRESIDING JUDGE FULFORD: Ms. Struyven, I think the intervention
13 by Maitre Mabilie is appropriate, particularly now she's identified that
14 this is an area of sensitivity. And I think it's right to say that
15 certainly some of your questions, for instance, the last one does clearly
16 contain the answer rather than asking the witness to give it. So could
17 we be careful. That's all.

18 MS. STRUYVEN (interpretation): Yes, of course, your Honour. But
19 I just wanted to be sure that -- Mr. Bosco Ntaganda was mentioned
20 yesterday as one of the key players. I just wanted to emphasise that. I
21 didn't want to suggest this, but this is in fact something that the
22 witness said yesterday, but I will certainly be careful, your Honour.

23 Q. Witness, go back to the point we reached yesterday when we
24 adjourned. It has to do with the training that you saw when you yourself
25 were in Bunia. Could you, first of all, explain to us how you were able

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1 to observe this training.

2 A. It wasn't all that difficult. Once you were inside the
3 compound -- well, you would automatically see what was happening on the
4 other side of the wall. There were these doors, gates, there were
5 windows. The group was quite at ease when I was present, I could come
6 and go without any particular problems. It was really easy. I didn't
7 need anyone's help to be able to observe what was going on inside.

8 Q. Yesterday you also explained to us that you saw these recruits
9 arriving. Did anyone explain to you at that point in time or did you
10 know at that point in time where these recruits in fact came from?

11 A. No. At that point in time no one told me where the recruits had
12 come from. I could only arrive at my own conclusions, when I saw what
13 they looked like, how they were dressed, well then it was quite clear.
14 You could easily distinguish people from towns and people from villages.
15 So I could come to the conclusion that these recruits were, in fact, from
16 villages, the ones that I saw.

17 Q. Did anyone at that point in time tell you how they physically
18 arrived from the villages that they had come from, how they physically
19 arrived in Bunia?

20 A. Yes. I discussed this with Mr. A because when he spoke about his
21 problems or the difficulties he had, well he was quite free to express
22 his ideas. And in the course of these discussions he informed me of
23 certain matters. As far as the transport of the recruits is concerned,
24 well naturally Bunia was quite far away for many of these recruits. One
25 of the means of transport used was lorries, or small vans, commercial

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1 vehicles that belonged to businessmen, all Gegeres. I must bring that to
2 your attention. So this was one means of transport used for transferring
3 the recruits to the centre. I also saw these recruits coming out of certain
4 vans. I can provide you with a specific example that relates to the former
5 industrial woodworks or carpentry company. (Redacted)
6 others would come on foot through the bush, through the paths that led
7 through the bush. So these are the means that they frequently used.

8 Q. When you talk about Gegere businessmen if I understood you well,
9 do you have any examples to give us of such businessmen?

10 A. Well, when I saw the vehicles I -- I took the registration
11 numbers of the vehicles so that -- and in order to determine the owners
12 of the vehicles, I went to the office which is responsible for
13 (Redacted). And

14 I asked these contacts, "Who are the owners of these vehicles"? And they
15 told me the names of certain businessmen. And since you've asked for an
16 example, they mentioned the name of Gédéon Nyolo that's one of the names
17 that was mentioned to me. They also mentioned the name of Tebo Kodjo.
18 They mentioned the name of Wakpa. They also mentioned the
19 company Sacricof. Of course the list is very long. I don't
20 remember all those names.

21 Q. Now, just for the transcript, the first name which you mentioned,
22 if I'm not mistaken, is spelled G-e-d-o-n N-y-o-l-o; is
23 that correct?

24 A. Can you repeat, please?

25 Q. G-e-d-e-o-n N-y-o-l-o.

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1 A. Can you please help me read the names just as you see them there.

2 Q. I will ask you to spell the names that you mentioned. I think
3 that's going to be easy for all of us?

4 A. Yes.

5 PRESIDING JUDGE FULFORD: Are you happy to just spell them out or
6 would it help you to have a pen and a piece of paper to be able to write
7 them down, sir?

8 THE WITNESS (interpretation): A sheet of paper.

9 PRESIDING JUDGE FULFORD: Good. A sheet of paper and a pen,
10 please. And then I think, Ms. Struyven, although you may well be right,
11 probably best to leave it to the witness to spell them. I totally
12 understand why you've suggested it to try to shorten matters, but...
13 Sir, there's something that sounded like Geodeon Nyolo, Tibo Kojo - I'm sure
14 I'm pronouncing this appallingly - Wakpa someone, and I'm not even going
15 to try to pronounce the company. Sorry, Ms. Bapita.

16 COURT OFFICER: The piece of paper that's just annotated by the
17 witness shall carry the evidence number EVD-OTP-00460.

18 PRESIDING JUDGE FULFORD: Yes, could I have it, please.

19 There are two names at the moment. The first G-e-o-l-e-o-n
20 (sic), then a second word N-y-o-l-o. And then the third name I
21 think is W-a-k-p-a. Good. Could that be given to Ms. Struyven, please.

22 MS. STRUYVEN (interpretation):

23 Q. Sir, just a clarification. The name - and I would like to
24 apologise for the pronunciation - Geoleon and the name Nyoli, are they
25 the same person or these are two different people?

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1 A. I will spell the names again. It's G-o-e-d-e-o-n,
2 then N-y-o-l-o, those two names belong to one individual.

3 Q. Thank you. Yesterday you also said that you saw recruits being
4 punished. Can you describe to us or explain to us what you saw as
5 punishment?

6 A. One of the forms of punishment I witnessed was whipping,
7 punishment through whipping. The recruits who committed any errors were
8 whipped on their buttocks. They made them lie on the ground or their
9 colleagues would hold their hands and others would hold their legs and then
10 they were whipped on the buttocks. That's the way they were whipped.

11 Now, if I can also talk about another form of punishment. One of
12 them who had committed an error was asked to lie down on his back, lie
13 still without moving for a certain number of minutes. And another form
14 of punishment was to have them leap about like frogs over a certain
15 distance for as long as the instructor required. Those were the forms of
16 punishment I witnessed.

17 Q. Did you see the person who was meting out this punishment?

18 A. Yes. Of course when we saw what was happening in the courtyard,
19 we saw the person was in charge of this small group of recruits, we saw
20 the instructors who were in charge of the children. They were called
21 commanders, and of course they were referred to by their names. But
22 unfortunately, these commanders I didn't hear their names because of the
23 distance between us.

24 Q. Can you tell us where exactly you saw this punishment, just so
25 that it can be clear to everyone?

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1 A. I saw punishment being meted out at the military headquarters,
2 that is, at the carpentry workshop in Bunia, and in the building opposite
3 OZACAF. So in those two places because training was being carried out
4 in both places, so punishment was being meted out at those same places.

5 Q. Yesterday you said that at one point Mr. A made certain comments
6 about a child, a boy or rather a child of about 5 years. Now, from what
7 you witnessed, the persons who visited the military headquarters, were
8 they in the position to see these recruits, to see them being punished?

9 A. I can say yes. It all depended on the areas to which the person
10 visiting the centres went, the person visiting these headquarters of the
11 UPC. If you went into the buildings then you could see everything, and
12 everyone who went beyond the limit which was considered the boundary for
13 the public could see what was happening in the inner courts of the
14 premises.

15 Q. So the recruits that could be seen inside the building, for
16 example, the recruits you saw inside the building, did they include --
17 now, let me put the question differently. Was it possible to see all the
18 recruits? Would it have been possible for visitors to see all the
19 recruits as you did?

20 A. Yes, and I repeat my answer, so long as the recruits were in an
21 open place within the courtyard. Anybody who went beyond the boundary
22 set for the public could clearly see everyone who was found in the
23 courtyard of the premises. Of course, as I told you yesterday, these
24 soldiers were not exposed to the public because they didn't want the
25 public to know the number of soldiers who were in the facilities.

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1 Q. Now, when you said that you saw this punishment being meted out,
2 do you know whether other persons who were with you saw these punishments
3 as well?

4 A. Yes, certainly. As I have already explained there was, for
5 example, Mr. A and his entire team that accompanied him. Every time I
6 saw a punishment being meted out or other activities being conducted, I
7 was never alone. That's certain.

8 Q. And at that time was there any reaction to this?

9 A. Well, there was always a reaction and the comments were always
10 made -- comments are always made. I remember, for example, a situation
11 of a child who was crying out calling his mother's name. Apparently the
12 child was hungry. He had just been punished for committing an error, and
13 the reaction of those who were with me - and especially Mr. A and his
14 colleagues - was to say, "You see, that is good. They are going to grow up
15 as true soldiers." Now, what I heard the instructor say to the child was
16 that that's not how a soldier's supposed to behave or to
17 react. And I heard this clearly. What I mean is that this particularly
18 affected me. A child who was crying, calling out his mother's name, and
19 then his instructor telling him, "You know, a soldier should not react
20 like that".

21 So the reaction of Mr. A and his entourage did not square with
22 what I was witnessing there. In other words, there was no remorse, no
23 pity for this child who was undergoing this punishment.

24 Q. Now, when you saw all of this happen, did you see anybody
25 visiting these children?

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Open Session)
Questioned by Ms. Struyven (Continued)

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1 A. There were visitors, for example, certain officers of the UPDF,
2 that is, the Ugandan army; and very often there were intelligence
3 officers. I also noted the visit of officials from the UN, that is, from
4 MONUC specifically, and the person who often visited at the time was a
5 certain Pierre Antoine Braud. So those were the visitors I noticed,
6 important visitors.

7 Now, other persons who came there would arrive not to visit, as
8 such, but they came as contributors, so to speak. For example, they
9 would bring money or they would bring food to the recruits. That is what

10 I witnessed.

11 Q. And when you talk of MONUC and the UPDF whose officials came
12 visiting, did they also visit the recruits or not?

13 A. What is certain is that they had limited access, but the areas
14 they visited -- for example, the only area where -- which I saw MONUC
15 visit was the headquarters opposite OZACAF, whereas UPDF soldiers could
16 go right into the inner-most recesses of the premises and come and go as
17 they liked. That's what I noticed.

18 Q. And apart from these external actors, if I can call them that,
19 were there other people whom you saw visit the recruits themselves?

20 A. Personally I saw nobody coming who would say, "I have come to
21 see such and such a recruit". No, I didn't notice that, no.

22 Q. You explained that persons within the headquarters, the military
23 headquarters, could see the recruits. Now, at that time were you aware
24 or not of the fact that the use of young recruits was illegal?

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Open Session)
Questioned by Ms. Struyven (Continued)

Page 21

1 (Redacted). He

2 said that it was not good to see children involved in military service at
3 such a tender age. So he made reference to that.

4 Now, (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted), that these children lent a substantial
8 assistance in the revolution that brought them to power. So for them it
9 was something that was normal, it was normal for the UPDF. As far as I
10 know, those were the reactions I got to that situation.

11 Q. Now, did you discuss this with the people of the -- the officials
12 of the UPC at that time, yes or no?

13 A. I discussed this with them indirectly because my -- I feared for
14 my security. The fact was that they were fully convinced of the
15 correctness of their actions. When I said I discussed with them
16 indirectly, I would like to say that my discussions were with Mr. A. And
17 very concretely he told me that they were rendering good service, and he
18 mentioned the precise example of the intelligence services provided by
19 these children who were circulating around in the streets. So those --
20 that's the information he gave me. And to take you back to their
21 reaction with respect to the reaction of the -- that child whose
22 instructor said that that behaviour was not worthy of a soldier, I took
23 advantage of that to discuss this problem with him indirectly. And this
24 is the comment I made. I said, "This child is crying out, calling his
25 mother's name. So why don't you hand him over back to his mother?" That

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Open Session)
Questioned by Ms. Struyven (Continued)

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1 is how I put the question to them. Of course he understood what I meant
2 because he responded and made his own comments too.

3 Q. You stated that (Redacted) those
4 children - and I hope I'm not misquoting you - that those children
5 contributed to the revolution. To be perfectly certain, which revolution
6 are you referring to?
7 (Redacted) what

8 those children were able to do during the revolution that brought the present
9 Ugandan head of state into power. That was also an armed revolution. That
10 was the example that he gave me to explain why having
11 children in the army was useful.

12 Q. While you were at the headquarters, did anyone - yes or
13 no - explain to you why they were working with children?

14 A. Let me repeat what I've already said in a different -- in a
15 different way. Mr. A himself, in person, explained to me the role of
16 those children, first and foremost in intelligence and then in the
17 battle-field. He explained clearly what those children were able to do.
18 And then at the end, after the departure of the RCD-K/ML, when there was
19 a celebration of the event (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)

23 PRESIDING JUDGE FULFORD: Too many redactions, Ms. Struyven. A
24 brave attempt by those sitting behind you, but I think it's become
25 unrealistic. We'll move into private session, please, but the process is

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 necessary. So please, for the parts where we've been in public session
2 can we make sure that they're comprehensive. But thank you for trying.

3 Private session, please.

4 *(Private session at 10.34 a.m.) Reclassified as open session

5 COURT OFFICER (interpretation): Private session.

6 MS. STRUYVEN (interpretation):

7 Q. You were explaining - we can now use his name - that (Redacted) told you
8 something during the celebration. I believe it was the celebration of
9 the departure of the RCD-K/ML?

10 A. Yes, he said precisely what I can repeat. "You see, (Redacted)
11 this result was obtained thanks to these little children." In other
12 words, he was applauding the work of these children and he was saying
13 that it wasn't a bad thing at all to have these children. And
14 Mr. Mafuta, who was with him, Daniel Litsha, and there were others whose
15 names I don't remember, the precise names I don't remember, but I can see
16 their faces, they all agreed about that fact. To be
17 perfectly clear it was at that point in time - I didn't say this before,
18 your Honour, perhaps I can have the opportunity to say it
19 now - (Redacted) told me that it was important for me to contribute and
20 to go and develop awareness of children in my village and bring them to
21 them (Redacted)
22 (Redacted). It was perfectly clear. And there was this reaction of joy and
23 celebration (Redacted). And I
24 can see exactly what happened in my mind's eye. I remember it perfectly.

25 Q. Let me ask you a few more questions. Do you remember the date

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 when that conversation with (Redacted) took place?

2 A. Yes. As I told you, it was after the fall of the RCD-K/ML, and
3 to try to remember the exact date it was the (Redacted) August, 2002. It
4 was the same day - perhaps I can add an additional fact that you've already
5 questioned me about - it was the same day that (Redacted) was saying,
6 "Yesterday I talked to the president", that is, President Thomas Lubanga.
7 It was during that encounter where there was a victory celebration. And
8 it was at the UPC headquarters, to be precise at the former industrial
9 carpentry in Bunia, the "menuiserie industrielle."

10 Q. When you refer to (Redacted) is that his full name? Could you give
11 us his full name?

12 A. Unfortunately, I don't know his other names because I knew him --
13 I knew him personally by that name only, (Redacted) But I could describe
14 him.

15 Q. Could you describe him and tell us what his role was, if you
16 know.

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
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Page 25 redacted

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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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 (Redacted)
19 (Redacted)

20 A. As I've already said, he knew that I was informed about what was
21 being done. So he didn't need to give me more details at that point in
22 time because I already knew and he presumed that I knew, and he was --
23 and rightly so. But one particular point that I could add and repeat
24 something that I've already said, he said *"For them to join the army", for
25 them to join the UPC to fight and chase out the Jajambo and feel comfortable

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 after that, ..that much was clear, and that -- and he referred to what these
2 children had just done, the Gegere and Hema children. So it was obvious
3 that I knew what had happened. So there was no in-depth explanation that was
4 required at that point.

5 Q. Thank you. You said that this was more or less in public when he
6 asked you that. Do you remember who was present when (Redacted) asked
7 you to go to your village to develop the awareness of children?

8 A. Yes, I can give you some names. First of all, (Redacted)
9 (Redacted) there was (Redacted); there was a Catholic priest, (Redacted)
10 (Redacted); and there were
11 others but I can't recall their names just now. I remember the name of
12 someone called (Redacted)
13 (Redacted). He was there too.

14 Q. Yesterday you explained - and correct me if I misunderstood - you
15 explained that at a given point in time there were mostly Gegere and Hema
16 recruits. And if I've understood you correctly, you were asked to go and
17 mobilise (Redacted) children. Did they explain to you at that point in
18 time why they wanted (Redacted) children to participate (Redacted)

19 A. Well, that's a political question. Officially the UPC was the
20 party of all Iturians. So officially they had to look like it was really
21 an Iturian party. So it was not necessary to explain to me. I could see
22 what the situation was and a lot of efforts had been deployed for that
23 reason and there was no need to explain. But in concrete terms the fact
24 was that the UPC was essentially the Gegere and Hemas in the beginning,
25 and then later only Gegeres. That was also very obvious. I didn't need

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Questioned by Ms. Struyven (Continued)

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1 someone to explain that to me. I had my own mind and I was able to look
2 and see and understand that that was the situation.

3 PRESIDING JUDGE FULFORD: Before you move on, Ms. Struyven, when
4 we went back into private session that wasn't meant to be a
5 once-and-for-all event. Can we keep under review whether or not we need
6 to remain in private session. I understand that there are some names
7 being given, for instance, those at page 26, line 24 onwards, but can you
8 keep this under review, please.

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

10 Q. Sir, I'll now move onto a new subject -- well, it's not really
11 new. But you said that on the 9th of August the RCD-K/ML was finally
12 dislocated. Perhaps a minor clarification. We spoke about the RCD
13 Kisangani, and now we're speaking about the RCD-K/ML. Did anyone explain
14 to you the way in which this name changed?

15 A. Yes, I was able to follow all the events, all the changes, that
16 took place, and I was clearly informed of what was going on. (Redacted)
17 (Redacted). So I can tell
18 you here quite clearly that the RCD-K was changed into the RCD-K/ML after
19 Mr. Mbusa Nyamwisi and Tibasima Bogemu Atenyi had succeeded in driving
20 out Professor Wamba from Bunia. And it was at that time that this change
21 occurred.

22 Q. Thank you very much. It was just so that we could be very clear
23 about this. Once the RCD-K/ML had been dislocated, could you tell us
24 what you saw during the days that followed attack in Bunia? Could you do
25 this briefly, please --

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1 PRESIDING JUDGE FULFORD: Please pause sir.

2 Does this need to be in private session, Ms. Struyven?

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

4 PRESIDING JUDGE FULFORD: No, good. Right.

5 We'll in fact pick up on this after the break because I want

6 briefly to return to the matter that I raised with Ms. -- Maitre Bapita
7 yesterday.

8 So thank you, sir. We're going to give you a break now. We're
9 grateful for your cooperation so far, and we'll pick up on the question
10 that's just been put to you at about half past 11.00. Would you mind
11 sitting patiently for a moment just while I ask Maitre Bapita whether
12 she's had an opportunity to reflect with the others representing victims
13 on the issue that I raised yesterday.

14 MS. BAPITA (interpretation): Yes, Mr. President, your Honour, we
15 have given the matter some thought and our position remains the same.
16 When we say that things should be confidential, we can provide the
17 identity of the victims to the parties, the name, and the date of birth,
18 only these matters. Most team members thought that it would be
19 difficult at this point in time to provide any other information since
20 this is an issue that has to be examined on a case-by-case basis and on
21 the basis of the security situation in the field. We are thinking about
22 the matter.

23 The second difficulty is that we do not know what information the Registry
24 redacts through the VPRS since we are not provided with copies of the
25 forms given to the parties. The OPCV had an application last week and we

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1 haven't received a response. Sometimes they redact information that we
2 believe could be disclosed to the Defence. So if we haven't been
3 provided with copies of these forms, although we've provided the Registry
4 with the forms, then it's difficult for us to say what should be revealed
5 and what shouldn't be revealed. So that's the difficulty we are facing
6 right now. So we could provide the dates and perhaps the names of the
7 people concerned.

8 PRESIDING JUDGE FULFORD: Ms. Bapita, that's extremely clear if I
9 may say so. To ensure there's no misunderstanding hereafter. Am I right
10 in identifying security as being really the essence of your objection and
11 that if on a form-by-form/case-by-case basis there could be a means of
12 checking redactions, or rather, the lifting of redactions to ensure that
13 there were no adverse security implications, you would have no objection
14 to a more generous approach to disclosure?

15 MS. BAPITA (interpretation): That's quite right, your Honour.
16 Yesterday I even told you which parties were concerned, and I don't see
17 anything difficult about this. It's not difficult to disclose this to
18 the Defence.

19 PRESIDING JUDGE FULFORD: Well, in the hopes, Ms. Bapita, that
20 all problems in this world are susceptible to a convenient solution, we
21 shall try and find one for the issue that you've raised this morning.
22 Thank you very much indeed.

23 Ms. Massidda, I see that you've moved up to the front row. Is
24 that because you wish to participate in this debate, or are you content
25 with what's been said by Maitre Bapita?

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1 MS. MASSIDDA: Thank you, Mr. President, I share the comments of
2 Ms. Bapita. If I may, your Honour, with the permission of the Chamber I
3 will not be able to continue to participate in hearings today and
4 tomorrow because of a move of the office. We were informed yesterday
5 that actually the move will start tomorrow at 1.00 instead of Saturday
6 and Sunday as previously was communicated to us. You will understand I
7 hope that we need to pack our stuff, and we couldn't do it until now
8 because we are following several proceedings. So my learned colleague
9 will represent the office this afternoon and tomorrow. Thank you.

10 PRESIDING JUDGE FULFORD: Well, thank you for your courtesy in
11 informing us of the reasons for your absence, Ms. Massidda, which of
12 course we entirely understand. I do observe that it is to be regretted
13 that this has had the impact which you have just outlined on your ability
14 to participate in these proceedings, particularly since I was given what
15 was effectively an undertaking that the move would not impact on any time
16 when this Chamber is sitting during this trial. And it seems as though
17 that undertaking has not been honoured. But thank you for bringing that
18 to my attention.

19 Can we now please go into closed -- I'm sorry, I haven't
20 specifically invited anybody else to address us on the issue of the point
21 raised by Ms. Bapita. I'm sure the Defence and indeed the Prosecution
22 will understand that our objective is to try to secure the maximum degree
23 of disclosure. Of course there must be all disclosure to ensure that the
24 accused has a fair trial, and above and beyond that maximum disclosure
25 that is consistent with our obligation to protect participating victims.

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Closed Session)
Questioned by Ms. Struyven (Continued)

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1 But is there anything else that anybody would wish to say on that topic?

2 No.

3 Thank you all very much.

4 Thank you, sir. Can we go into closed session, please.

5 *(Closed session at 10.59 a.m.) Reclassified as open session

6 COURT OFFICER: Closed session.

7 (The witness stands down)

8 PRESIDING JUDGE FULFORD: Half past 11.00.

9 Recess taken at 11.00 a.m.

10 On resuming at 11.30 a.m.

11 COURT USHER: All rise. Please be seated.

12 PRESIDING JUDGE FULFORD: Witness, please.

13 (The witness takes the stand)

14 PRESIDING JUDGE FULFORD: Do I correctly recall, Ms. Struyven,
15 that we were in public session?

16 MS. STRUYVEN (interpretation): That's quite right, your Honour.

17 PRESIDING JUDGE FULFORD: Thank you.

18 Open session, please.

19 (Open session at 11.32 a.m.)

20 COURT OFFICER: Open session.

21 PRESIDING JUDGE FULFORD: Now, I think there's a question you
22 need to put again, Ms. Struyven, the last one which I interrupted at
23 the -- before we raised for the short adjournment.

24 MS. STRUYVEN (interpretation):

25 Q. Witness, the question I put to you was: Could you tell us

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 briefly what you saw in Bunia after the RCD-K/ML had been driven out on
2 the 9th of August, 2002. Could you describe the event in general terms.

3 A. Thank you for that question. Generally speaking, immediately after the
4 armed conflict in May when the RCD was driven out of Bunia by force, I had
5 the privilege of immediately going to visit the scene of combat. I also
6 walked through certain parts of the town, and I can tell you that I could
7 see some very bizarre scenes from there. And I was asking myself whether
8 we were still in the 20th century or whether we'd gone back to antiquity.
9 I saw a lot of barbarian scenes. I could see this myself in the town of
10 Bunia wherever I went.

11 Q. What sort of barbarian scenes did you see?

12 A. Well, that's the most difficult part for me. Whenever I have to
13 answer such questions I re-live these macabre scenes that I saw. If it
14 weren't for the sake of this Court -- well, I've already told myself that
15 I shouldn't have to re-live such situations. I went to the UPC HQ -- I
16 apologise, to the RCD HQ, which is where the governor resided. There
17 were corpses, the corpses of civilians, and of soldiers, APC soldiers and
18 Ugandan soldiers. That's what I was able to observe there. And these
19 corpses that I saw in the RCD HQ had been shot dead. And throughout the
20 town in other places in the town there were festivities, a kind of
21 celebration by the Hema and the Gegere. The Hema and the Gegere, these
22 specific groups, were celebrating. I wanted to see how the other ethnic
23 groups perceived this. That was the first thing I wanted to do.

24 There was this change of those who were in charge of the
25 geographical area in Bunia. I went to the part of Bunia that is called

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1 Cité. I didn't spend much time there. The worst scene I saw was in the
2 Mudzipela neighbourhood. I saw people who were being killed there. I
3 saw owners of houses being moved out, forced out, and I saw other people
4 being brutally mistreated. So roughly speaking, that's what I observed
5 there. It was horrible. It was horrible, it really affected me. Having
6 observed these various scenes, I began to wonder about the nature of
7 human beings. I asked myself a lot of questions about the nature of
8 human beings.

9 If you need details, well the first thing that I was able to
10 observe was -- well, when I arrived at the teaching centre in Mudzipela
11 there was a group there, a group of Gegeres who were in the vicinity of a
12 Nande woman. They were surrounding her. How did I know she was Nande?
13 Well, on the basis of the way she spoke. She spoke in Swahili of course,
14 but it was also on the basis of her looks. I was able to see that she
15 was Nande. There were also comments, people crying out. The assailants
16 were shouting at the woman who was pleading with them to spare her life.
17 The woman's shoulder blades had already been wounded by a machete. While
18 I was there she was pleading with them, she was begging for her life.
19 Unfortunately, they didn't spare her life. All the people who were
20 there -- well, there were Gegere, there were others around the woman,
21 others entered houses to loot the houses, perhaps to kill whoever they
22 could. I didn't want to see what happened next.

23 I turned my back to them. I didn't want to observe the scene. I
24 don't know whether you have already killed a chicken or a goat, but when
25 you hear someone's throat being cut, no -- but that's what I could hear.

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1 (Redacted)

2 (Redacted). I was going to tell him he should leave the town. When I
3 arrived there it was total chaos, first in the courtyard -- well, then I
4 entered the house. Everything was in a mess. There were a few drops of
5 blood. That's all I could observe at that precise point in time, and I
6 was certainly very worried for him.

7 Well, at that time I was so shocked that I did not want to see
8 all of what was happening elsewhere. So I decided to return through
9 another road, hoping that by doing so I wouldn't see anything.

10 Curiously, on my way I stopped at the home of another gentleman who used
11 to be the friend of my late father, (Redacted)

12 (Redacted). From a distance, I didn't go close, from a distance I saw his
13 house going up in flames and there was some young people there, some
14 people coming from there. They were armed with guns, with truncheons,
15 with machetes, and they were shouting. Well, I deemed it safe to
16 continue on my way, so I just turned around and continued on my way. And
17 on my way I remembered that there's somebody I know who is also a friend,
18 a former soldier of Mobutu's army. (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted). And so I was

22 on the road and from the road I could see the house of the friend that I
23 was intending to see, that I was intending to visit.

24 From that spot I saw a group of young people with people -- young
25 men with people whom I could clearly identify. These people came

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1 together, they regrouped themselves for a short consultation which didn't
2 last for long. I think they consulted -- that this consultation lasted
3 for about one week -- sorry, one minute. And after that they each went
4 in their own direction. I hope -- I think that's what they had decided
5 when they had their consultation. And I remember the precise words that
6 some of these individuals said, some of them whom I can identify; there
7 were others who I could not identify. However, the fact is that they
8 were all Gegeres, and I can assure you I went back immediately, I went
9 straight back home.

10 PRESIDING JUDGE FULFORD: Yes. Sorry for the interruption, sir,
11 it was causing a problem.

12 Had you finished the answer or was there more to say on this?
13 And please feel free to continue if you wish to.

14 THE WITNESS (interpretation): Thank you. If a question is put
15 to me, I will be able to give an answer.

16 PRESIDING JUDGE FULFORD: Certainly. Thank you. Yes, Ms. Struyven.

17 MS. STRUYVEN (interpretation):

18 Q. If I understood you well, you say that they were all Gegeres.
19 How did you know that these acts were being committed by Gegeres, that
20 they were all Gegeres?

21 A. We know each other, we know ourselves back home; that is certain.
22 Another point is that physical appearance, physical appearance says a
23 lot. The individuals I identified were all Gegeres. What they were
24 doing at that precise moment in time was what other Gegeres were doing
25 everywhere. I also said that they spoke. I heard their words. I heard

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Questioned by Ms. Struyven (Continued)

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1 them shouting, and in their -- from their manner of speaking I could
2 identify them. We can always identify people on the basis of their
3 language, it's easy for us to determine what part of the country a person
4 comes from just from listening to that person talk. On the whole, a
5 person may speak a language which is not his or her language, let's say
6 Lingala or Swahili. I will be able to tell you what part of the country
7 you come from because your language should be
8 influenced by your mother tongue.

9 Now, to return to what I said, I rely on the fact that the
10 persons whom I identified, the persons who were like the ringleaders of
11 these groups were all Gegeres; that's a fact.

12 Q. I know that you have already mentioned certain groups, but which
13 community was targeted by the Gegeres?

14 A. Once more, try to remember what I said about the meeting that was
15 held in June 2002. Now, one of the objectives of that meeting was that
16 we had to drive out the Jajambus. The first target, I have already
17 spoken about this and there are various ways in which I can prove this,
18 the first -- the primary target were the Nandes, and in addition to the
19 Nandes we had the Lendus. And after these two communities, the others,
20 the rest, followed, that is, Jajambus and the natives. Why natives of
21 Ituri? From what I witnessed and from what I saw and heard, if a native
22 of Ituri housed a Nande - and that's an example - a Nande who is fleeing
23 and seeking shelter, then that native of Ituri would be considered an
24 enemy for protecting an enemy. And that is what happened.

25 So the primary target was the Nandes and the Lendus, that was the

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 first category; and then followed by the other non-natives as well as
2 natives who sympathised and tried to protect those who were coming under
3 attack.

4 Q. Now, just to understand you better, at that time were you not
5 afraid that you yourself could be attacked?

6 A. I am a human being like everyone else. Above all I was afraid
7 when I witnessed what was happening in the neighbourhood of Mudzipela.
8 Now, the talk about time-periods, it was from the time that I went to my
9 uncle's house, I saw what had happened there. It was then that I
10 realized that I shouldn't dare go beyond the distance I'd already
11 covered. And so I was very much afraid. But before I became afraid I
12 was counting on the fact that at least every day I would go to the UPC HQ
13 and I was known, I was known by all those who went to the UPC
14 headquarters. And so I imagined that in case of any problem I would
15 always have the possibility of turning to someone or running to someone
16 who knew me. I also counted on the fact that, you know, in that
17 confusion I felt that I could be taken for another Gegere. I was also
18 counting on chance, namely, that they could not imagine that an enemy or
19 a well-defined target like Nandes could actually feel at home within the
20 group in which they were coming under attack. So I was counting on that
21 chance. So automatically, when your community is attacked or comes under
22 attack, you feel uncomfortable. You feel uncomfortable because you are
23 part of the group, so I was counting on chance. But that chance didn't
24 last for long I must say.

25 Q. I'll return to that later on. Just another question, and if you

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1 have to allude to or refer to Mr. A, remember to keep referring to him as
2 Mr. A. Did you tell other people, did you explain to other people, the
3 sins or the things that you saw in Bunia that day; and if so, to who did
4 you say this?

5 A. Certainly. The first person to whom I went to express my
6 indignation was the person I recognised to be (Redacted)
7 (Redacted). It was to him that

8 I went to express my indignation, my disappointment. The other person I
9 went to see was the political advisor of MONUC at the time. Another
10 person to whom I spoke and whom I have not yet mentioned was the person
11 (Redacted)
12 (Redacted). So

13 those are the three key persons to whom I expressed my frustration.

14 Q. I apologise, I just want to cross-check to see if this
15 information can be public, can be done in public session. I would like
16 to propose that some of these names be redacted, but I am going to ask
17 you questions with respect to Mr. A and not the other three persons. How
18 did Mr. A react when you explained -- when you told him about all of what
19 you witnessed in Bunia?

20 A. The first reaction I got from him was that he was already
21 informed of the situation. His response was that what had been done
22 there, the crimes committed there were committed by people who were
23 acting in disorder, and then he added that it was a normal reaction of
24 the population, normal reaction of a people who had been under oppression
25 for long. Now, personally I didn't understand what he meant by that. At

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1 the end he added that the situation was now under control and that he was
2 going to do his level best to ensure that such a situation never arises
3 again. So he concluded his answer to my question with that promise.

4 Q. Now, do you know whether he actually kept that promise?

5 A. Unfortunately, no. Because the things that happened later on
6 prove that he was incapable of keeping his promise. I also knew directly
7 that the objective of the UPC, such as it had already been explained to
8 me, I knew that everyone in the community had been informed. Awareness
9 had been raised to the fact that Ituri was henceforth going to be
10 for Iturians. And so given that situation I think it was not
11 possible for him to keep his promise because that would be a
12 contradiction. All I know is that events proved that they, that is, the
13 UPC and its leadership, were working towards the attainment of the
14 objective they had set for themselves.

15 Q. Now, with respect to the crimes, do you know whether Mr. A or
16 other persons took measures as regards the perpetration of these crimes?

17 A. Maybe I was -- I should have spoken more clearly or in detail. To say

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted). This is to tell you that it was very difficult for him.

24 Concretely there was no willingness on their part to change the situation

25 because the idea was that the non-natives, the Jajambus had to leave, and

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1 they had this idea in mind. And that's what the population was trying to do.
2 So I found it almost impossible for him to be able to punish the
3 perpetrators.

4 I don't know exactly how he expected the masses, people, to do
5 what he recommended without going overboard, without -- if there are no
6 limits that are clearly defined for the people. And to my knowledge,
7 there were no limits that were defined, that is, no line of conduct given
8 to the masses or, for that matter, to the soldiers or politicians.

9 Q. I'd like to check something related to security. I'd like to
10 consult my colleagues for a moment.

11 (Prosecution counsel confer)

12 MS. STRUYVEN (interpretation): Your Honour, we'd like to
13 continue in private session.

14 PRESIDING JUDGE FULFORD: Private session, please.

15 *(Private session at 12.02 p.m.) Reclassified as open session

16 COURT OFFICER: Private session.

17 MS. STRUYVEN (interpretation):

18 Q. I have another question relating to those crimes. Were you aware
19 of how the judiciary community reacted to the crimes committed in Bunia?

20 A. After the departure of the RCD -- maybe this isn't what you're
21 interested at this point in time, I apologise, but I think it's worth
22 mentioning. The MONUC was interested in seeing a -- in having a concrete
23 organisation managing the city, that is, a team with a structure. That
24 was the main concern of the MONUC. How did I know that? Well, through
25 several encounters that were organised starting on August 11th, 2002,

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Questioned by Ms. Struyven (Continued)

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1 just two days after the RCD-K/ML was chased away.

2 During those meetings, each time the UPC was asked to present its
3 structure Mr. Lonema, of course, said that that was Thomas Lubanga's
4 responsibility to do that and that Lubanga needed to be present to do
5 what MONUC was asking them. One of the groups that Mr. Richard Lonema
6 met with was the judiciary team, and they had numerous demands, many
7 complaints that they had sent to Lonema who called himself the
8 coordinator, and he acted on behalf of his president, Thomas Lubanga.

9 This was repeated time and time again.

10 Some of the complaints that were made to Lonema regarded the massacres. He
11 was concerned about that. *Another point was that they had facts, which they
12 presented during this meeting, that Parfait Ngoni - who was also their
13 colleague at the Public Prosecutor's Office there - did whatever he could to
14 get rid of them because the majority of the judiciary team in Bunia - at the
15 Public Prosecutor's Office - were Jajambus, and therefore they complained at
16 this meeting to Parfait Ngoni, saying that he was at the origin of the
17 violence that was organised against them, the Jajambu.

18 Let me come back to the matter of the massacres. He expressed
19 clearly the indignation about what had happened -- or they expressed
20 their indignation. They already had certain facts that they were aware
21 of, and this was stated publicly to the MONUC with representatives of the
22 UPDF and the representatives of the Bunia diocese present. (Redacted)
23 (Redacted). Therefore, the judiciary team
24 in Bunia was very well informed of the situation of what had occurred in
25 Bunia, and they expressed their indignation clearly. It was a public

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1 meeting.

2 Q. One other small question. Do you know who represented the
3 judiciary community at that time at the meeting? Do you know who the
4 persons were in this team?

5 A.I can give you the name of *the Head of the Public Prosecutor's Office in
6 Bunia, his name was Jacques Kabasele. He spoke out on behalf of the others.
7 Others spoke as well, other participants spoke as well, but he was really
8 the person who spoke the most. As regards the other names, I don't remember
9 just now, but if I think about it I may be able to remember a name.

10 Q. You mentioned Mr. Parfait Ngona. I'd like to check, can you tell
11 us who that person is?

12 A. Parfait Ngona is a lawyer. He has legal training. * He worked in
13 the Public Prosecutor's Office in Bunia at that time before the events. Of
14 course during their career, as part of their career, they had ambitions, and
15 as a lawyer he was in the position to say that he could replace some of his
16 colleagues, that is, the Jajambu colleagues that had to be got rid of.
17 Parfait Ngona later on was to play * the role of a covert legal advisor to
18 Thomas Lubanga. (Redacted). He was sort of an
19 underground legal advisor. And indeed, he drafted many of the UPC
20 documents.

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 Q. Thank you. You have mentioned the fact that the non-natives had

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 to be chased out of Ituri. You've referred to representatives of the
2 legal community complaining about what was taking place. Do you have any
3 examples, yes or no, of non-natives being replaced?

4 PRESIDING JUDGE FULFORD: And sir, before you answer that question.

5 Private or public, Ms. Struyven? Do you want to consult with
6 those behind you?

7 (Prosecution counsel confer)

8 MS. STRUYVEN (interpretation): We shall endeavour to go into
9 open session, but I would like to ask the witness in that case --

10 Q. When you're explaining the basis for any conclusions you may
11 draw, if you do draw conclusions, please do wait for us to go into
12 private session in order to do that. So maybe we need to discuss the
13 facts first and then if you want to refer to your sources we can do that
14 in private session.

15 PRESIDING JUDGE FULFORD: Why don't we stay in private session
16 for a moment, Ms. Struyven, so that you can investigate with the witness
17 whether he is able to help on this subject. If he is, what the basis of
18 it is. And then he can then give his full answer in public session. If
19 it's going to be possible to separate it out in that way, it may not be
20 realistic, but I think we better lay the foundations first.

21 MS. STRUYVEN (interpretation):

22 Q. At that time were you aware of the fact, yes or no, of the fact
23 that the non-natives were replaced, yes or no, do you have any knowledge
24 of that?

25 A. Yes, I do have knowledge of that. The first example I could give

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Questioned by Ms. Struyven (Continued)

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1 you is * the example of the Head of the Public Prosecutor's Office,
2 himself, Mr. Jacques Kabasele, who left Bunia. He went to Beni, he
3 settled in Beni. There was also the president of the first-circuit Court
4 who had also left Bunia. Those are the two individuals that I could
5 mention, (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted). To come back to your question, *the name of the

11 Head of the Public Prosecutor's Office and the name of the president of the
12 Court, the Tribunal de Grande Instance, those are the two individuals whose
13 names I remember. (Redacted)

14 (Redacted)

15 (Redacted). I don't know if you're

16 interested in that information, but I had heard that other Jajambus
17 who were * in the Public Prosecutor's Office or in the Court had left Bunia.
18 And this didn't surprise me and I had no doubts about this being the case.

19 PRESIDING JUDGE FULFORD: I think, Ms. Struyven, we needn't go
20 into the other examples which are just simply based on things that the
21 witness has heard. I think the initial answer is sufficiently full, so
22 please move on.

23 MS. STRUYVEN: Yes. (Interpretation) Yes.

24 Q. Yesterday you said that after the 9th of August 2002 there
25 were meetings with social partners, you mentioned a youth committee I

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1 think if I'm not mistaken. (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted). As regards the

9 young people, the key message was that they remain cautious and that they
10 cooperate with the UPC, that they cooperate closely, and that they follow
11 the rules implemented by the UPC. (Redacted)

12 there were authorities in place and that UPC was going to put others in
13 place, and that the young people needed to cooperate a hundred per cent
14 with those authorities and that the enemy must be denounced by all means
15 to the closest authority. That was the message to the young people.

16 (Redacted)

17 (Redacted) the UPC counted on

18 the young people a lot, and therefore it was in the interest of the young
19 people to cooperate a hundred per cent with the UPC. That was the
20 message, the general message.

21 Q. Thank you. I'd like to go back to something that you said
22 before. (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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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 PRESIDING JUDGE FULFORD: No, Ms. Struyven. Sorry,

14 Maitre Mabilille is on her feet.

15 Yes, Maitre Mabilille.

16 MS. MABILILLE (interpretation): Your Honour, the Defence is
17 wondering about the hour and a half that has just passed. We're wondering
18 about the relevance of this. We are dealing with details of a period
19 that isn't part of the relevant period. So I'm wondering what the
20 relevance is of entering into the details of this subject, given the
21 charges that have been directed against the accused. That's what I have
22 to say, your Honour.

23 PRESIDING JUDGE FULFORD: Ms. Struyven.

24 MS. STRUYVEN: Your Honours, if I can answer this one in English,
25 the vocabulary is easier. The Prosecution submits that the attack on

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1 Bunia is when it's a starting point of the charges and it's one of the
2 main elements of the beginning of the execution of the common plan. We
3 believe that the details of the start of the common plan and the period
4 leading up to the implementation of the leading plan have their relevance
5 therefore.

6 PRESIDING JUDGE FULFORD: Anything by way of reply, Maitre
7 Mabilille?

8 MS. MABILILLE (interpretation): Perhaps I fail to understand the
9 Prosecution's position, perhaps I'm not clear-sighted enough, but I'm not
10 sure that the information we've been provided with could be useful as an
11 introduction to the common plan. But perhaps it's a failing on my part,
12 and I can't see the connection.

13 (Trial Chamber confers)

14 PRESIDING JUDGE FULFORD: Thank you very much, Maitre Mabilille.
15 The events which are directly related to the offences with which the
16 accused is charged cannot be viewed, in our judgement, in isolation.
17 They emerge from a relevant background and they need to be set in an
18 overall context. The events that the witness has been describing, put
19 generally, form part of that context and are an element of the relevant
20 background.

21 That said, throughout this case the Prosecution must ensure that
22 we principally focus on the matters that are the subject of the charges.
23 And although, as we've just indicated, Ms. Struyven is entitled to ask
24 questions on these issues, we ask her at all times - as I'm sure she
25 will - to make sure that the extent of the investigation into these

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1 matters is reasonable - and I use the word for a second time
2 today - proportionate.

3 So we don't stop you, Ms. Struyven, but can you ensure that we
4 don't dwell for too long on matters which are not directly related to the
5 charges this accused faces.

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

7 Q. Sir, I have perhaps another two questions that have to do with
8 this period, with all these events. The first question is as follows:
9 You said that Mr. Lonema and others were aware of everything that was
10 happening in Bunia at the time. That was earlier on. And yesterday you
11 said that there had been contact during this period between Mr. Lonema
12 and Mr. Thomas Lubanga amongst others. Do you know whether the people who
13 were in detention in Kinshasa were aware of what was happening in Bunia
14 or was that not the case?

15 A. Yes, I know that they were aware of the events (Redacted)
16 (Redacted)
17 (Redacted)
18 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted). So it was quite clear that everyone, Thomas
- 4 Lubanga and the other detainees, were informed of all the events in
- 5 Bunia. I can provide you with another detail if you like.
- 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 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

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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 Q. And then were you able to continue following the events that
18 unfolded in Ituri; and to be more precise, were you able to follow what
19 subsequently happened to the UPC?

20 A. Yes. It was in my interest to follow the events in Ituri.

21 (Redacted)
22 (Redacted)
23 (Redacted)

24 (Redacted). So that was the first reason for following the
25 events, and then, just like any other citizen in the country, I could

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1 follow what was going on in accordance with what the law allows you to
2 do. And I could follow the events and the outcome of the events. I used
3 all the contacts that I had to obtain reliable information on what was
4 going on in Bunia. You should have no doubts about that.

5 Q. First I'd like to ask you whether you know if Mr. Lubanga
6 remained in Kinshasa or not?

7 PRESIDING JUDGE FULFORD: Don't answer for a second.
8 Public or private, Ms. Struyven?

9 MS. STRUYVEN (interpretation): Your Honour, the problem is that
10 since we have to be very careful when it comes to finding out how he
11 obtained information, from whom he obtained information, the problem is
12 that I never know, or rather, I don't always know whom he will be
13 discussing and I don't know the context he'll be referring to. So it's
14 very difficult to know whether or not the information he will be giving
15 might reveal his identity.

16 PRESIDING JUDGE FULFORD: Well, I ask the question, Ms. Struyven,
17 because the introductory question was really asking him whether he
18 followed events at the relevant time, and really I hope doing justice to
19 the witness's answer, he was indicating he was able to follow events
20 himself really like any other citizen of his country. Now, it just
21 occurred to me that in those circumstances, given that's the foundation
22 for the answer that he's going to be giving, it was worth a try. But if
23 you know, Ms. Struyven, that he's likely to be referring to individuals
24 who provided him with information, then it possibly isn't worth trying.
25 I have to be guided by you. Ms. Struyven, otherwise this becomes an

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1 entirely secret trial.

2 MS. STRUYVEN (interpretation):

3 I can try again to put my questions in open session, and perhaps
4 we could regroup the sources after a few questions rather than ask on
5 each occasion about the basis of the information provided.

6 PRESIDING JUDGE FULFORD: Yes. Let's see how we do. So can we
7 please go into public session.

8 (Open session at 12.39 a.m.)

9 COURT OFFICER: Open session.

10 PRESIDING JUDGE FULFORD: Sir, then the answer that -- sorry not the 'answer'!

11 The question that Ms. Struyven has just asked you is whether or not to
12 your knowledge Mr. Lubanga remained in Kinshasa or was he somewhere else?

13 THE WITNESS (interpretation): Yes, as I have said, I could
14 follow the events in the field. A while ago I emphasised the fact that
15 (Redacted)
16 (Redacted). That was direct contact. We had
17 discussions, if that's what you can call them, but I'd say we were in
18 direct contact. I can say that. And in the field I also had people that
19 I could rely on to obtain information on what was happening, on actions
20 that were being prepared.

21 So to answer your question, Mr. Thomas Lubanga didn't remain in
22 Kinshasa all the time. He came to be with us.

23 MS. STRUYVEN (interpretation):

24 Q. After Kinshasa did you know where he went to?

25 A. The fact is that he finally arrived in Bunia and he went to the

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1 (Redacted) A few hours later the list of
2 his executive was announced. And so you see that they were only awaiting
3 for the arrival of the boss before they make progress. So he indeed came
4 to Bunia.

5 Q. Do you remember the date, the date of his arrival to Bunia?

6 A. It was around the 1st of September, 2002, that is when he arrived
7 in Bunia.

8 MS. STRUYVEN (interpretation): Your Honour, with your permission
9 I will try to continue with a few questions, and after about three or
10 four questions then I will ask him his sources. If we do not proceed in
11 that way then we will have to go into closed session.

12 PRESIDING JUDGE FULFORD: Certainly, Ms. Struyven.

13 MS. STRUYVEN (interpretation):

14 Q. Sir, I am going to ask you some information, and then after that
15 we'll go into closed session and I'll ask you about your sources. Well,
16 I will not ask you to give the names of people who gave you information,
17 but how did you come to know about the appointments that were made at
18 that point in time?

19 A. I heard this over Radio Candip, it was public. That was the
20 first source of my information.

21 Q. Can you describe, can you tell us in general what was said over
22 Radio Candip at that time?

23 A. Well, without going into details and as it is the practice, the
24 journalist who was reading the news over the radio, I suppose that he had
25 the text in front of him, he presented legal texts on the basis of which

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1 these appointments were made. After reading these legal texts,
2 therefore, the names of the appointees then followed. It was in this
3 context that we heard it clearly stated that Mr. Thomas Lubanga was using
4 his prerogatives as defined in the law that was read out to make the --
5 to appoint the team, this team of people.

6 Q. When you talk about his prerogatives, what exactly were his
7 prerogatives, can you give us some clarification thereon?

8 A. The laws that were presented stated that he in his capacity as
9 president of this movement that had control of Bunia was making use of
10 his prerogatives as president to appoint. So a president appoints the
11 members of his team, and in this case it was his executive. So he as the
12 president of the group, reference was made to that. Of course, there
13 was -- there were other facts that were also presented, but the whole
14 idea was that Mr. Thomas Lubanga was acting as president to carry out all
15 the various activities that he carried out.

16 Q. Well, just to understand you better, when you state that the
17 members of the team were appointed, what do you mean by that? Can you
18 tell us more about this, these people were appointed, what do you mean?

19 A. Certain individuals were appointed to posts of national secretary
20 who are comparable to ministers in a government. That's what I'm talking
21 about.

22 Q. Thank you. Do you know whether Mr. Lubanga, as you stated, you
23 stated that he was a president, were there other positions that were
24 reserved for him?

25 A. Let me make a small correction before I give an answer.

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1 Mr. Thomas Lubanga continues to be the president of the UPC as far as I
2 know -- well, unless there has been a change of which I'm not aware. We
3 have only an acting president for now. He as president -- you know,
4 these texts clearly state that he has to also hold the function of
5 national secretary for defence. So he was the political leader of the
6 army and it was also clearly stated that he was the Commander-in-Chief of
7 his army, that is, that there was no other person above him to command
8 the army. That is in purely military terms. So that was the title that
9 was used on that day in the presentation of various documents in the
10 news, over the news.

11 Q. I will ask you a question which we have already touched on, and
12 so I will not dwell on certain details. You heard these appointments if
13 I understood you well. Now from the names that you heard announced, can
14 you tell us something about the ethnic composition of that UPC executive?

15 A. Even though I cannot remember all the names that I heard over the
16 radio that day, the first thing I noticed was that the posts which could
17 be considered sensitive posts were held by Gegeres. And by "sensitive
18 posts," I mean posts like defence which was held by Thomas Lubanga
19 himself. You will remember that I said that he was the national
20 secretary for defence. He was also the Commander-in-Chief of the army.
21 And the person who was second to him in the Ministry of Defence was a
22 gentleman from a tribe that was similar to his or identical to his, so
23 one of their allies.

24 Now, in finance the person appointed to hold the position in
25 finance was somebody from his tribe, and this is another sensitive post

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1 for the person who is in power. In security they had someone who was
2 very close to him, someone from his tribe. Now, from what I was told it
3 was on such basis that we see how a leader constitutes his executive. So
4 I understood that this was done on a tribal basis. We had more Gegeres
5 and Hemas in the executive than others. And for what we call useless
6 posts you had the others, that is, people from other tribes held such
7 posts. And I think that the idea was to give a sort of Iturian or
8 national character to the executive.

9 Q. Before I continue asking you more questions on that point, you
10 said that the deputy national secretary for defence was a gentleman
11 who was a Hema. Can you give us his name? I think his name was
12 announced publicly.

13 A. Yes, it was Mr. Kahwa, Mr. Kahwa Panga Mandro.

14 Q. If I understood you well, Mr. Lubanga was -- held the post of
15 national secretary and Mr. Kahwa held the post of deputy national
16 secretary; is that correct?

17 A. It is correct. That's what was announced publicly over the
18 radio.

19 Q. Secondly, you stated that in finance there was another person who
20 was close to Mr. Lubanga. Who was this person?

21 A. In finance he appointed Mama Lotsove, that is, Mrs. Adele
22 Lotsove, the former governor, of course the self-appointed governor.

23 Q. And now the next logical question. You also mentioned security.
24 Do you remember who was appointed to be national secretary for security?

25 A. I do not remember the name, and so I won't dare to guess names at

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1 this juncture, please.

2 Q. No problem.

3 MS. STRUYVEN (interpretation): Your Honour, I think that for the
4 next question we need to go into private session.

5 PRESIDING JUDGE FULFORD: Is this moving on to a new topic or is
6 this going back to the origins of information? I notice that the witness
7 generally for the last sequence has really indicated that he is basing
8 his information from what he heard over the radio. So it may not be that
9 that would be a fruitful subject. But were you moving on to something
10 else, Ms. Struyven?

11 MS. STRUYVEN: It's not something -- (interpretation) it's not
12 something entirely different from what we have discussed.

13 PRESIDING JUDGE FULFORD: Yes. We'll in fact pick it up after
14 the break because there's a few matters that I want to raise now before
15 we rise at 1.00, if that's convenient with you, Ms. Struyven.

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

17 PRESIDING JUDGE FULFORD: Thank you
18 very much, indeed.

19 The first is a very minor matter for the stenographers, at page
20 48, line 8, the last word is not "but," b-u-t, it is put, "p-u-t," so can
21 that change please be made in the perfected copy.

22 Mr. Sachdeva, Witness 55 I think was your witness. There were on
23 a number of occasions in the unedited transcript times when a lot of
24 names were mentioned which, for understandable reasons, pose difficulties
25 for the stenographers. Could I ask you if it's possible to check quickly

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1 over the edited transcript, if you have time, over the luncheon
2 adjournment to see whether the difficulties were resolved or whether they
3 are still extant. Because if they're still in existence we may have to
4 try to find a solution - and let me indicate to you what has been in my
5 mind as a possible solution to this - is simply providing the transcript
6 to the witness with Post-its on the relevant pages, asking him to do no
7 more than to spell wherever there's a difficulty the name or the word
8 which has not been caught precisely by the stenographers, of course
9 always allowing for the possibility that if there's an issue of
10 importance that arises out of what he writes we may need to recall him to
11 deal with the difference. I don't ask you to respond to that now, but
12 it's something to think about if there is in fact still a significant
13 problem with names in his evidence.

14 So going back to my original question: Would you be able to do
15 that over the luncheon adjournment, Mr. Sachdeva?

16 MR. SACHDEVA: Yes, Mr. President, I'll do my best. Thank you.

17 PRESIDING JUDGE FULFORD: Thank you. I'm sorry to wreck your
18 lunch. Thank you very much.

19 Maitre Mabilie, we reflected over the midmorning adjournment on
20 the issue raised by Ms. Massidda and the fact that from what she said to
21 us, which of course we accept, her office commences the physical move,
22 so presumably boxes and books and desks and papers, midday tomorrow. Are
23 you in the same position?

24 MS. MABILLE (interpretation): Yes, your Honour.

25 PRESIDING JUDGE FULFORD: Right.

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1 We propose to say something about this at 2.45. I have been
2 trying to arrange a meeting with somebody from Registry at 2.15 in my
3 room so that I can have an explanation from Registry before we say
4 something. I'm told that the Deputy Registrar is travelling and is
5 unable to come to see me. This is really a matter for Registry. If they
6 wish to assist us on this subject before we unburden ourselves of our
7 views about this, it may be advantageous for somebody to come and see me
8 in my room, where I will be available, at 2.15 after lunch.

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

10 *(Closed session at 1.00 p.m.) Reclassified as open session

11 COURT OFFICER: Closed session.

12 (The witness stands down)

13 PRESIDING JUDGE FULFORD: 2.45.

14 Luncheon recess taken at 1.01 p.m.

15 On resuming at 2.46 p.m.

16 COURT USHER: All rise. Please be seated.

17 PRESIDING JUDGE FULFORD: Public session, please.

18 (Open session at 2.47 p.m.)

19 COURT OFFICER: Open session.

20 PRESIDING JUDGE FULFORD: Ms. Massidda, first of all, thank you
21 for your courtesy in attending at short notice. One question, if I may,
22 I want to make sure there's going to be no misunderstanding hereafter.
23 Did we understand your submission of this morning to be to this effect,
24 that the physical move for the Office of Public Counsel for Victims will
25 commence sometime around midday tomorrow?

1 MS. MASSIDDA: Thank you, your Honour. I took the liberty of
2 taking the e-mail that I received yesterday afternoon which contains the
3 guide-lines for the move. In the guide-lines, I quote:

4 "Move dates: Friday, 29th; and Saturday, 30 May, 2009.

5 "The movers will pack and unpack files from the grey cabinet.
6 Special lockable cabinet are available to pack confidential files.

7 "I was told that one of the staff members concerned relating the
8 confidential file has to be present for the packing. For the unpacking,
9 this will be done on Tuesday, 2 June; Monday, 1st of June, being an
10 official holiday in the Netherlands. The movers will be available from
11 1.00 on Friday, 29 May 2009."

12 I understand, your Honour, that everything needs to be packed by
13 1.00 tomorrow because the movers will start by 1.00 -- being around by
14 1.00 tomorrow. Now, I do not know how we could continue to work if we
15 have people moving from one office to the other taking packages, and if
16 we are supposed to put all our stuff in the boxes, according to the
17 guide-lines, because everything will be moved in the other building.
18 Now, we have tried to minimise the inconvenience since one office at the
19 third floor, to be fair, has been put at the disposal of the office. But
20 this office at this point in time is not fully equipped. For instance,
21 we receive an e-mail from the IT section saying that as soon as possible
22 someone will contact members of the office in order to test the
23 equipment. This has not yet been done.

24 At this point in time, therefore, I do not know if the equipment
25 at the third floor are functioning or not. In any case, not all the

1 equipment that I requested for the office are installed at this point in
2 time in the third floor, which means that I cannot use any other PCs
3 except the ones that I have now on my office at the fifth floor. Thank
4 you very much.

5 PRESIDING JUDGE FULFORD: Thank you very much indeed.

6 On the 8th of April, 2009, transcript 167, page 30, Ms. Massidda,
7 counsel for the Office of Public Counsel for Victims raised concerns over
8 the instruction that she had received that her office was required to
9 move from this building to another building over this coming weekend,
10 30th/31st of May. Unsurprisingly, she indicated that it was going to be
11 difficult, if not impossible, for her team to participate in this trial
12 and to move their entire office at the same time.

13 Maitre Mabilie, lead counsel for the accused, indicated that she
14 had identical concerns. In her words, the Defence had time for this case
15 but not for a move.

16 We observe then that in our unequivocal and firm view the work of
17 this Chamber - and we interpolate to observe that this is the much
18 delayed first trial of this Court - should not be disturbed by a
19 re-arrangement of the desks and chairs in this building, particularly
20 given that it has long been known that the Chamber as of the 8th of April
21 was about to commence a three-week break over Easter and that another
22 longer break of six weeks will occur at the end of June. We emphasise
23 then that the Chamber had not at any stage been consulted, that
24 administrative decisions which impact on the functioning of this Court
25 should not be taken without prior consultation, and that in our view the

1 judicial work of this Court effectively takes priority over everything
2 else. Shortly thereafter I was
3 visited by the second Vice-President of
4 this Court. He courteously informed me that in his view the problem had
5 been misrepresented during some of the submissions made to the Chamber,
6 which he indicated he had either read or had been informed of. Further,
7 it was said to me that the effect of the proposed move had been
8 exaggerated. I was told that the move, certainly insofar as it concerned
9 those actually appearing before this Chamber, would occur only over this
10 coming weekend and specifically Saturday, the 30th, and Sunday, the 31st
11 of May; that it would be completed within that time-frame; and that
12 generally steps had been taken to minimise the impact of these events so
13 as to ensure that the work of this Chamber is not materially interrupted.

14 Having received that reassurance and on that clear basis and
15 understanding, I agreed that this was an internal administrative matter
16 which could properly be left in the hands of the Presidency and the
17 Registry.

18 On the 12th of May I received an e-mail indicating that the move
19 was to take place, and I quote: "... around the 29th to the 31st of
20 May". The second Vice-President, who was the author of the e-mail,
21 indicated that the move may "... temporarily be a complication," but it
22 was suggested, however, that it would have no impact on the fairness of
23 these proceedings. Although I met again with the second Vice-President
24 on the 12th of May, during which an explanation was provided to me as the
25 need for the move and the reasons why it would be inconvenient to delay

1 it, I have at no time before today been informed either that the move in
2 its physical aspects will commence it seems at 1.00 tomorrow and will
3 continue into Monday and Tuesday of next week because those are the days
4 certainly insofar as Ms. Massidda is concerned, and I anticipate the same
5 applies to Maitre Mabilie, when the unpacking of the equipment and
6 belongings of those two offices will take place.

7 It needs to be emphasised that both offices have been given some
8 accommodation within this building from which they can operate, but as of
9 this moment in time the equipment for Ms. Massidda - and again I
10 anticipate the same is true of Maitre Mabilie - has not been put in a
11 condition where it can be reliably used. Therefore, the computers and
12 equipment in the offices that are about to be stripped constitutes the
13 only access which counsel currently have to the e-court which this Court
14 operates.

15 Therefore, and highly regrettably, the various good intentions
16 that have been expressed to us in April and in May have not borne fruit.
17 In the result, for reasons which are wholly understandable, Ms. Massidda
18 has indicated that neither she nor any representative of her office will
19 be present in Court tomorrow representing either those victims she acts
20 for or her office more generally. Other counsel in this case have been
21 asked to hold her brief. Ms. Massidda has only recently been told of the
22 difficulties that relate to Monday and Tuesday of next week, and we at
23 the moment do not know whether or not she is, in fact, going to be able
24 to attend or anyone else from her office is going to be able to attend on
25 the first two days of next week.

1 Maitre Mabilie for the accused in our judgement has shown the
2 greatest restraint over this issue, but we are told, as I have just
3 rehearsed, that the move for the Defence is also to start tomorrow
4 afternoon. And that her team, therefore, is supposed to organise packing
5 and moving and the re-adjustment from one office to another office in
6 this building as well as to an office in another building whilst at the
7 same time representing her client in these proceedings when over the last
8 few days and again next week there are witnesses of great importance
9 appearing giving live testimony before us.

10 We consider this is a deeply regrettable state of affairs. The
11 Chamber gave the clearest indication at the beginning of April, repeated
12 on the 12th of May, that bureaucratic and administrative convenience
13 should not interrupt this important criminal trial, particularly given
14 that there have been in the recent past and will be again in the near
15 future other occasions for effecting this move without causing any
16 disruption to our work. Putting aside such niceties as the lack of
17 courtesy to the Judges of this Chamber that attends on the failure to
18 provide us with all the relevant information in a timely fashion, or at
19 all, we deprecate the lack of consultation, both as to the formulation of
20 the original plan and the more recent failure to inform the Judges that
21 the assurance provided by the second Vice-President in early April will
22 not be honoured by the Registry in the implementation of this move,
23 which, I repeat, commences midway through tomorrow, which is an ordinary
24 sitting day of this Court, and will extend into Monday and Tuesday of
25 next week.

1 Counsel have demonstrated an exemplary desire to enable this
2 trial to continue notwithstanding the fact that their offices must now be
3 in a state of complete chaos, with packing cases, files, books,
4 computers, desks, and chairs all in transit or awaiting tomorrow's move.
5 No lawyer in a major criminal trial, unless they are blessed with a
6 legion of support staff - which is not the case in this Court - should be
7 expected to move offices between buildings and appear in Court on the
8 same day.

9 Although no application has been made, we consider that this
10 constitutes pressure that counsel should not have to operate under.
11 Doing the best we can to assist, the move starts tomorrow afternoon, and
12 therefore we will not hear any evidence following the luncheon
13 adjournment tomorrow. The evidence of this protected witness will,
14 therefore, inevitably be delayed. We may - and I underline that
15 word - deliver some oral decisions in the early afternoon. Counsel will
16 be informed one way or the other on this issue tomorrow morning. And we
17 will be wholly content if one junior member of staff only representing
18 each and every one of the teams in this case is present simply to listen
19 and to note the decisions that we hand down. We reassure counsel that
20 otherwise no issues will be raised and there will be no discussion with
21 the bar.

22 That leaves the issue of Monday and Tuesday, and we will leave it
23 to counsel to address us at a suitable time tomorrow morning if they
24 consider that consistent with the decision that we've made in relation to
25 tomorrow's hearing in the afternoon, in reality they also need additional

1 time to rearrange their offices before being expected to recommence their
2 involvement in this case. Throughout the words that we've spoken, no
3 reference has been made to the Office of the Prosecutor, but it should
4 not be forgotten that the Prosecution team, who are also working
5 extremely hard in this case, are also affected in a similar way by the
6 move, save that they will not have to move offices outside of this
7 building.

8 We have no doubt that there are good reasons for this office
9 rearrangement, but the timing of it and the manner in which it has been
10 organised have had a direct and deleterious effect on this trial which
11 should and could have been avoided.

12 Mr. Sachdeva, I think you had something to say about Witness 55.

13 MR. SACHDEVA: Yes, Mr. President, thank you very much. I -- the
14 team has reviewed the transcripts, albeit in a preliminary fashion, and
15 the -- the major concern is that camp -- an area that was referred to in
16 examination-in-chief as "Kandoi" has since been spelled as "Camp Ndoyi,"
17 and I have spoken to my learned colleagues from the Defence and also from
18 the Legal Representatives, and we all agree that the transcript should be
19 rectified so as to contain throughout the transcript the name "Kandoi."

20 There are -- there is another issue with respect to certain
21 persons that control the Mahagi sector, and indeed the spellings are not
22 correct and these were in response to questions by the Legal
23 Representatives. Once the review has been finalised, we'll arrive at a
24 method to try and rectify that. Just for your information at the moment,
25 your Honour.

1 PRESIDING JUDGE FULFORD: That's hugely helpful, Mr. Sachdeva,
2 and I hope you managed to get some lunch.

3 MR. SACHDEVA: I did. Thank you very much.

4 PRESIDING JUDGE FULFORD: Ms. Massidda, thank you for your
5 attendance. There is no need for you to remain further this afternoon if
6 you wish to leave.

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

8 PRESIDING JUDGE FULFORD: Ms. Bapita.

9 MS. BAPITA (interpretation): Thank you, your Honour. I would also like
10 to point out to the Bench that we received exactly the same e-mail as Ms.
11 Massidda this morning, but in our case we are in greater difficulty because
12 we have not been told exactly when we must leave the first building to come
13 here. We have no offices that have been provided for the breaks. We have
14 no machines. And we don't know how we're going to go from one building to
15 another with our robe over our arms and our confidential files,
16 and nothing has been decided as that regards. We've asked questions. We
17 have not received any answers, but everyone is all lined up and packing
18 but we don't know exactly how we're going to function without any
19 offices, we don't know where will go during the breaks to
20 organise ourselves and without machines for access.

21 PRESIDING JUDGE FULFORD: Well, thank you, Maitre Bapita. I
22 shall refrain from saying anything at this stage.

23 The final thing I want to say on this matter is that, albeit at
24 short notice, before we rose at 1.00 I invited someone from the Registry
25 to come and see me at 2.15 in my room so that I could be brought

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1 up-to-date in relation to these matters and so somebody could discuss
2 them with me. And I indicated that at 2.45 we were proposing to say
3 something on this issue. It needs to be recorded that there was
4 absolutely no communication of any kind with me notwithstanding that
5 invitation, not even to say to me that nobody would be attending.

6 Closed session, please, and can the witness be brought into
7 Court.

8 *(Closed session at 3.12 p.m.) Reclassified as open session

9 COURT OFFICER: Closed session.

10 (The witness takes the stand)

11 PRESIDING JUDGE FULFORD: I'm very sorry we've kept you waiting,
12 sir.

13 Public or private session?

14 MS. STRUYVEN (interpretation): Private session.

15 PRESIDING JUDGE FULFORD: Private session, please.

16 *(Private session at 3.12 p.m.) Reclassified as open session

17 COURT OFFICER: Private session.

18 PRESIDING JUDGE FULFORD: Ms. Struyven.

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

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
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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 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)

24 One of the events or some of the events I can mention would be
25 the massacres, the tribal hatred that one could see. So such things

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1 didn't tally with my principles, and in addition the violence was never a
2 mode according to which I functioned. (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 (Redacted)
19 (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 Q. Thank you. I would now like to go back to what you were saying
8 earlier on with regard to the members of the UPC executive in particular.
9 As you know, I'm referring to the time-period after the arrival of
10 Mr. Lubanga in Bunia after the 1st of September, 2002. I believe that we
11 could discuss the answer in open session, but perhaps before I put this
12 question to you I would first of all like to ask you whether you have any
13 information about the subject that I have just referred to. So the
14 question has to do with the power to take decisions within the UPC
15 executive. You have already provided us with some information, you did
16 so before the break with regard to the various positions. You said who
17 occupied certain positions. You said that there was some sensitive posts
18 that were occupied by members who were close to Lubanga. There were
19 other posts that weren't as important that were given to individuals who
20 were members of other tribes.

21 Did you have any information -- (Redacted)

22 (Redacted) with regard to the matter?

23 A. Thank you for that question. It's quite logical. (Redacted)

24 (Redacted)

25 (Redacted)

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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 So it was immediately during that period of time. Later on when a
14 delegation arrived in Aru, a delegation led by Adele Lotsove, this
15 delegation included, among others, the vice minister of defence,
16 Mr. Kahwa; it also included the person in charge of security in the
17 governorship, Nembe Ngona was the name. In the delegation, there was
18 the Chief of Staff Kisembo. So at the moment these are the names
19 that I can remember. (Redacted)

20 (Redacted)
21 (Redacted)
22 (Redacted)
23 (Redacted)
24 (Redacted)
25 (Redacted)

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1 (Redacted)

2 (Redacted)

3 Q. And one more preliminary question. This mission in Aru (Redacted)

4 (Redacted), when did this mission take place?

5 A. This mission took place between the months of September and

6 October 2002.

7 Q. Thank you.

8 MS. STRUYVEN (interpretation): Your Honour, may I continue and
9 put questions with regard to the power to take decisions within the UPC?

10 PRESIDING JUDGE FULFORD: Are you asking just generally or
11 whether it should be in open session?

12 MS. STRUYVEN (interpretation): The second question would be whether it is
13 possible in open session because he has just revealed his sources.

14 PRESIDING JUDGE FULFORD: Open session, please.

15 (Open session at 3.27 p.m.)

16 COURT OFFICER: Open session.

17 PRESIDING JUDGE FULFORD: Yes.

18 MS. STRUYVEN (interpretation):

19 Q. Sir, what did you find out from all these people with regard to
20 the power to take decisions within the UPC?

21 A. Could you please rephrase that question because I wasn't
22 listening to the first part of the question.

23 Q. Before the break you said that certain members of the executive
24 had more sensitive posts, others who were members of other tribes had
25 so-called useless posts. So my question generally speaking was: What

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1 were you told with regard to the power to take decisions within the UPC?

2 A. (Redacted)

3 (Redacted)

4 were similar, especially the answers from those who were present while
5 the discussion was still ongoing. To summarise, what I could say is that
6 according to the information provided they said that * Mr. Thomas Lubanga
7 had the final say in approving or disapproving the names proposed to him.
8 So, once again let me reiterate that he is, and continues to be, the leader
9 of the UPC and no one has deposed him yet.

10 Q. Did you hear how within the executive of the UPC, how
11 decision-making took place, how decisions were taken?

12 A. According to the sources I just mentioned, there was also the
13 fact that (Redacted), that is on the
14 basis of what I saw. First of all, there were all those who were
15 considered to be the elite of the group. And apart from these elite
16 there were also discussions which took place among the communities, that
17 is, the Gegere or Hema communities or both of them would hold
18 discussions.

19 Now, I think that there were two centres, two centres or pools of
20 power. I could have chosen a different term, but for now allow me to use
21 this term. So there were two centres of power. The first centre was
22 political and military and the second had to do with the interests of the
23 Hema and Gegere communities. So these were the aspects which they took
24 into consideration. You would remember that I told you that there is
25 proof for this, it was stated in public. Mr. A always said in public

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1 that he was the coordinator of everything that was being done, that he
2 was acting on behalf and in place of his president, Mr. Thomas Lubanga.
3 As far as I know and according to other sources, it was up to Mr. Thomas
4 Lubanga to take his decisions on the basis of these two centres of power,
5 and he was the one who took decisions.

6 A few minutes ago I told you that the final decision to approve
7 or disapprove a name that was proposed on the list of the executive was
8 taken or -- by Mr. Thomas Lubanga, and I can assure you that there is no
9 doubt about this.

10 PRESIDING JUDGE FULFORD: Maitre Mabilie.

11 MS. MABILLE (interpretation): Your Honour, I have the impression
12 that we are asking the witness to give an opinion. He is citing sources
13 without telling us when he spoke with these sources, and so we are asking
14 the witness to give an opinion on events which he did not witness. He
15 was not a member of the UPC executive. And I find that this is not
16 appropriate in this testimony.

17 PRESIDING JUDGE FULFORD: Thank you, Maitre Mabilie.

18 Ms. Struyven, for reasons which you explained we attempted to do
19 this by, as it were, sources first, substance afterwards. Given the
20 importance potentially of this material, unless you would wish to argue
21 the point, I think that Maitre Mabilie's objection is well-founded and
22 that we need to go back into private session so that you can ascertain
23 really for each individual element that the witness is describing, what
24 his basis is for saying it. Because I think otherwise it becomes a sort
25 of a large pot of material and the genesis of it will be unclear.

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1 So private session, please.

2 *(Private session at 3.35 p.m.) Reclassified as open session

3 COURT OFFICER: Private session.

4 PRESIDING JUDGE FULFORD: I leave it to you, Ms. Struyven, but
5 you may wish to go back a bit to, as it were, break down part of the
6 witness's last answer. And obviously you'll be careful to avoid simply
7 asking his opinion on things. It's evidence that we want rather than the
8 witness's opinions.

9 MS. STRUYVEN (interpretation):

10 Q. Well, Witness, as you heard, what we're looking for
11 now - and may I remind you that we are in private session - I'm going to
12 ask you a specific question on what you just said, and then later on we
13 will seek to obtain more information, more detailed information on what
14 you heard, who told you about whatever it is you heard, and the
15 circumstances. You have mentioned a few sources, (Redacted)
16 (Redacted) And so
17 I will put some more detailed questions to you on that, but before we
18 start I would like to get a clarification.

19 If I understood you well, you had on one side the Gegere
20 community and on the other side you had an elite. And so the first
21 question is: Can you tell us who constituted this group of the elite?
22 And then you can tell us on what basis you arrived at that conclusion.

23 A. Thank you for that question.

24 Your Honour, allow me to state here that what I said recently was
25 not a personal opinion contrary to the suggestions made by the other

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Questioned by Ms. Struyven (Continued)

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1 group. These are facts that I know as well as possible, the facts I'm
2 presenting before you here. (Redacted)

3 (Redacted)

4 (Redacted)

5 And I was able to see what I saw.

6 When we talk about the role of Mr. Thomas Lubanga as president, I
7 saw him give orders. It's not something I heard about; it's something I
8 know. (Redacted)

9 (Redacted). Well, I'm going to present things in general,
10 please, before going into details. Later on, if you want me to give you
11 more information, I will give you.

12 Mr. Lubanga went to Kampala at the invitation of the Ugandan
13 president. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted). And he always complained that at the

24 meetings of the executive they no longer had any discussions. Mr. Lubanga
25 would come and only give orders. (Redacted)

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
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Page 79 redacted.

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22 (Redacted)

23 PRESIDING JUDGE FULFORD: Forgive me, Ms. Struyven, I imagine you
24 were going to deal with this, but particularly towards the top of page 78
25 there are some gaps with I think where there are spelling issues. At

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Questioned by Ms. Struyven (Continued)

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1 your convenience, could you resolve them, please, with the witness.

2 MS. STRUYVEN (interpretation):

3 Q. Now, with respect to clarifications, you said that (Redacted)

4 (Redacted)

5 (Redacted). Can you spell the name?

6 (Redacted)

7 Q. I think the second clarification has been taken care of, that is,

8 page 78, line 9 (Redacted)

9 PRESIDING JUDGE FULFORD: Yes, I'm sorry to interrupt, Ms. Struyven. If these
10 things aren't resolved at the time, they get forgotten. Yes, please continue.

11 MS. STRUYVEN (interpretation):

12 Q. Sir, in that context you said that you also held a discussion

13 with (Redacted)

14 (Redacted) tell you about this?

15 A. Could you please repeat your question.

16 Q. We are still talking about decision-making within the UPC, and
17 you stated that in your opinion it was the president who took decisions.

18 Now, before we go into details, you also said that you discussed

19 this - and maybe I didn't understand you well - but that you discussed

20 this with (Redacted) during the first mission.

21 A. A slip of the tongue, perhaps.

22 PRESIDING JUDGE FULFORD: Can you

23 restrain from answering that just for a moment, please, sir.

24 Maitre Mabilille.

25 MS. MABILLE (interpretation): Well, I apologise. I cannot find

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

Page 82

1 any reference to (Redacted). Maybe I'm mistaken.

2 PRESIDING JUDGE FULFORD: There was a question mark in my mind as
3 well, Maitre Mabilie.

4 Ms. Struyven, are you referring to page 73, line 8 and 9, where
5 there was reference (Redacted), being present?

6 I think you may be referring to that.

7 MS. STRUYVEN (interpretation): Yes, indeed, your Honour. I have
8 confused (Redacted) with (Redacted). I'm very sorry.

9 PRESIDING JUDGE FULFORD: No, no - these
10 things happen. Well, either a different topic or you better reformulate
11 the question or wherever you want to go, Ms. Struyven.

12 MS. STRUYVEN (interpretation):

13 Q. You gave the example, and I had misspoken, that you also
14 discussed decision-making with (Redacted) but also with (Redacted)
15 (Redacted). Can you give us more details about that?

16 A. Perhaps I can give you a clarification. Starting with the
17 mission of Lotsove and her team in Aru, it was a fact that all of them,
18 each one, had a specific task to accomplish. And to be precise, I'm
19 referring to Madame Lotsove; Mr. Kisembo, Floribert Kisembo, the Chief of
20 Staff; Nembe Ngona; as well as Chief Kahwa. (Redacted) they
21 all made telephone reports to Mr. Thomas Lubanga. And as regards the
22 matters that involved me -- to come back to what involves myself and the
23 conversation I had with (Redacted) communicated with
24 Mr. Lubanga. (Redacted) gave me the report of that meeting, and now I'm
25 reporting what (Redacted) said which I have already told you. In other words,

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Questioned by Ms. Struyven (Continued)

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1 (Redacted)

2 (Redacted). That was how Thomas Lubanga had reacted.

3 As regards the purpose of their mission, after they communicated
4 about what had taken place on the ground, in the field, Mr. Lubanga had
5 given an order - (Redacted) - because Chief

6 Kahwa and Mr. Kisémbé Floribert spoke to him; (Redacted)

7 After their conversation they said, "The president said that the soldiers
8 will be here in a few minutes". It was a very clear order. The president
9 said it. There was no -- nothing hypothetical. (Redacted)

10 (Redacted). I don't know why we're emphasising this aspect because
11 everyone -- the fact is everyone reported to him.

12 There's another fact that I could perhaps mention --

13 Q. Could I perhaps ask you another question about the mission in
14 Aru. To be perfectly certain that we understand what took place in Aru,
15 you've described the mission. You've said -- you've told us who was
16 there, Madame Lotsove, Nembe Ngona, Kisémbé, and Kahwa. (Redacted)
17 (Redacted). Can you tell us what the purpose of that
18 meeting in Aru was?

19 A. Lotsove was very clear when she spoke to the "notable," the VIPs
20 in Aru, (Redacted). Her mission entrusted to her by
21 Mr. Thomas Lubanga was that the people of Aru support him, that they
22 accept that the UPC come and set up in Aru without any bloodshed. That
23 was one of the conditions of this negotiation. On the other hand, the
24 soldiers, the military were also negotiating -- that is, there was
25 Mr. Floribert Kisémbé leading the UPC team with Commander Jérôme who had

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 troops in Aru on site. And after the meeting, Jerome came to speak to
2 Governor Eneko (Redacted). And he said that they had already
3 agreed, that is between the military, that the UPC would come on site.
4 So the mission was that the UPC deploy itself as far as Aru without any
5 bloodshed, without any fighting. And at the same time the population be
6 mobilised in favour of the UPC.

7 Q. When you say "Jerome," do you remember his second name?

8 A. It's Jerome Kakwavu Bokande?

9 Q. The first two names are correct. I believe the third is
10 misspelled. Could you spell it for us, Bokande?

11 A. B-o-k-a-n-d-e.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
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Page 85 redacted.

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

Page 86

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. To be perfectly certain that I understand, who had given the
6 order that the soldiers were to be sent to Aru?

7 A. I will repeat what I've already said. (Redacted)

8 (Redacted)

9 they said, "The president said the soldiers are coming". That was
10 the message.

11 Q. So if I've understood you correctly, you saw the soldiers who
12 came. Do you know where they came from?

13 A. Yes, I do know. They came from Bunia. (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 Because later in the evening I myself went to the airfield and I saw many
23 soldiers, and I was interested in seeing the military equipment that I
24 had heard mentioned. I didn't see anything aside from what they had on
25 themselves, (Redacted)

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

Page 87

1 (Redacted)

2 (Redacted)

3 Q. One more question. The soldiers that you saw arrive, how old
4 were they? Can you tell us roughly what age they were?

5 A. Yes, because I saw them personally. The youngest, according to
6 my own estimation, was about 12 years of age in that group. The oldest
7 was about 27. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 Q. One more question. How were they dressed, the soldiers who were
12 sent to Aru?

13 A. Well, it was incredible. They were very handsome. They had
14 brand new uniforms with new weapons, and you could see clearly that they
15 liked being the way they were. It was quite different. Because the team
16 of Commander Jerome Kakwavu in Aru didn't have the same type of clothing,
17 and it was this group of soldiers who were to bring equipment and
18 uniforms to Commander Jerome. They were very well equipped, very well
19 dressed. There was no doubt about that.

20 PRESIDING JUDGE FULFORD: Sir, by way of clarification, there is
21 some -- one matter I'd like your help with. You've said you saw this
22 group personally and you've given us an age-range, 12 through to about
23 27. Insofar as you're able to say, insofar as you saw, what proportion
24 approximately of that group were below the age of 15?

25 THE WITNESS (interpretation): Compared to all of the groups that

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 I saw, the proportion was less than 5 per cent.

2 PRESIDING JUDGE FULFORD: Thank you.

3 THE WITNESS (interpretation): Thank you.

4 PRESIDING JUDGE FULFORD: Yes, Ms. Struyven.

5 MS. STRUYVEN (interpretation): Your Honour, may I ask a question
6 to clarify the answer that was just given by the witness?

7 PRESIDING JUDGE FULFORD: If I've asked a question that has
8 arrived at an answer which is unclear, Ms. Struyven, you most certainly
9 can ask a further question arising out of it.

10 MS. STRUYVEN (interpretation):

11 Q. When you said compared to all the groups I've seen, less than 5
12 per cent, can you explain a bit further what you mean by that?

13 A. Well, I realized immediately that there were certain elements
14 that were missing in what I said. These were soldiers who came from
15 Bunia whom I had seen at the airfield, and whose officers had come to the
16 headquarters of Commander Jerome Kakwavu. When I gave this number of 5
17 per cent, this estimation, I was talking about the soldiers of interest
18 to the Court, that is, less than 15 years of age. That is what I was
19 referring to, that particular day, regarding the soldiers that I saw that
20 particular day.

21 Q. Thank you. You have explained that the soldiers you saw arriving
22 in Aru had brand new uniforms and new weapons. Did anyone explain to you
23 that day or that time where those uniforms and those weapons came from?

24 A. (Redacted)

25 (Redacted). He said, "From Rwanda". Naturally we

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 spoke about the matter briefly, and when I put questions to him he said
2 that not only the uniforms but the weapons too had come from Rwanda.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

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24 (Redacted)

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 Q. And did he explain to you who was in charge of the delivery of
2 this equipment?

3 A. He spoke to me about contacts that had already been established.
4 He didn't clarify this. All he said is that I knew that Kahwa and Beiza
5 Nembe had gone to Kigali, and he said that there was contact established
6 there and Rwanda through the RCD Goma - (Redacted) - had
7 leased a plane from a company, I can't remember the name of the
8 company, and they delivered the weapons to Bunia. Initially he gave me
9 certain details. He said that the weapons had been air-dropped in the
10 vicinity of Mandro and an airport had been constructed for that purpose
11 in the area. It hadn't previously existed. If you have a look at maps
12 of the Congo, you won't see that there is an airport there, but the UPC
13 established -- or rather, created such an airport. That's the
14 information he provided me with. And the same information was provided
15 to me by (Redacted)

16 So to be more specific with regard to your question, he told me
17 that according to the agreement between the UPC and Rwanda, the UPC
18 agreed to have these weapons delivered and Rwanda would be able to train
19 a certain number of officers and teach them how to use heavy weapons.

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Q. To go back to the role played by Mr. Lubanga, I'd like a yes or
25 no answer to this question if possible. Did Mr. Avoci speak to you

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 about Mr. Lubanga being involved in this?

2 A. Yes. Do you need me to provide further details?

3 Q. Please.

4 A. I'd like to remind you once more that Mr. Thomas Lubanga is the
5 president of the UPC, and how was he involved? Well, just to remind you
6 of the fact he was the minister of defence and he was the army's supreme
7 commander and all reports had to be submitted to him. And another thing
8 is that -- well, when I say that all reports had to be submitted to him,
9 well I saw some of them myself. But another fact is that he had already
10 made certain arrangements in military terms before being transferred to
11 Kinshasa, before being held in detention there. So that's what I saw,
12 and according to the measures taken -- well, there were phone calls that
13 were made, et cetera. But he was informed of all the situations in the
14 field. (Redacted)

15 According to (Redacted) he, and not just Lubanga, but John Tinanzabo as
16 well, he was in direct contact with Rwandan authorities and that included

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 (Redacted)

2 (Redacted), he said that the UPC was not an unimportant entity.

3 It already had gained recognition on the outside. It was supported by
4 Rwanda, its ideology and its combat were supported by Rwanda. These were
5 political discourses, but this is what he stated. This was around
6 October -- well, it was in October, in fact, 2002.

7 Q. Thank you. To go back to the subject that we were previously
8 dealing with -- first I'll explain the question to you and then I will
9 see whether you can answer the question. Earlier on you spoke about an
10 elite, a political and military elite on the one hand; and then you spoke
11 about the Gegere community on the other hand. And you said that in the
12 end it was Mr. Lubanga who would try to strike a balance between the
13 interest of these two groups and who would take decisions. With regard
14 to this elite could you explain for our benefit who the members of this
15 elite were, and how did you have information about the matter?

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 While I was in Bunia, when I started visiting the UPC as of the
24 (Redacted), 2002, the team, this elite

25 team, this political and military elite team was composed of Mr. Richard

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 Lonema, Daniel Litsha. I could often see (Redacted) whom I have referred
2 to already. Unfortunately, I don't know his other names. He's a
3 tradesman and a (Redacted)

4 There was also Mr. Pilo Kamaragi. I can't remember the other names right
5 now. But the meeting or the meetings were often held with these
6 individuals while I was there.

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted) they

12 said that the political and military elite was represented by

13 Mr. Tinanzabo, Thomas Lubanga was included naturally, Daniel Litsha,

14 there was Mama Lotsove, and yet again Pilo Kamaragi was mentioned. And

15 at the outset Chief Kahwa was mentioned. These are the names that

16 frequently cropped up. Naturally Lonema was in the group. There's no

17 doubt about that. Whereas in the other group that was more interested in

18 tribal and Gegere affairs, the names mentioned were the names of Mafuta,

19 (Redacted), and then the name of a certain (Redacted) was

20 often mentioned, the names of two other tradesmen were also mentioned but

21 I can't remember them. These were people who were very active. When I

22 remember the names I'll let you know. From these sources I was able to

23 find out where the centre of power was in fact located.

24 Q. Did these sources explain to you the nature of the decisions

25 taken by the group that you have just mentioned?

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 A. Well, in the light of the facts I would say that these groups
2 expressed certain ideas that would then be transformed into decisions
3 with the direct involvement of Thomas Lubanga, but if he wasn't present
4 there were no decisions, only suggestions, only ideas that were presented
5 later, for example, to Thomas Lubanga. I can explain to you how I was
6 informed of this. (Redacted)
7 (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)
11 (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted)
15 (Redacted)
16 (Redacted)
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Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

Page 95

1 (Redacted)

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5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 So that's how I would explain the matter to you.

10 Q. You've already provided us with a number of examples to
11 illustrate the fact that Mr. Lubanga played a role at the level of the
12 military. You also said that Mr. Lubanga was the supreme commander. In
13 general terms, were you familiar with other examples, informed of other
14 examples? It's not necessary to go into all the details, but in general
15 terms were you in a position to hear about other such cases? Were there
16 any other examples?

17 PRESIDING JUDGE FULFORD: I'm going to intervene. The witness
18 has been round this track two or three times now. He's given a number of
19 specific examples. I am concerned that this is being slightly overdone,
20 really. If you've got something particular in mind of importance, then
21 see if there's a way of, as it were, laying the ground for directing the
22 witness to the general area; but otherwise, I think this has been dealt
23 with fairly completely.

24 MS. STRUYVEN (interpretation): I'll try to be more precise.

25 Q. Sir, you explained that Mr. Lubanga was the supreme commander and

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 you gave several examples. Now with respect to decision-making on
2 military issues, were you aware of the procedures or the manner in which
3 a decision or military decision-making was conducted in general?

4 A. Of course. First of all, let me underscore for starters that
5 soldiers do not easily let you know what is being done within the army.
6 And so to obtain such information you need a lot of tact and a lot of
7 intelligence to do so. (Redacted)

8 (Redacted)

9 (Redacted)

10 One of the things (Redacted) told me, for example, was that Mr. Thomas
11 Lubanga, for example, to hold military meetings would very often convene
12 Mr. Floribert Kisembo, Mr. Richard Lonema, and at the beginning Kahwa was
13 always present at meetings and a few other officers whose names I cannot
14 remember, and they would discuss any particular subject.

15 (Redacted)

16 (Redacted)

17 (Redacted). He said he

18 could understand Thomas Lubanga attending meetings of that nature because
19 he was the supreme commander, (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted). So decisions were taken during

25 meetings of that nature, just as I have described, meetings held with

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

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1 Mr. Lubanga.

2 Of course, according to (Redacted), at the beginning he did
3 not have enough technical knowledge of military matters but he learned
4 quickly and easily got used to the whole thing. (Redacted)
5 (Redacted), and it was at that juncture from there on that he could
6 approve or disapprove certain operations that were being planned.

7 Q. You talked about operations that were being planned. Did anyone
8 tell you anything about the type of decisions that were thus taken by the
9 people you just mentioned?

10 A. I will return to the same source, (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Witness: Witness DRC-OTP-WWW-0014 (Resumed) (Private Session)
Questioned by Ms. Struyven (Continued)

Page 98

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 Q. Thank you. I have one more question on this topic. Did you hear
11 any mention of a gentleman called Rafiki?

12 A. Yes, I heard mention of him, (Redacted)

13 Q. I have just one basic question. Do you know his full name?

14 A. I used to know it but I can't remember it now. I apologise.

15 Q. No problem.

16 MS. STRUYVEN (interpretation): Your Honour, I would like to
17 broach another subject. I don't know if I should start it now.

18 PRESIDING JUDGE FULFORD: Tomorrow morning, Ms. Struyven.

19 Thank you.

20 Thank you very much, sir. I'm sorry this is taking quite a long
21 time, but you'll understand why I'm sure. There's a considerable amount
22 of ground that Ms. Struyven wishes to cover with you.

23 Any idea how much longer you're going to be in chief,

24 Ms. Struyven?

25 MS. STRUYVEN (interpretation): Your Honour, we have about two

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1 more subjects and they are not long. No more than one hour, I think.

2 PRESIDING JUDGE FULFORD: So Maitre Mabilie is likely to be
3 asking questions tomorrow morning. Good. Thank you very much.

4 We'll go into closed session, please, so the witness can withdraw
5 and we'll sit tomorrow, since it's Friday, at the usual time of 9.

6 *(Closed session at 4.42 p.m.) Reclassified as open session

7 COURT OFFICER: Closed session.

8 (The witness stands down)

9 PRESIDING JUDGE FULFORD: Thank you all for your attendance.

10 9.00 tomorrow.

11 The hearing ends at 4.44 p.m.

12 RECLASSIFICATION REPORT

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

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