

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 - Open Session

6 Tuesday, 30 June 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. One or two matters of
11 administration before the witness returns to court.

12 Ms. Samson, in relation to Witness 46 - and I'm going to deal
13 with this in a slightly opaque manner for obvious reasons - there has
14 been brought to our attention an e-mail communication between
15 Ms. Zago - I hope I pronounce her name correctly - and Mr. Waltenburg
16 yesterday, yesterday morning, in relation to a suggested meeting that
17 should take place outside of the familiarisation process. We have two
18 requests but I want to outline them to you first of all to make sure
19 there's no difficulties with them being complied with. The first is that
20 the parties and the participants should be made aware of the suggestion
21 that's being made; and secondly, we should be provided with a little bit
22 more detail as to the areas that it is suggested may fall for discussion
23 during the suggested meeting. We're not wishing to be difficult, but
24 particularly in light of the Chamber's decision on witness proofing it
25 seems to us there needs to be a little bit of an explanation as to what

1 this is all about.

2 Any problem with that?

3 MS. SAMSON: None at all, your Honour.

4 PRESIDING JUDGE FULFORD: Could that be done this morning,
5 please?

6 MS. SAMSON: Yes, your Honour.

7 PRESIDING JUDGE FULFORD: Thank you very much.

8 It would be helpful to know whether a decision has been reached
9 as regards Witness 15.

10 MS. SAMSON: Your Honour, the process of reading back the
11 witness's statement to him is ongoing. As I understand it, it will be
12 completed today. As a result, the Prosecution is not aware of what the
13 witness so far has stated in his second statement. We would ask the
14 Chamber's indulgence to provide you with that answer either later today
15 or, more preferably, tomorrow morning.

16 PRESIDING JUDGE FULFORD: I'm sure tomorrow morning will be
17 acceptable, Ms. Samson.

18 The date of Witness 46 and testimony, and of course we have in
19 mind what has been said to us in terms of travel arrangements together
20 with the fact that on the current agenda Witness 116 is going to be
21 giving evidence before 116 (sic). What in outline are the proposals of
22 the Office of the Prosecutor in this regard?

23 MS. SAMSON: At this point, your Honour, if I've understood the
24 outline that you've provided, Witness 116 is intended to appear after
25 Witness 31 followed by Witness 46 as the last Prosecution witness. The

1 Prosecution anticipates that the evidence of 31, certainly in chief, will
2 end at or before the midmorning break followed by relevant questioning by
3 the parties and participants. In our estimation the evidence of 116 will
4 likely commence on Thursday to be completed on Friday, in which case the
5 evidence of Witness 46 would be, at least in theory, able to commence on
6 Monday, given the Trial Chamber's new schedule. The Prosecution,
7 however, must bring to the Chamber's attention that the support person
8 from the United Nations is currently unavailable on Monday, 6 of July;
9 and would therefore request that we commence Witness 46's evidence on
10 Tuesday, 7 July.

11 In the Prosecution's view, that will not take us beyond the 14 of
12 July dead-line that the Chamber has set for completion of her evidence,
13 but we do regret the inconvenience.

14 PRESIDING JUDGE FULFORD: And unavailable on Monday, is that
15 really unavailable on Monday or inconvenient to attend on Monday?

16 MS. SAMSON: The only information that the Prosecution has is
17 that the witness is -- pardon me, the support person is unavailable. The
18 reason for the unavailability is not known to us.

19 PRESIDING JUDGE FULFORD: Could you extract a little bit more by
20 way of detail, please, Ms. Samson, and report back to the Chamber
21 sometime tomorrow morning on that. It would be nice to know if this is a
22 good reason or something less than a good reason.

23 MS. SAMSON: We will do so.

24 PRESIDING JUDGE FULFORD: Thank you very much indeed. Thank you,
25 Ms. Samson, that's very helpful.

1 Mr. Diakiese, thank you for the e-mail that you have sent in
2 relation to the questioning of Witness 31. One point of clarification
3 only, please. Does your e-mail, which I think -- no, let me start that
4 again. Thank you for your filing in relation to the questioning of
5 Witness 31. This is filing 2009, made on the 29th of June, which is
6 yesterday. Does that filing, Mr. Diakiese, set out the full extent of
7 the areas that you wish to cover by way of questioning or does it only --
8 does it merely represent some of the areas that you wish to cover? So is
9 it comprehensive or only partial?

10 MR. DIAKIESE (interpretation): Thank you, your Honour. The
11 filing is intended to cover all the areas which we are exploring. It is
12 not an exhaustive inventory of all the questions we are going to put to
13 the witness.

14 PRESIDING JUDGE FULFORD: I understand that, but it does set out
15 all of the areas without identifying all of the questions that you wish
16 to ask within those areas? Is that a fair summary?

17 MR. DIAKIESE (interpretation): That's correct, your Honour.

18 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Diakiese.
19 We'll come back to you on the point a little bit later. Very helpful.
20 Good.

21 Anything that anyone else wishes to raise before the witness
22 comes in? Maitre Mabilille, I think there probably is.

23 MS. MABILLE (interpretation): Your Honour, with respect to the
24 organisation of witnesses who will be appearing later -- in future, the
25 Defence has a request to make. My colleague Marc Desalliers and myself

1 are going to leave this hearing on Friday, and we would wish that we
2 should solve the problem of Witness 15 including the problem which I
3 raised with the Chamber, namely, that the Prosecution is -- that is, if
4 the Prosecution would not like to call this witness, then the Defence
5 would like to do a cross-examination. And if that is possible, would it
6 be possible to solve this problem between Thursday and Friday if that is
7 possible?

8 PRESIDING JUDGE FULFORD: Thank you very much for that,
9 Maitre Mabilille. I think that there are probably a number of complex
10 issues which may arise if the Prosecution decide not to call Witness 15.
11 I just identify two of the options that the witness is simply tendered
12 for cross-examination, that is one possible route; another is that he is
13 simply made available to the Defence as a witness to be called, if you
14 choose, as a part of your case. And I suspect we will need to spend a
15 little bit of time identifying which course is the appropriate one in the
16 interests of justice and a fair trial. So thank you for putting down a
17 marker. We will revert to the issue and resolve it as soon as the
18 Prosecution's position is made clear, and hopefully that will be
19 tomorrow. But thank you for the indication.

20 Closed session, please.

21 *(Closed session at 9.42 a.m.) Reclassified as Open session

22 PRESIDING JUDGE FULFORD: Are we in public or private session
23 when the witness returns, Ms. Samson?

24 MS. SAMSON: Your Honour, with your leave, I would like to
25 continue reviewing certain documents with the witness in private session.

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
Questioned by Ms. Samson (Continued)

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1 PRESIDING JUDGE FULFORD: Thank you very much.

2 COURT OFFICER: Closed session.

3 (The witness takes the stand)

4 PRESIDING JUDGE FULFORD: Good morning, sir.

5 THE WITNESS (interpretation): Good morning, your Honour.

6 PRESIDING JUDGE FULFORD: (Previous translation continues) ...

7 there was some administrative matters that we had to deal with.

8 Private session, please.

9 *(Private session at 9.43 a.m.) Reclassified as Open session

10 COURT OFFICER: Private session.

11 PRESIDING JUDGE FULFORD: Ms. Samson.

12 MS. SAMSON: Thank you.

13 WITNESS: WITNESS DRC-OTP-WWW-0031 (Resumed)

14 (Witness answered through interpreter)

15 Questioned by Ms. Samson: (Continued)

16 Q. Sir, good morning. On Friday we were reviewing certain documents
17 in the binder that you have in front of you, and we were in the process
18 of reviewing the document that is at tab 8 of your binder.

19 PRESIDING JUDGE FULFORD: I'm sorry, Ms. Samson, were you
20 expecting an intervention from the Bench?

21 MS. SAMSON: No. I just wanted to be sure that the Bench was at
22 the right tab.

23 PRESIDING JUDGE FULFORD: Right. That's very kind. No, no,
24 we're there. Thank you.

25 MS. SAMSON: Thank you.

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
Questioned by Ms. Samson (Continued)

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1 Q. And, sir, on Friday we had discussed the first page, page 510, as
2 well as the second and third pages. What I hadn't asked you yet in
3 relation to the second and third page was: What is the nature of the
4 information that is set out in these two pages?

5 A. Thank you. On these two pages you have information relating to
6 host families, the addresses of host families, and the children placed
7 with these host families. Now, in the first section you have the name of
8 the host family; second section, you have the address, that is, the
9 location of the host family; and in the third section you have the child,
10 that is, the child associated with armed forces and groups. And in
11 brackets you find the age of the child in question.

12 Q. Thank you. On the following pages, pages 513 and 514, could you
13 help us understand the nature of these entries, please.

14 A. Yes. On page 4 you find the host family; the date of the
15 14th of June, that's when the child was placed with the host family; and
16 then you find the name of the child and the location, that is the
17 neighbourhood where the child was placed. Now, below that section you
18 find children who had not yet been placed. You have two names since the
19 third name has been crossed out, and that is followed by -- that is on
20 the date of the 18th. The names of children -- the children (Redacted) to
21 place. These children were not placed there, and on date of the
22 18th they had been placed with host families. Now, at the bottom of that
23 page you have two children's names, that is children associated with
24 armed forces and groups who had not been placed. (Redacted)
25 (Redacted)

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
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1 Now, the following page provides identifying information of host
2 families. It provides the identification of children before they were
3 placed, before they were received (Redacted), that is, where they
4 lived when they arrived in Bunia. So that's the type of information you
5 find on that page.

6 Q. Do you know who authored these two pages?

7 A. These two pages were filled out by one of the social workers of
8 (Redacted). (Redacted) sent the social workers (Redacted) with lists, and
9 they would come with the lists and we worked with them to deal with the
10 children (Redacted) to place. And that was the policy. There was a
11 partnership. They send the names along with the social worker, they go
12 to see the host families, (Redacted)
13 (Redacted). (Redacted)
14 (Redacted). (Redacted). Even the financial reports that had
15 to be presented were handwritten. Even the reports dealing with
16 children, everything was done by hand.

17 Q. And moving to the next two pages which are pages 515 and 516, is
18 this the same person who created these entries or a different social
19 worker, to your knowledge?

20 A. It must be the same person.

21 Q. If I could ask you to turn to pages 517 and 518, do you know who
22 wrote these entries?

23 A. It's (Redacted) social workers.

24 Q. The date that is written at the top, could you please tell us
25 what it is? And I'm referring to the top right-hand corner of page 517.

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
Questioned by Ms. Samson (Continued)

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1 A. The 23rd of July, 2004, that's the date.

2 Q. If we look at entry number 1, could you tell us what the
3 nature -- what is the nature of this entry or the purpose for it?

4 A. Number 1 describes the identity of the child, the full identity,
5 his address before, the place of enlistment, the duration of time that
6 was spent in an armed group in the UPC, which battalion, as well as the
7 name of the commander of the child.

8 Q. Looking at the age, could you tell us what number is written
9 there?

10 A. The age is 15.

11 Q. And is this the age of the child as of July 2004?

12 A. Well, I'm not quite sure I can understand because I'd have to
13 look at other documents and I would need to see the age of the child when
14 he first came (Redacted).

15 Q. Yes. And looking at the words "address of the child before,"
16 what is the -- what are the words that come after "before" and the place
17 is listed as Mwanga?

18 A. The address of the child before is given as Mwanga. The place of
19 enlistment is Rwampara in 2003.

20 Q. Excuse me, sir. What I wanted to know was if you could tell us
21 what the two words were after "address of the child before," so the two
22 words that appear between the word "before" and "Mwanga."

23 A. Address of the child before the separation.

24 Q. And next to the length of time spent in the army there is the
25 words "grade soldier" and -- and what's the last word, please?

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
Questioned by Ms. Samson (Continued)

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1 A. The word is "porteur" in French.

2 Q. And just before we move, do you know what "porteur" means?

3 A. Thank you. Well, the other time when I was asked that question I
4 explained that as regards the normative framework for the protection of
5 children we refer to child soldiers and children who were associated with
6 armed forces and groups, that is, any time a child was given a job within
7 the army, anyone who bears arms or it could be someone working in the
8 kitchens or someone who carries luggage when they move from one place to
9 another. They were porters of sorts, the ones who carried luggage and
10 equipment. That's what we called the porters.

11 Q. And the length of time in the army for this child, what is
12 written, please?

13 A. It refers to one year. It says "one year" in French. As regards
14 the date of recruitment, it's given as 2003 and he came to us in 2004.
15 The month is not mentioned. It just says "2003" here.

16 Q. And the word next to 2003, "date of recruitment," could you tell
17 us what that is?

18 A. The word written here is "forcait," "forced" in English.

19 Q. And finally the battalion is written as the UPC, and what is the
20 name of the commander as you see it there? Could you spell it for us,
21 please.

22 A. The name I see is Rigo, R-i-g-o.

23 Q. Taking the second entry, please, what is the name of this child?

24 A. 15.

25 Q. And underneath "grade" or -- I think it says "occupation, current

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
Questioned by Ms. Samson (Continued)

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1 occupation," what is written there, please?

2 A. It says "cook," "cuisinier" in French.

3 Q. And do you know if this child was a cook during the time he spent
4 in an armed group or was he a cook following his departure from the armed
5 group?

6 A. It was in the armed group. It was in the armed group and this
7 document was written while the social worker was talking to the child and
8 relates to what happened to the child while they were with a group. Now,
9 there's another file where you can find out other information (Redacted)
10 (Redacted), that's in his identification file. As I said the other
11 day, that was confidential. These are documents that were sent to the
12 (Redacted).

13 (Prosecution counsel confer)

14 THE INTERPRETER: The interpreter's not certain whether it's the
15 documents or the children who were sent to (Redacted).

16 MS. SAMSON:

17 Q. Sir, could you please tell us whether the document was sent to
18 (Redacted) or the child was sent to (Redacted)
19 (Redacted)?

20 A. This is what I said. Here you have the identification of the
21 child. (Redacted) to check and there's a special form, a special file
22 that applies to the intermediate framework and then there's a documentary
23 file and it's the file that was always sent (Redacted) because it contained
24 confidential information that related to the history of the child (Redacted)
25 (Redacted)

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
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1 (Redacted) which does
2 the checking, the verification, and checks whether or not it's truly a
3 child associated with armed forces and groups and along with (Redacted)
4 (Redacted). If it's not an EFGA then they're sent back. (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)

8 Q. Thank you.

9 PRESIDING JUDGE FULFORD: Keep an eye on the speed, Ms. Samson.

10 MS. SAMSON:

11 Q. Sir, taking a look at the length of time in an army for entry
12 number 2, what is the information that is recorded there, please?

13 A. The information mentions 2003.

14 Q. Just underneath and to the left of the date of recruitment 2003
15 is another entry on length of time in the army, I would like you to tell
16 us what is written there as corresponding to length of time in the army.

17 A. It's written one year.

18 Q. And the age on the date of recruitment which is the line
19 underneath, could you tell us what that age is, please.

20 A. Age, the day of recruitment, 14 years of age.

21 Q. And on the next -- two lines down it says battalion UPC, place
22 Dhego, D-h-e-g-o, and is it name of -- could you help me with what the
23 next entry is?

24 A. Then you have the name of the commander, the name of the
25 commander.

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
Questioned by Ms. Samson (Continued)

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1 Q. Could you spell the name that is written there, please.

2 A. U-g-a and then m-a.

3 Q. And for the entry number 3 on the same page, page 517, I wonder
4 if you could help us, please, with a few of these entries. The -- there
5 is a date which is 1989. Could you help us understand what is -- what
6 that date is, 1989, and it says date slash and there are some letters.
7 Could you help us with that?

8 A. I see NCA, date of birth. So this was abbreviated by the -- by
9 the agent, by the social worker. The date of work -- the date of birth
10 is 1989.

11 Q. And just below that date of birth there is an age. Could you
12 tell us what age is written, please.

13 A. I can see 15.

14 Q. And for I believe it is place of recruitment on the bottom
15 right-hand part of the entry, could you tell us what the place is,
16 please.

17 A. It's Mandro, Mandro.

18 Q. And on the last line on that page, date and I think it's of
19 recruitment. Could you tell us what that date is?

20 A. I think I can see April 2003.

21 Q. And if you look at the next entry, it says "dure" or length.
22 What is the length of time that is listed?

23 A. It says length, one year, and then it says rank, escort or
24 bodyguard in the general staff.

25 Q. And over onto the next page, page 518. The very first line, age

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1 on the date of recruitment. What is the age that is listed there,
2 please?

3 A. 14 years of age.

4 Q. And lastly for this document, if you could turn to page 519, it's
5 the very last page. Could you tell us what this information is intended
6 to convey, what this page represents?

7 A. It's a list of children who were associated with forces, armed
8 forces, armed groups, that were taken to Aru (Redacted)
9 (Redacted). There were 22 children. With regard to this there are children
10 that the UPC sent to Aru. They had been in the war, they stayed there,
11 and at one point in time during demobilisation there were (Redacted) who
12 came to open up the transit centres, transit sites for the children and
13 these children were placed at their disposal, (Redacted)
14 (Redacted).

15 Q. Were these 22 children therefore from the UPC or were they coming
16 from other armed groups?

17 A. There is specific information on these children that you will
18 find in their forms and in other documents. These children -- most of
19 the children here were from the UPC, and the UPC brought them in because
20 they were children who were taken from Mongbwalu. So there is specific
21 information about these children from Mongbwalu -- or from Mongbwalu they
22 were sent to Aru and Mahagi. That's where they were fighting and
23 later -- well, the children came from the UPC (Redacted)
24 (Redacted).

25 Q. You say the children were taken from Mongbwalu. Can you explain

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
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1 that, if you know the circumstances under which you say they were taken?

2 A. Yes, according to what the children stated (Redacted)

3 (Redacted). You'll find that there are notebooks on the children, there are

4 documents, and you will find this information there because you can see

5 certain names. You'll find some names there. For example, (Redacted),

6 if I take that name. Even if it has to do with the maps drawn --

7 Q. I want to make sure that we record this accurately so we have to

8 go very slowly through this. You've mentioned the name of one of the

9 children listed. Which name did you mention and which number in this

10 document does that name appear?

11 A. I mentioned the child under number 12, (Redacted).

12 Q. Yes. And what did you want to say about this child?

13 A. With regard to this child, I'm just taking this child as an

14 example, this child arrived (Redacted) with these 22 children that the

15 (Redacted). After the verification process with (Redacted)

16 and having noted the information in the relevant forms, the child stated

17 that it had been enlisted by the UPC in Mongbwalu, and a group of

18 children sent by the UPC went to fight in Mahagi and Aru. So when we

19 received this child's father who came to fetch the child, you'll see in

20 the maps drawn that the parent will also say that the UPC had taken these

21 children or abducted these children.

22 Q. Did you learn the approximate date in which these children were

23 taken in Mongbwalu?

24 A. That was in August 2002.

25 Q. And, sir, who created this entry at page 519?

Witness: Witness DRC-OTP-~~WWW~~-0031 (Resumed) (Private Session)
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1 A. This document, (Redacted)
2 (Redacted). It's the (Redacted) who had opened a centre in (Redacted) to take
3 in these children. There was a site to take in these children. This was
4 done with another partner whose responsibility it was to find the
5 children and take them to Bunia. (Redacted)
6 (Redacted)

7 Q. And one last question on this page. The very last column on the
8 right-hand side, could you tell us what the title of that column is and
9 what it's supposed to represent?

10 A. If I understand this column correctly, it has to do with trying
11 to locate in -- someone -- it has to do with research. I can see Aru,
12 Bunia, because when we work it's necessary to do research into families.
13 The person who drafted this document had in mind doing research into
14 families because the (Redacted)
15 drafted this document. So that would be the last column. That's how I
16 would describe it.

17 MS. SAMSON: Your Honour, may we have an evidence number? It may
18 be for ease of reference best if I provide the ERN again. It's
19 DRC-OTP-0140-0510.

20 PRESIDING JUDGE FULFORD: Yes, an EVD number, please.

21 COURT OFFICER (interpretation): The document will bear the
22 number EVD-OTP-007474 -- 00474.

23 MS. SAMSON:

24 Q. Sir, if I could ask you now, please, to turn to the document at
25 tab 7 of your binder.

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
Questioned by Ms. Samson (Continued)

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1 MS. SAMSON: And for the Court the ERN of this document is
2 DRC-OTP-0138-0106. And if I'm not mistaken this is a document to which
3 the Defence objects unless a foundation is laid for questions.

4 Q. Sir, do you recognise this document?

5 A. Yes, I recognise the document.

6 Q. What is it, please?

7 A. This document -- well, when you asked me questions you said that
8 at one point in time it was necessary to put in place a mechanism for the
9 follow-up of children (Redacted) had to divide up zones of
10 activity amongst themselves because the children -- (Redacted)
11 (Redacted). So
12 this document has to do with verification. It has to do with
13 verification carried out by (Redacted). It has to do with the confirmation
14 obtained from (Redacted) well. So at the meeting (Redacted) we were
15 provided with this document that concerned the registered children and it
16 concerned the organisations who had to monitor these children. So you
17 will see that towards the end before "comments" there is a column for the
18 NGO that monitors them.

19 Q. Who authored this document? Who created it?

20 A. This document was created by (Redacted)
21 (Redacted).

22 Q. And if we look at the column you had just referred us to, which
23 is the third-last column to the right, I see (Redacted) in many of the columns.
24 What was (Redacted) involvement with this?

25 A. (Redacted)

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1 (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. And I would like to look at several of the upper columns to
5 ensure that the Court understands what they are. Looking at the first or
6 indeed the second column "informal identification date" and the third
7 column "formal identification date (Redacted)" could you please explain
8 to us what the data entered is and what the difference is between these
9 two columns?

10 A. Well, informal -- here you put the question to me with respect to
11 a first list we prepared with you and you asked me on three or four
12 children. That is when the children come en masse (Redacted), when
13 they come we do this registration on a piece of paper. Then (Redacted) will
14 come later on to verify and it is after this verification by (Redacted)
15 that we then have the formal verification because (Redacted) has carried
16 out a verification and ensured that the child is a child soldier because
17 there are certain questions which (Redacted) is going to put to the child
18 on the basis of what we call a verification sheet. That is the formal
19 part of it. You cannot call a child an EAFGA (Redacted)
20 (Redacted) is carrying out its work of verification then we
21 refer to it as formal identification.

22 Q. And the next column, column 4, it's the identification partner.
23 And in the very first row of that column you see "(Redacted)" Do you
24 know what (Redacted) stands for?

25 A. It stands for (Redacted). I think

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
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1 it means the (Redacted).

2 (Prosecution counsel confer)

3 MS. SAMSON:

4 Q. And below "(Redacted)" starting from the fifth row of the fourth
5 column "identification partner," there are a series of entries (Redacted).

6 You have been describing a bit of the role that (Redacted) had in this process,
7 but could you explain to us what (Redacted) does as an identification partner.

8 A. Could you please rephrase your question.

9 Q. Yes. (Redacted) is listed in the fourth column for a number of
10 entries under the column "identification partner." And what I would like
11 to know is what role or what were the functions of (Redacted) as an
12 identification partner, (Redacted)
13 (Redacted)?

14 A. Thank you. Well, with respect to the involvement of the (Redacted) it
15 had to do with awareness raising and the demobilisation of the children.
16 And as concerns identification (Redacted)
17 (Redacted) would take the initial references or information about
18 the child on paper, as I informed you earlier. After that the (Redacted)
19 cannot confirm the child in the centre. We have to resort to (Redacted)
20 for verification.

21 (Redacted)

22 (Redacted). And after that, if the child is confirmed
23 then (Redacted) would put the child at (Redacted) disposal for placement
24 in a host family and monitoring right up to the stage of family
25 reunification. That is, after the other stages of documentation and so

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1 on and so forth.

2 Q. And under the column "age," could you tell us as of which date
3 this age is made. Is it as of the informal identification date or the
4 formal identification date?

5 A. Well, the last date is as of the formal identification date with
6 (Redacted), after the interview has been carried out with the child. Now,
7 much further you will find that there is a distinction made between
8 adults and children, that is, under the column which has observations.
9 Now, by way of example, now you can descend further down the table, you
10 will find at the bottom the age of the child is 19 years and (Redacted) then
11 writes "adult." And since that person is an adult he cannot participate
12 (Redacted).

13 Q. And, sir, which entry are you referring to? Could you give us
14 perhaps the name of the person you're referring to?

15 A. (Redacted).

16 Q. So it appears to be the tenth entry from the bottom of this first
17 page, page 106, and you're referring to the entry that says "adult" in
18 the same row and the second-to-last column?

19 A. Yes. That is, after verification (Redacted) discovered that the age
20 did not correspond to the requirements (Redacted), that he had
21 exceeded the required age, he was aged 19 and so could not participate in
22 the programme, so it is written here "adult."

23 Q. And in the following column to the right of the column describing
24 the age there are letters SET. Could you please tell us what that means.

25 A. That is the transit site, transit site.

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1 (Prosecution counsel confer)

2 MS. SAMSON:

3 Q. And under the column entitled "armed group," which is the fourth
4 column from the right of the page, there are certain entries. Do you
5 know why the information is not complete in terms of the groups that
6 these children were associated with?

7 A. Thank you. The information is complete because there are certain
8 pages that were given to us, pages per organisation. Now, if I take my
9 page -- well, look at the page where you have UPC, you have to go right
10 to the bottom to see those who belonged to the UPC, that is UPC, UPC all
11 through. You are going to find that in other documentation, in other
12 forms, and other verification documents.

13 Q. I'm sorry, sir, in your explanation you had indicated that if you
14 look where you have the UPC you have to go right to the bottom to see
15 those who belonged to UPC. Could you explain that again, please, and
16 tell me very slowly what you are referring to.

17 A. This is what I said. This is what I said. This document which
18 was prepared by the (Redacted) was given
19 to each organisation depending on the children handled by the respective
20 organisations, and then the organisations had to carry out monitoring.
21 Now, in this document if "UPC" is written then all the children who
22 followed then belonged to that group because there are verification
23 sheets or documents which contain the same information. There are also
24 documents, documentation forms which contain all this information. If,
25 for example, you have a child from another group, for example, in the

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1 next page where you have FNI up to PUSIC, now, the part of PUSIC right up
2 to UPC you find that these are the children who belong to that group. So
3 it is the person who prepared the document.

4 Q. So, sir, if we -- I do want to understand what you are explaining
5 to us. So if we take page 1, which is page 106, and if we look at the
6 fourth row under the column "armed group," it is written "UPC." And
7 there are no other entries until the seventh row from the bottom. Do you
8 know to which armed group the children were a member between the fourth
9 row and the seventh row from the bottom or do you not know that?

10 A. From the bottom up to the seventh row, these are children who
11 belonged to the UPC. They belonged to the UPC because there are
12 verification documents prepared by (Redacted). There are also documentation
13 forms and sketches prepared by the children, and if these are children
14 who came from these groups, they prepared sketches and on those sketches
15 they indicated the armed groups from which they came from.

16 Q. And if we take the seventh row from the bottom which we just
17 looked at where the armed group is listed as the UPC and we continue to
18 page 2, which is page 107 of this document, to the first row of the
19 fourth column to the right, fourth-last column from the right, where it's
20 written "UPC," does the same principle apply? Is it the UPC that was the
21 armed group in which these children were a member or another group, if
22 you know?

23 A. Now we are also talking about the column on armed groups. You'll
24 find the name of another armed group written. Take from the top you have
25 UPC, UPC, and after that you have FNI and FNI, and then you have UPC,

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1 FNI, FNI, FAPC, PUSIC. Now, with respect to the other groups which come
2 after PUSIC up to the UPC, these children belonged to those armed groups.

3 Q. So between the entry of PUSIC in the middle of this table at
4 page 107 down to the fifth row from the bottom where the UPC is
5 indicated, the children listed in those rows belonged to PUSIC. Is
6 that ...

7 A. Yes, PUSIC.

8 Q. And then between the entry, always in the column "armed group,"
9 the row number 4 from the bottom where it is listed FNI until the bottom
10 where it is listed FNI, these were children who were associated with the
11 FNI armed group. Is that right?

12 A. Yes.

13 Q. And then just finally coming back to my earlier question. On the
14 first page the entry for UPC which is the seventh row from the bottom of
15 the first page until the first row of the second page, page 107, to which
16 armed group did those children belong?

17 A. I did not quite understand your question, Madam.

18 Q. It's the same exercise that we've been going through for the
19 second page. If you take the seventh row from the bottom of the first
20 page, always looking at the column which is entitled "armed group," you
21 will see that the armed group that this child was associated with is the
22 UPC. Do you see that?

23 A. Yes, I can see that.

24 Q. And I just want to understand fully that the -- to your
25 knowledge, the children who are listed below that entry, the seventh row

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1 from the bottom of the page, the entries that follow to the end of that
2 page belonged to which armed group?

3 A. They belonged to the armed group UPC.

4 Q. Thank you.

5 MS. SAMSON: Your Honour, may we have an evidence number for this
6 document, please.

7 PRESIDING JUDGE FULFORD: Certainly.

8 COURT OFFICER (interpretation): The document will bear the
9 number EVD-OTP-00475.

10 MS. SAMSON: The next two documents that I would like to draw the
11 witness's attention to are the documents behind tabs 9 and 10. So
12 perhaps starting with tab 9, and for the witness's ease we have the
13 original versions as well which, with your leave, your Honour, could be
14 shown to the witness.

15 PRESIDING JUDGE FULFORD: Now, Ms. Samson, is admissibility in
16 question for these or not?

17 MS. SAMSON: No. These two documents, the documents at tabs
18 9 and 10, have already been admitted by the Chamber and I am seeking to
19 enhance their value by asking questions of the witness.

20 PRESIDING JUDGE FULFORD: Yes, certainly.

21 And may I make it clear in relation to the previous document that
22 we've just dealt with, I'd assume, Maitre Mabilille, from your silence I
23 see that's right. Yes, I'd made the assumption that Maitre Mabilille would
24 have raised an objection if it was said it shouldn't receive an
25 EVD number. Yes, originals, then, please, to the witness, of both or

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1 just the first at the moment, Ms. Samson?

2 MS. SAMSON: Of both, please.

3 PRESIDING JUDGE FULFORD: Certainly.

4 Usher, could you help, please.

5 MS. SAMSON:

6 Q. Sir, I see you have both the original of this document and the
7 copy of it which is again at tab 9 of your binder --

8 PRESIDING JUDGE FULFORD: Forgive me intervening and
9 interrupting, Ms. Samson. The page number that's provided for us on the
10 photocopy, which effectively is the page number given by the DRC number,
11 is that on -- is that now on the original or not?

12 MS. SAMSON: Thank you, your Honour. As I understand it, in fact
13 the same number, DRC-OTP-0160-0190 appears on both the original and the
14 copy. If I understood the Court Usher prior to commencing.

15 PRESIDING JUDGE FULFORD: Fine. I just wanted to check that that
16 was the case because otherwise we're going to have problems in knowing
17 which page you're going to.

18 MS. SAMSON: Your Honour, I -- given that this document has
19 already been the subject of a decision from the Chamber and it has
20 actually been admitted, would it be appropriate to assign it an
21 EVD number at the beginning of the questioning?

22 PRESIDING JUDGE FULFORD: I think it would, Ms. Samson. Yes.

23 COURT OFFICER (interpretation): The document will bear the
24 number EVD-OTP-00476.

25 MS. SAMSON:

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1 Q. Sir, please take your time in reviewing the material and at your
2 convenience please let me know if you recognise the document.

3 A. I recognise the document.

4 Q. Could you please tell us what it is.

5 A. Thank you. Well, the first document, this register here, is the
6 register of the children who had been in armed groups and who went to the
7 CTO, the Centre for Transit and Orientation, CTO, (Redacted)
8 (Redacted). (Redacted)
9 (Redacted). I think I've explained to you that starting in
10 June of 2003, (Redacted)

11 (Redacted)

12 (Redacted). Now, (Redacted)

13 (Redacted) continued with the other -- it was (Redacted), and therefore this
14 document here collects information on all the children that went through
15 this CTO. In 2006 when they had finished their programme, when (Redacted)
16 (Redacted)

17 (Redacted). So it is this document which

18 contains information on the children as they came in to the CTO.

19 Q. Do you know who or which of the organisations partnering with
20 this CTO created the document and authored the entries?

21 A. (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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1 person who was in charge, he was in charge of the centre. (Redacted)
2 (Redacted)
3 (Redacted)
4 (Redacted)
5 (Redacted)
6 (Redacted)
7 (Redacted)
8 (Redacted)

9 PRESIDING JUDGE FULFORD: Sir, we're going to have a break now,
10 given that it's midmorning. There is something that has to be dealt with
11 during the course of this break so it's going to be slightly longer than
12 usual and we're going to sit again at 11.45.

13 Ms. Samson, just very briefly, two things I mentioned as needing
14 to be done by tomorrow that related to Witness 15 and the issue in
15 relation to the unavailability of the representative. I was forgetting
16 that tomorrow was a public holiday. 10.00 a.m. on Thursday will suffice.

17 MS. SAMSON: Thank you. It had slipped my mind as well.

18 PRESIDING JUDGE FULFORD: Good.

19 Closed session, please.

20 *(Closed session at 11.01 a.m.) Reclassified as Open session
21 (The witness stands down)

22 PRESIDING JUDGE FULFORD: We'll sit again just after 11.45.

23 COURT OFFICER: All rise.

24 Recess taken at 11.02 a.m.

25 On resuming at 11.45 a.m.

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1 COURT USHER: All rise. Please be seated.

2 PRESIDING JUDGE FULFORD: Witness, please.

3 (The witness takes the stand)

4 PRESIDING JUDGE FULFORD: Private session, please.

5 *(Private session at 11.46 a.m.) Reclassified as Open session

6 COURT OFFICER: Private session.

7 MS. SAMSON: Thank you, your Honour.

8 Q. Sir, before the midmorning break we were discussing the document
9 at tab 9 of the binder before you for which you have access to an
10 original, and you had indicated that the information recorded here was
11 recorded by the head of the centre (Redacted).

12 Could you please remind us what was the name of the person at the head of
13 the centre?

14 A. The person in charge of the centre was (Redacted)
15 (Redacted)

16 Q. Could you please spell his last name?

17 A. (Redacted)

18 Q. Thank you. Sir, where was this record kept?

19 A. This record was kept at the CTO in the beginning, and then
20 afterwards it was kept by (Redacted). (Redacted)
21 (Redacted).

22 PRESIDING JUDGE FULFORD: Maitre Mabille, the French transcript
23 will unfreeze in a minute or two. Do you mind if we continue allowing it
24 to catch up in a moment? Good.

25 Please carry on, Ms. Samson.

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1 MS. SAMSON:

2 Q. Could you please, sir, turn to the -- I believe it's the third
3 page of the book and the registration number ends in 0191. And on this
4 page as well as on the following page, 0192, there appears to be an
5 entry. Could you please tell us what this entry is.

6 A. The document -- well, at the end the name of the child is listed.
7 It says (Redacted).

8 Q. And just for the record, does that name appear on page 0191 at
9 the very -- near the very top of the page? Looking at the very top of
10 page 191 you see the name of a child and that's the name that you just
11 referred us to, (Redacted). Could you spell the last name, (Redacted)
12 please.

13 A. (Redacted)

14 PRESIDING JUDGE FULFORD: Now, Ms. Samson, I'm going to ask you
15 to pause for a moment. The problem with the French transcript appears to
16 be more profound than we thought.

17 MS. SAMSON: There may also be a difficulty with the English
18 transcript I'm advised.

19 PRESIDING JUDGE FULFORD: Well, as they try to reconnect the
20 French transcript so they have been removing the English transcript from
21 our screens and we have to, then, restart it again. That's now happened
22 for the second time.

23 (Trial Chamber and Court Officer confer)

24 PRESIDING JUDGE FULFORD: Ms. Samson, on your version of the
25 English transcript -- it now appears to be working again. Yes. All

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1 right. There isn't, in fact, a question. Thank you.

2 MS. SAMSON: Is it appropriate to proceed, your Honour?

3 PRESIDING JUDGE FULFORD: No, I'm afraid we must wait. The

4 French transcript is still not working.

5 (Trial Chamber and Court Officer confer)

6 PRESIDING JUDGE FULFORD: Ms. Samson, there's going to be a break

7 of at least five minutes. I'm not inclined to sit on the Bench stoically

8 waiting for five minutes for this to happen.

9 Closed session, please.

10 (Trial Chamber and Court Officer confer)

11 PRESIDING JUDGE FULFORD: One minute. All right. Well, if it's

12 one minute then we'll stay here. All right. Can we try and restart the

13 computers, please.

14 (Trial Chamber and Court Officer confer)

15 PRESIDING JUDGE FULFORD: Closed session, please.

16 *(Closed session at 11.58 a.m.) Reclassified as Open session

17 COURT OFFICER: Closed session.

18 PRESIDING JUDGE FULFORD: Witness just outside, please.

19 (The witness stands down)

20 PRESIDING JUDGE FULFORD: We'll sit again when my computer has

21 been made to work.

22 COURT OFFICER: All rise.

23 Break taken at 11.59 a.m.

24 On resuming at 12.04 p.m.

25 COURT USHER: All rise. Please be seated.

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1 PRESIDING JUDGE FULFORD: Witness, please.

2 The accused?

3 (Mr. Lubanga enters court)

4 (The witness takes the stand)

5 PRESIDING JUDGE FULFORD: Thank you very much for your patience,
6 sir. I'm sorry you've been asked to come in and out of court.

7 Private session, please.

8 *(Private session at 12.06 p.m.) Reclassified as Open session

9 COURT OFFICER: Private session.

10 PRESIDING JUDGE FULFORD: Yes, Ms. Samson.

11 MS. SAMSON: Thank you, your Honour.

12 Q. Sir, we had been looking at the entries at page 191 and 192, and
13 if I could ask you, please, to turn a bit further forward in the book to
14 the page 0193. There are, it appears, a number of blank pages in
15 between.

16 PRESIDING JUDGE FULFORD: Usher, I think you need to go -- there
17 are a large number of blank pages and then you reach 0193 or have you got
18 it -- do you want go show it to Ms. Samson, please.

19 Right, Ms. Samson, would you leave your place and go over and
20 identify the correct page, please. Thank you.

21 MS. SAMSON:

22 Q. And, sir, looking at the very first entry on this page we see the
23 same name, (Redacted). Is that, to your knowledge, the same
24 individual that we had looked at just now at page 0191 of the same
25 document?

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1 A. Yes, it's the very same child who's associated with armed forces
2 and groups.

3 Q. And if you continue on the same row, the very first row, we see
4 an arrival date. Could you tell us what the arrival date is for
5 (Redacted)?

6 A. The date here is the 23rd of June, 2003, that is the date on
7 which he arrived at the centre, at the CTO.

8 Q. And to your knowledge, was the information listed for each of
9 these children written on the date in which the child arrived or was it
10 recorded at some later time?

11 A. I'm sorry?

12 Q. Was the information for each of these 14 children recorded on the
13 date which is listed here as being the date they arrived at the centre or
14 was the information written in this register at a later time?

15 A. It's the same person who would jot down this information, put
16 down the names of the children whenever the children arrived. It was the
17 same social worker who would do this whenever children arrived at the
18 centre.

19 Q. And if you turn to the following page which is 0194, the very
20 first row again, number 1, the first entry, is the name (Redacted)
21 again. Is this the same person that we saw in the two previous pages?

22 A. Yes, Madam. This is a register. All the children are listed
23 there. (Redacted) is the same person we saw initially.

24 Q. And at the very top of the page 0194, there is a heading that
25 it's a registration file for EDA. Could you please tell us what EDA

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1 stands for?

2 A. Thank you. EDA means a child demobilised from the army, in
3 French "enfant demobilise de l'armee." (Redacted)
4 (Redacted). Sometimes they were called child soldiers, but the
5 specific term came (Redacted)
6 (Redacted) called these children children who are associated with armed
7 groups and forces.

8 Q. And if we follow the columns, the very first column from the very
9 first row with various columns in it, at the centre we see a word
10 "provenance." Could you explain what those entries are.

11 A. Provenance means the place where the child was found. In the
12 case of (Redacted), he was found in Bunia so in his case his provenance is
13 Bunia. You will see that others came from Nyangaray, from Largu, and so
14 on and so forth.

15 Q. And, sir, in the column at the top where it is listed "religion,"
16 at the next page which is 0195 following through the column "religion," I
17 had a question about the entry which is the third entry from the bottom
18 where the religion is F-E-P-A-C-O. Could you please tell us what that
19 religion is.

20 A. FEPACO, F-E-P-A-C-O, FEPACO, it's a religious organisation
21 commonly known as Nzambe Malamu, Nzambe Malamu. It's the Evangelical
22 Federation in Congo. Nzambe Malamu, that is the acronym. It's the
23 Evangelical Federation, the Pentecostal Evangelical Federation in Congo.

24 Q. Could you please spell Nzambe Malamu?

25 A. N-z-a-m-b-e, Nzambe, N-z-a-m-b-e, M-a-l-a-m-u.

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1 Q. And, sir, I will ask you, please, to turn to another page in this
2 document -- actually, before I do that I have one further question. On
3 page 194, 0194, and in the title column, the title row of that page, next
4 to date of arrival is written "date of exit." And yet underneath are
5 listed the -- a number of armed groups. Was the date of exit recorded
6 somewhere else to your knowledge?

7 A. Thank you, Madam. What I can say is that many of these
8 children -- well, in armed groups, in the UPC, for example, the children
9 weren't demobilised So
10 we didn't know the effective date on which the child left. How did the
11 children arrive? Well, whenever the UPC was being chased by a brigade
12 and children fled, they'd come to the town. They would go to transit
13 sites. And as a result they couldn't mark down the date on which the
14 child left. The date should be noted after the process of verification.
15 Conader had to provide (Redacted) the date when a child left an armed group.
16 This was to be done when the certificate on demobilisation was given,
17 (Redacted) couldn't directly make a note of the date when the child left
18 but (Redacted) had armed groups that were noted down, the armed groups
19 that the children were members of.

20 PRESIDING JUDGE FULFORD: Now, Ms. Samson, if you're about to
21 move away from these pages to somewhere further on in the document, I
22 would like to know what is meant by the column that is headed "age." Two
23 immediate alternatives are that that was the age at which the child
24 arrived, and this form -- this book was being completed. Alternatively,
25 a second option is that it was the age when the individual was with the

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1 armed group that's listed and there may be others. But it's a matter for
2 you but I would have thought that it would be helpful to have that
3 clarified.

4 MS. SAMSON: Yes. Thank you, your Honour.

5 Q. Sir, in the column that the Presiding Judge has referred us to
6 which is the third column from the left under "age/sex," could you help
7 us understand at what point in time each of these children were the ages
8 recorded. Does the age reflect the date in which the child arrived at
9 the transit centre? Does it reflect the age in which the child was
10 enrolled in the armed group? Or does the age refer to another point in
11 time?

12 A. Thank you, your Honour, for that question. Now, I will give you
13 the following clarification. The age as you see there are the age of the
14 child when he or she comes to the centre. Let's take the case of
15 (Redacted). You will find in the document 0191 in your
16 identification, you will notice that (Redacted) takes note of the age when
17 the child came to the centre, but when you look at certain columns
18 relating to the enlistment of the child you will find that in subsequent
19 documentation the child will give the age he had when he was taken to the
20 army. (Redacted) of the age which the child gave when he arrived.
21 That's it.

22 PRESIDING JUDGE FULFORD: Thank you very much, Ms. Samson.
23 That's absolutely clear.

24 MS. SAMSON: Thank you for the intervention, your Honour.

25 Your Honour, I point out an area for review for edited

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1 transcripts, close review, and it is page 33 of the English transcript,
2 line 24. The word "mobilised" is captured as "demobilised" in the French
3 version.

4 PRESIDING JUDGE FULFORD: Thank you. Could I ask for that to be
5 checked when the edited version of the transcript is prepared. Thank
6 you, Ms. Samson, that's very helpful.

7 MS. SAMSON:

8 Q. And, sir, before we leave page 0194 could I ask you to take a
9 look at the column third from the right -- sorry, fourth from the right
10 in which it is written "destination" I think it's at the exit. Could you
11 tell me what is written in that column fourth from the right?

12 A. Well, this is about a child who deserted the centre, that is the
13 case of the first child. That's for the first child.

14 Q. Thank you. And, sir, looking through the entries of this book,
15 the remaining entries to the end, are these all children who were
16 demobilised from armed groups and arrived at the transit centre?

17 A. Yes. Right up to the end these are children who belonged to
18 armed groups and who went through the transit centre.

19 Q. And if I ask you to turn, please, to the last -- pardon me, the
20 second-to-last page, 0230, and I'm referring to the very last entry which
21 appears to be entry number 600. Do you see that entry?

22 A. Yes, I see 600.

23 Q. And in the centre column there is a date entry. Can you, please,
24 read what that date is.

25 A. 15/9/2005.

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1 Q. And do you know what that date refers to? If you have difficulty
2 it may be helpful to refer to the first page where the title columns
3 appear. The first page is 0194 if that's of assistance.

4 A. That is the date of arrival at the CTO.

5 Q. Thank you, sir. I have no further questions on this particular
6 document.

7 MS. SAMSON: Your Honour, there may have been a difficulty with
8 the EVD number that had been assigned to this earlier this morning and I
9 refer to the Court Officer if that's the case.

10 PRESIDING JUDGE FULFORD: Any difficulties?

11 (Trial Chamber and Court Officer confer)

12 PRESIDING JUDGE FULFORD: Ms. Samson, can you remind me, are we
13 using any of the pre-trial phase EVD numbers or not? My vague memory is
14 we aren't and we're giving new numbers, but I'm afraid I really can't
15 remember.

16 MS. SAMSON: In fact, your Honour, we are using the Confirmation
17 Hearing EVD numbers, which may, in our humble submission, not be entirely
18 in agreement with an earlier decision of the Chamber. Nonetheless, I was
19 advised by the Court -- not this Court Officer but another one that that
20 was a procedure that ought to be adopted here. So there will likely be
21 some confusion as to which of the EVD numbers relate to the previous case
22 because they are getting the same number.

23 PRESIDING JUDGE FULFORD: Yes, I thought I'd said on an earlier
24 occasion that we should ignore pre-trial EVD numbers. But never mind,
25 this has got a pre-trial EVD number, it's known, the Court Officer has

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1 it. Could you in due course liaise with the Court Officer and
2 Maitre Mabilie and to make sure that we have established a system which
3 is going to work satisfactorily, doesn't really matter which system it
4 is, just so long as, to use an expression popular in our Houses of
5 Parliament in the United Kingdom at the moment, it's fit for purpose.

6 MS. SAMSON: Indeed, your Honour, we will. And it may be,
7 although a bit of a digression, an appropriate moment to alert the
8 Chamber to an earlier request in that the Chamber has sought mechanism by
9 which we could clearly establish the purpose for which each document was
10 admitted and the Prosecution is suggesting preparing a table very easy
11 format to review, where either -- where the purpose and possible use of
12 the document is clearly set out which we will communicate to the Defence
13 for their review and then ultimately submit it to the Chamber and the
14 participants so that everybody is clear on that procedure.

15 PRESIDING JUDGE FULFORD: I think we'd be very interested to see
16 that document, Ms. Samson. Thank you very much.

17 Right. Where are we moving to now?

18 MS. SAMSON: No, your Honour, we are moving to the document at
19 tab 10 --

20 PRESIDING JUDGE FULFORD: Good.

21 MS. SAMSON: -- of the binder.

22 Q. And, sir, you have a copy of the original as well to consult
23 should you require it. The ERN of this document is DRC-OTP-0160-0002.

24 MS. SAMSON: I believe, your Honour, as with the previous
25 document, this document may have an EVD number from the Confirmation

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
Questioned by Ms. Samson (Continued)

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1 Hearing stage.

2 PRESIDING JUDGE FULFORD: Right.

3 Could the Court Officer at a convenient moment identify the
4 EVD number if it's already got one. Good. Could you read it out,
5 please, Madam.

6 COURT OFFICER (interpretation): The document will bear number
7 EVD-OTP-00332 -- 333.

8 MS. SAMSON:

9 Q. Sir, do you recognise this document?

10 A. Yes, Madam, I recognise this document.

11 Q. Could you please tell us what it is?

12 A. This document relates to children who were reunified with their
13 families, reunited with their families, and the purpose of this document
14 was to facilitate monitoring (Redacted) to ensure their community
15 reintegration.

16 Q. And where were these children staying prior to them being
17 reunited with their families, which centre?

18 A. First of all, it was the CT0 and then with (Redacted).

19 Q. And when you refer to the CT0, which CT0 are you referring to,
20 please?

21 A. I'm talking about the first CT0, (Redacted)
22 (Redacted) in the month of June, and later on that continued with (Redacted).

23 Q. Do you know who created the entries or recorded the entries in
24 this document, please?

25 A. With respect to this document it's (Redacted).

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
Questioned by Ms. Samson (Continued)

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1 Q. And if we take the page 0160-0004, we have again a column which
2 is the third column. It is titled "age/sex." And then there are various
3 ages listed thereunder. And the question is the same as the question put
4 to you moments ago. At what point in time do these ages correspond? So
5 to be more clear, is -- taking the first entry as an example, is the
6 first child 13 as of September 2003 or another time?

7 A. The child was aged 13 in September 2003, at the time of his
8 reunification.

9 Q. And if we turn the page, please, to page 0005, the title of these
10 entries is "month of October 2003." Could you explain to us a bit how
11 these entries worked?

12 PRESIDING JUDGE FULFORD: You're doing very well, Ms. Samson.
13 That was not your finest question. I think you need to be a bit more
14 specific than that.

15 MS. SAMSON: Yes. Thank you. I realised at the moment that it
16 was a bit broad.

17 Q. Sir, my question really to focus you is that the first page we
18 were just referring to, 0004, is dealing with the month of
19 September 2003. And the following page, 05, deals with the month of
20 October. Could you please explain to the Court what the process in time
21 was and why there are differences in the dates recorded.

22 PRESIDING JUDGE FULFORD: Sir, I'm going to ask Ms. Samson to
23 forgive me. There are various headings that we see, October, November,
24 December, and so on. Do the entries under each month indicate the
25 reunifications that happened in that month?

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Private Session)
Questioned by Ms. Samson (Continued)

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1 THE WITNESS (interpretation): Thank you, your Honour. It's just
2 as you said, it indicates the point in time when a reunification took
3 place. The fact is that the centres could not take in many children at a
4 time. So as the children arrived (Redacted) had to quickly look for their
5 families in order to ensure reunification. That is why you will find
6 that each month we did family reunification for the children.

7 PRESIDING JUDGE FULFORD: Yes, Ms. Samson.

8 MS. SAMSON: Thank you.

9 Q. And, sir, what is the relationship, if any, between this register
10 and the register that we saw moments ago?

11 A. The first register, the bigger one, was what was recorded when
12 the child arrived in the centre. After the initial verifications, the
13 child was listed in that register, and then (Redacted) do the follow-up,
14 we look for the families, and once the parents come (Redacted) organise
15 reunification with the parents or close family members and that is when
16 the name is put in this other list. This is the list here indicating
17 reunification in order to provide for follow-up regarding their
18 reintegration into the community.

19 Q. And to your knowledge were these entries made in the months
20 listed?

21 A. Yes. Each time we reunited -- well, there were papers, there was
22 an exercise book that was included in another register. So there was a
23 file where we would indicate the child, and that's how we ended up with
24 the exercise book that you have before you.

25 Q. Thank you. I have no more questions on this document.

Witness: Witness DRC-OTP-WWW-0031 (Resumed) (Closed Session)
Questioned by Ms. Samson (Continued)

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1 PRESIDING JUDGE FULFORD: Sorry, Ms. Samson.

2 Maitre Mabilille, a message has reached me. Would you prefer for
3 us to break now?

4 MS. MABILLE (interpretation): Would it be possible, your Honour,
5 that we continue but that we have five minutes at the end to discuss with
6 the Chamber, five minutes before the lunch break? Would that be
7 possible?

8 PRESIDING JUDGE FULFORD: How much more have you got, Ms. Samson?
9 As I understood it, the documents were your last area of questioning and
10 I think we've more or less exhausted them, haven't we?

11 MS. SAMSON: That's correct, your Honour. I have no more
12 questions on documents. I do have a small number of questions,
13 additional questions, but very few, just -- perhaps less than a dozen.

14 PRESIDING JUDGE FULFORD: Well, I think we'll leave your dozen
15 until after the lunch break if there's something that Maitre Mabilille
16 wishes to raise of importance.

17 I'm sorry, Mr. Suprun, we will get to you at some stage.

18 Thank you, sir. We look forward to seeing you this afternoon.
19 Again, for administrative reasons, it's necessary for us to adjust this
20 afternoon's sitting slightly. We will sit again at 3.00 p.m.

21 Closed session, please.

22 *(Closed session at 12.50 p.m.) Reclassified as Open session

23 COURT OFFICER: Closed session.

24 PRESIDING JUDGE FULFORD: Yes, thank you, Usher.

25 (The witness stands down)

1 PRESIDING JUDGE FULFORD: Public session, please.

2 (Open session at 12.50 p.m.)

3 COURT OFFICER: Public session.

4 MS. MABILLE (interpretation): I wanted to indicate to the
5 Chamber that while we were here in this Chamber there has been difficulty
6 in hearing witness number 15. I must say that our situation on the
7 Defence side is very difficult because we must be *silent throughout the
8 hearing. The difficulties that occurred yesterday and again today
9 because we've had to have a break in the testimony of the witness is
10 related to the difficulties - and here I hesitate to find the ideal
11 words - the difficulty as to how the lawyer understand the witness and
12 the concerns as regards the witness.

13 Now, I would like to make the following proposal. With a
14 representative of the OTP and a lawyer I think we could discuss the
15 matter. If we are not able to reach an agreement, perhaps the lawyer,
16 the counsel, could come at the beginning of the afternoon session in
17 order to explain exactly what these difficulties are. It's difficult for
18 us, that is, for the Defence, to play the role of an intermediary, which
19 I have tried to do from the beginning, but here I find that it has become
20 difficult to manage and that I cannot play the role of an intermediary to
21 be certain that things go as well as possible. Therefore, I would like
22 to suggest that during the break we meet with the OTP, that we try to
23 solve the problem without your intervention, your Honour; and if that is
24 not possible, would the Chamber accept that the counsel, the lawyer, come
25 in to explain the problem?

1 PRESIDING JUDGE FULFORD: Ms. Samson.

2 MS. SAMSON: Your Honour, we're not fully aware of what the issue
3 is, and so the suggestion to attempt to resolve the difficulties inter
4 partes with the counsel seems entirely appropriate to us, and once we are
5 further apprised, should there be additional difficulties it may at that
6 point make sense to revert to the Chamber for assistance.

7 PRESIDING JUDGE FULFORD: Very good.

8 We would obviously commend any attempt to reach agreement inter
9 partes. So if you could spare the time, please, Ms. Samson, to have an
10 explanation given to you by Maitre Mabilie as to what the difficulty is,
11 and thereafter if you together with other members of the Prosecution team
12 could try and resolve it, that would be extremely helpful. Of course if
13 they're still outstanding, then an explanation can be provided by the two
14 of you which can, if necessary, be supplemented by the lawyer who is
15 presumably assisting Witness 15.

16 It would be useful, I think, if at 3.00 p.m. we, I hope fairly
17 speedily, re-look at some of the issues relating to Witness 46. I hope
18 that there has now been distributed to everyone a copy of the relevant
19 e-mail in relation to the issues that touch on protection. If the
20 proposals are resisted on the basis of that communication, it would be
21 helpful if counsel could outline their difficulties as they perceive
22 them. We also need to return to the issue of whether or not there should
23 be a meeting between the representative and this particular witness.

24 Good. So 3.00 p.m. if -- to the extent that we need to before we
25 return to the evidence of the witness, we will look at these

1 administrative matters. Thank you all very much indeed. We'll sit again
2 at 3.00 this afternoon.

3 COURT USHER: All rise.

4 Luncheon recess taken at 12.56 p.m.

5 On resuming at 3.00 p.m.

6 COURT USHER: All rise. Please be seated.

7 (Trial Chamber and Court Officer confer)

8 PRESIDING JUDGE FULFORD: Maitre Bourgeois, welcome to these
9 proceedings. Maitre Mabilie had indicated to us that there may be an
10 issue in relation to Witness 15 that you wished to raise, and I assume
11 from your presence that there is. So we hand the floor over to you so
12 that you can explain what the apparent difficulties are.

13 MR. BOURGEOIS (interpretation): Thank you, your Honour. I was
14 appointed a few weeks ago to be counsel for a witness in a relatively
15 exceptional procedure. It was not a case of self-incrimination. It was
16 a case where before testifying before the Court the witness asked to see
17 a lawyer, and I think this is something new in the proceedings of this
18 Court. The witness came before the Court and was questioned and then an
19 incident occurred which wasn't really self-incrimination but it seemed
20 that some of the statements that were made before the Court were
21 contradictory compared to what had been stated to the investigators; and
22 therefore, the Court decided to appoint individuals -- I beg your pardon.
23 I'm not used to speaking with interpretation. I guess I'm a bit too
24 fast.

25 The idea was to find out exactly what had occurred so that some

1 of the statements made by this witness did not correspond to reality. An
2 investigator was appointed. I again was appointed as counsel and I ran
3 into a first difficulty which was related to finding out what the
4 investigators were to investigate, were they to investigate on the
5 process which led the witness to make such statements or were they
6 investigators to question the witness on the substance or both at the
7 same time. And this was a problem for me because as counsel appointed
8 ad hoc for this particular mission I did not have access to the entire
9 file, and that was a bit of a problem for me. The Court solved that
10 matter and I therefore received the transcripts.

11 Then I was again appointed ad hoc for certain interrogations, and
12 we have run into a particular problem which relates to the security of
13 this witness. We have noticed this morning that no particular measure
14 had been taken, whereas on the basis of the indications given relate to
15 the witness's identity, that was one of the issues that were raised, and
16 because of his identity, of course this means identifying his direct
17 parents, friends, and brothers who live abroad, and therefore certain
18 elements of identification had to be given so that family members could
19 be found. And the surprise that took place this morning was that the
20 witness and myself realised that there were no particular measures
21 whereby the information given during this investigation were covered by
22 total confidentiality.

23 Therefore, following an interview last week he was able to say
24 that he had been contacted by family members who had undergone pressure
25 and were informed of what had happened at the hearing, and we informed

1 the witness protection unit and again we have been told again similar
2 information. And therefore on the basis of Article 87 of the Rules of
3 Procedure and Evidence we are now requesting that total confidentiality
4 cover this investigation because otherwise his own interests are at stake
5 but also the interests of his close family members because they could
6 undergo pressure.

7 THE INTERPRETER: Again the counsel is going very fast.

8 MR. BOURGEOIS (interpretation): I did --

9 PRESIDING JUDGE FULFORD: Maitre Bourgeois, slow down. It really
10 is too fast and the interpreters are having a very difficult time. Thank
11 you.

12 MR. BOURGEOIS (interpretation): Well, the purpose of my being
13 here this afternoon on behalf of this client is to request that Rule 87
14 apply to this witness so that the statements given today and yesterday,
15 inasmuch as this is useful, depending on what has been communicated, that
16 all of this be confidential and not leave the Court for the reasons that
17 I gave above. That is the purpose of my coming to you this afternoon on
18 behalf of this witness.

19 PRESIDING JUDGE FULFORD: Thank you very much.

20 Ms. Samson, do you have any observations on this?

21 MS. SAMSON: No, your Honour, we do not.

22 PRESIDING JUDGE FULFORD: Maitre Mabilille?

23 MS. MABILILLE (interpretation): I would simply like to repeat what
24 I've already told to Maitre Bourgeois. Confidentiality as regards the
25 public, there's no problem with that; but as regards the Defence, I think

1 that that's impossible. That is what I already stated. If I understood
2 my colleague's request, I believe they did not want the information to be
3 communicated to the Defence and I believe that that is impossible given
4 the situation, your Honour.

5 PRESIDING JUDGE FULFORD: Could you just remind me, Maitre
6 Mabille, as I recall it this is a witness whose identity is protected in
7 relation to the public, but you have been provided with the essentially
8 non-redacted copies of materials from him. Within the redactions are
9 there redactions to family members or the kinds of materials that
10 Maitre Bourgeois has indicated concerns over?

11 MS. MABILLE (interpretation): Well, I hope that my memory is
12 serving me well, but I don't think there have been any redactions in the
13 witness's initial statement, your Honour.

14 PRESIDING JUDGE FULFORD: Ms. Samson.

15 MS. SAMSON: Your Honour, that's correct. There were no
16 redactions to the witness's identity or to the identity of family members
17 such as they were described in the first statement. What the Prosecution
18 does not know is whether or not those names are actually correct.
19 Certainly with the witness there was a problem, and the family members so
20 far provided, we do not know if those names are correct.

21 PRESIDING JUDGE FULFORD: And the witness would have been aware
22 that his original statement and any other materials had been served on
23 the Defence so that there would have been no secret over the fact that
24 the accused was in possession of that information?

25 MS. SAMSON: Yes, your Honour. In the normal course, every

1 witness is advised that their identity will be disclosed to the Defence
2 and to the accused, and their consent is obtained prior to the disclosure
3 taking place.

4 PRESIDING JUDGE FULFORD: Very helpful. Thank you very much.

5 Maitre Bourgeois, the position, therefore, appears to be that
6 Witness 15 was in those circumstances aware that personal details in
7 relation to him were going to be revealed to the accused, and that would
8 have included, of course, his identity and some relevant information as
9 regards his family. Thereafter, when the re-interview process began
10 there was, clearly to his knowledge, a representative of the accused
11 present during that process. So in a sense an extension of the
12 distribution of that material during the interview process. Now, can you
13 help us at all as to either what has changed or what new information is
14 now being provided that Witness 15 does not want to be transmitted to
15 Mr. Thomas Lubanga Dyilo.

16 MR. BOURGEOIS (interpretation): Yes, your Honour. The fact that
17 I have appeared in a particular part of the case, it wasn't that I was
18 participating in the hearing, but it was my appearance with regard to the
19 investigation and it was said that there would be private session and
20 confidentiality for this part. So I'm an ad hoc counsel so I don't have
21 access to all the documents. There are sections that are confidential.
22 So as far as I'm concerned this was the first incident.

23 There was a procedure within the procedure that had to do with
24 particular rules. That's the reason why initially I asked that I should
25 be told whether the investigation had to do with the substance of the

1 case. I thought I was to deal within that framework. I thought that the
2 information that would be disclosed within that framework would be
3 disclosed in private session, that it would be confidential. So as far
4 as the elements I had no access to, I don't think that the results of
5 this confidential investigation would correspond to the same regime as
6 the initial part because we were dealing with the matter within a very
7 exceptional framework. So that is what I would say.

8 This procedure is a particular procedure, it's not really
9 transparent, but for me this information was outside of the case in a
10 certain sense so that's why the Court designated investigators who
11 weren't supposed to be familiar with the substance of the case. That was
12 in order to privilege this particular nature of the work. So there was
13 supposed to be a plan where we could find his grandparents, there was
14 certain elements that weren't disclosed to us in open session, this was
15 in order to avoid difficulties. So there was a misunderstanding and that
16 was legitimate because we're dealing with a procedure which is in a
17 certain sense outside of the framework of the procedure, this case, that
18 we are dealing with.

19 PRESIDING JUDGE FULFORD: Yes. I'm -- Maitre Bourgeois, I want
20 to make it clear that when we approved and indeed suggested the course
21 that's been taken, there was no suggestion that there were going to be
22 particular or special rules relating to confidentiality as regards any
23 further statement that was taken. There was nothing said at any stage in
24 court, either in open or in closed session, that would have led to that
25 conclusion. Moreover, the appointment of different members of the

1 Prosecution's team to take the statement again had nothing to do with
2 confidentiality. It was to make sure that there was someone independent,
3 not involved with this particular case, who was responsible for that
4 process, given the allegations that Witness 15 had started to make. So
5 the argument that somehow there is something special about this process
6 that has led to this having particular rules as regards confidentiality
7 attaching to it certainly doesn't arise from anything that was said by
8 this Chamber.

9 However, thank you for your submissions. Please give us a
10 moment.

11 (Trial Chamber confers)

12 PRESIDING JUDGE FULFORD: Maitre Bourgeois, thank you very much
13 for your intervention. I'm not sure whether we're going to be able to
14 provide you with all of the assistance that you require, but we will say
15 this. As regards the information that has already been divulged in the
16 presence of one of the representatives of the accused, it seems to us
17 that it would now be to no effect to make an order as regards
18 confidentiality vis-a-vis the accused in this case. Maitre Mabilille
19 represents him and there has never been a suggestion by this Chamber,
20 save I think on one or two exceptional instances, that there should be
21 matters within her knowledge that she is not allowed to communicate to
22 the person she represents. As I say, there were one or two mistakes made
23 by the Prosecution in the past where exceptionally that request was made,
24 but that doesn't apply in this instance.

25 Therefore, in relation to all those parts of the process at which

1 Maitre Mabilille or another member of her team has been present, we do not
2 consider there would be any utility nor do we consider it would be
3 correct to make an order that that information should not be communicated
4 to the accused. We don't know whether this process has yet finished. If
5 there is further interviewing of Witness 15 that is to take place and if
6 there are particular areas which you consider should not be communicated
7 to the Defence or to the accused because people would be put at risk as a
8 result, then those areas are to be brought discreetly to our attention so
9 that we can consider them in advance.

10 As regards the protection of Witness 15, the Chamber will, as
11 with other individuals, take all necessary steps to the extent that we
12 are able to protect either him or members of his family or others who are
13 affected by the activities of the Court, and that will include, to the
14 extent that it's appropriate, ensuring that as regards the public,
15 material is not distributed that will lead to the identification of those
16 individuals. And so, in the normal way, we will take all steps that we
17 can to ensure that people are not needlessly put at risk.

18 Now, I suspect that does not achieve the result that you had
19 originally hoped for, but I'm afraid it is the best that we can do in all
20 of the circumstances. Is there anything else which you would wish to
21 raise at this stage?

22 MR. BOURGEOIS (interpretation): Thank you, your Honour.

23 PRESIDING JUDGE FULFORD: Well, thank you very much for your
24 assistance in this matter, Mr. Bourgeois. Thank you very much for your
25 attendance this afternoon. We needn't detain you longer, and so if you

1 wish to withdraw please feel free to do so.

2 Mr. Waltenburg, thank you very much for your attendance this
3 afternoon. We wish now, please, to turn to the issue of protective
4 measures for Witness 16, and I suspect we ought to go into closed session
5 for this subject -- sorry, not closed session, private session. Private
6 session, please.

7 *(Private session at 3.23 p.m.) Reclassified as Open session

8 COURT OFFICER: Private session.

9 PRESIDING JUDGE FULFORD: Ms. Samson, is there anything you wish
10 to say on this matter?

11 MS. SAMSON: Thank you for the opportunity, your Honour, but we
12 have nothing further than what was provided in our initial filing.

13 PRESIDING JUDGE FULFORD: Thank you very much.

14 Maitre Mabilille, anything on this? Mr. Biju-Duval.

15 MR. BIJU-DUVAL (interpretation): Yes, thank you, your Honour. A
16 few comments with regard to these protective measures that relate to
17 Witness 116. Witness 116 would like to have his identity protected by
18 having recourse to various means commonly used here. He doesn't want his
19 identity to be revealed to the public and the witness has also stated
20 that saying that he was part of the (Redacted) and that
21 within that organisation (Redacted)
22 (Redacted), he says that saying this could identify him. So the
23 first thing I would like to say is as follows.

24 Given that his testimony will almost mainly and exclusively
25 concern the event in the year 2001 and it concerns the organisation of

1 (Redacted), well, if his identity is to be protected from the public
2 the corollary will be that almost all of the witness's testimony will
3 have to be given in private session. Because if it's impossible to refer
4 to the fact that (Redacted), if it's
5 impossible to publicly refer to the role that he played within that
6 (Redacted), in that case most of the witness's testimony will
7 have to be given in private session. So this is to emphasise what is at
8 stake when you take a decision on these protective measures.

9 The question is are there any threats that are so serious, so
10 real that we should accept testimony under such conditions, the testimony
11 of Witness 116. From the witness protection unit we received a report
12 sent to us by e-mail. I'm somewhat disappointed, first of all, because
13 the protection unit hasn't provided any indications on the investigations
14 that it carried out with regard to the security of the witness, the
15 safety of the witness. The protection unit has just forwarded to the
16 Chamber and the parties certain allegations made by the witness. No
17 analysis of its own has been provided, no analysis that would explain to
18 us the reasons for which the information that they have demonstrates that
19 the witness, 116, is in such a situation that it is necessary to provide
20 the witness with protective measures.

21 The protection unit - I have to say this regretfully - is -- has
22 satisfied itself by just forwarding information and by playing the role
23 of an intermediary between ourselves and the witness. They have just
24 forwarded to us information provided by the witness. So let's examine
25 the indications provided very briefly. First of all, the Chamber will

1 note that it was stated that to date, I quote, the date is the
2 23rd of June, 2009, it is stated that: "There were no incidents that
3 could be perceived as a risk to the witness's family."

4 This is what the witness allegedly told the protection unit. The
5 witness has provided other information that in his opinion make him fear
6 for his safety if he were to testify in open session. The witness
7 states, for example, (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 So this is what the witness has provided as information in order
15 to demonstrate that his fears are well-founded. The Chamber naturally
16 has the discretion to assess the weight of these elements in order to
17 take a decision with regard to concealing the identity of the witness.
18 And in our opinion these elements aren't such that they would warrant
19 these measures. It's true that the witness said (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 Witness 116 is publicly known as (Redacted)

25 (Redacted). What

1 we fail to understand is why the fact that Witness 116 would accept to
2 testify before the Chamber in public, why this fact would disrupt his
3 security situation. We fail to understand the reasons for this, given
4 that the witness has already stated that a certain number of individuals
5 are already familiar with the actions he has taken, with the fact that he
6 has been assisting the ICC. His employers, his subordinates, some of his
7 family members are familiar with this and the witness himself has stated
8 that a certain number of individuals, perhaps a certain number of the
9 population of Ituri is already aware of the fact that (Redacted)
10 (Redacted). (Redacted)
11 (Redacted) The fact that he will appear to
12 testify before the Chamber would be a conclusion one would draw logically
13 as a result of this procedure, but it's not such a dangerous secret that
14 it is necessary to violate the principle of a public hearing in this
15 case.

16 We know the importance that the Chamber attaches to the principle
17 of public hearings, and we know that every day for the past six
18 months - I can't find the right word - but we are faced with the risk of
19 tarnishing the image of such justice. Today we have two factual
20 witnesses who have to give testimony. I think that as concerns
21 Witness 116, this is an opportunity for the Chamber to remind us of the
22 rule here and to maintain the exception as an exception and that the rule
23 here is that we respect the principle of public hearings in order to
24 ensure equality of arms. This is what the Defence team has to say with
25 respect to the application or the request made by the witness.

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

2 Mr. Waltenburg, can I ask your assistance generally but on one
3 matter in particular, as I read the information that has been sent
4 through from your unit in the e-mail of the 25th of June, what
5 essentially is being set out is that there is a suspicion on the part of
6 some people locally that -- or at least one person locally that
7 Witness 116 may have cooperated with the ICC, but that as far as you are
8 aware that is presently only a suspicion rather than being a proven fact.
9 And that if it became known that someone (Redacted) had given
10 evidence, the suspicion would become something more of a solid fact
11 vis-a-vis this witness.

12 Now, is that a correct -- and I don't want to put a leading
13 question, as it were, into your mind.

14 One has to remember, Maitre Mabilie, that this is a professional
15 rather than a witness.

16 I want to know whether my reading of your e-mail is correct or
17 not. And can I make it clear that I'm basing what I've just summarised
18 on the second two bullet points in your e-mail that refer particularly to
19 a (Redacted) who, as I understand it, has indicated that there was a
20 suspicion that Witness 116 had been cooperating. Now, can you help me --
21 can you help us generally, please, and help me particularly in relation
22 to that matter.

23 MR. WALTENBURG: Thank you, your Honour, and to the Bench. So to
24 address your question very specifically to start with, it is correct,
25 that reading of the e-mail of the 25th of June. In line with what we

1 have previously presented to the Chamber, our view is that increased
2 exposure can lead to increased risk. I also have to say that it is true,
3 as the Defence said, that to a large extent we have based our current
4 assessment on the information provided by the witness. We also
5 understood this to be in the nature of the instruction given to us by
6 yourselves on the 15th of June, in which you requested us to find out in
7 an objective manner what the concerns were of the witness. So -- but
8 very shortly put, yes, our view is that any increased exposure could lead
9 to increased risk of the person. As we've communicated in a very
10 transparent manner, I believe, there is to date no specific threat
11 against this individual. So our view is based on this general notion
12 that increased exposure does potentially lead to increased risk.

13 PRESIDING JUDGE FULFORD: Is there anything else you'd wish to
14 say about this?

15 MR. WALTENBURG: I would only -- and maybe this is to address
16 some of the concerns raised by the Defence. As I said, it is correct
17 that to a large extent our assessment is based on the information
18 provided by the witness. This is how we often do go about addressing
19 these things. We do of course independently try to verify or obtain
20 information. The information that we have about the situation in the
21 region from where the witness comes is that there is the commander
22 (Redacted)
23 (Redacted). Thank you.

24 PRESIDING JUDGE FULFORD: Thank you very much.

25 (Trial Chamber confers)

1 MR. WALTENBURG: Excuse me, your Honour, with your permission.

2 PRESIDING JUDGE FULFORD: Yes, Mr. Waltenburg.

3 MR. WALTENBURG: As my colleague Ms. Schon just pointed out, one
4 additional important factor, I believe, is the fact that there is no
5 established initial response system in the town in question.

6 (Trial Chamber confers)

7 PRESIDING JUDGE FULFORD: Mr. Waltenburg, thank you very much
8 indeed for your attendance. We're going to reflect on this overnight and
9 we will deliver a short ruling on this tomorrow.

10 Mr. Biju-Duval, is there anything you would wish to say by way of
11 reply of what has been said by Mr. Waltenburg?

12 MR. BIJU-DUVAL (interpretation): Just a few words, your Honour.
13 I understand that the protection unit wishes to invoke the principle of
14 precaution. You know, I think we should use the principle of precaution
15 with as great precaution as possible because if we try to be too cautious
16 this can be dangerous in judicial matters.

17 PRESIDING JUDGE FULFORD: We'll weigh that very carefully,
18 Mr. Biju-Duval. Thank you very much indeed. When I say "tomorrow
19 morning," of course I don't mean tomorrow morning, I mean Thursday
20 morning.

21 That then deals with that issue -- just give me a moment.

22 (Trial Chamber and Legal Officer confer)

23 PRESIDING JUDGE FULFORD: Mr. Waltenburg, there's no need for you
24 to remain. Thank you to Ms. Schon as well. Please withdraw if you wish.

25 Now, the issue of the meeting that's been suggested between

1 Witness 46 and the representative, anything you wish to say, Ms. Samson?

2 MS. SAMSON: Thank you, your Honour. Nothing in addition to the
3 e-mail.

4 PRESIDING JUDGE FULFORD: Maitre Mabilille?

5 MS. MABILLE (interpretation): Just one second because it's my
6 colleague Biju-Duval who's going to do the cross-examination. So let me
7 talk to him.

8 MR. BIJU-DUVAL (interpretation): Excuse me, your Honour. I was
9 not paying attention. Could you please repeat the question.

10 PRESIDING JUDGE FULFORD: Your honesty is admirable,
11 Mr. Biju-Duval. You certainly score points for that if not for paying
12 attention. The issue is whether there is any opposition to a meeting
13 taking place between Witness 46 and the representative of the
14 organisation who is going to be in court during Witness 46's evidence.
15 The undertaking has been given that they will not discuss in any way the
16 substance of the witness's evidence and it will simply be confined to
17 issues such as confidentiality, protection and similar matters. Do take
18 a moment with Maitre Mabilille if you wish.

19 MR. BIJU-DUVAL (interpretation): Thank you, your Honour.

20 (Defence counsel confer)

21 MR. BIJU-DUVAL (interpretation): Thank you, your Honour. No
22 objection, so long as the rules of -- that is non witness proofing are
23 respected.

24 PRESIDING JUDGE FULFORD: Ms. Samson, then given the absence of
25 any opposition, we grant permission for this meeting to take place. It

1 seems to us that this may be of assistance in relation to the evidence of
2 Witness 46 because if these matters are canvassed properly in advance,
3 matters such as protection and security, that may well reduce the extent
4 to which the representative needs to intervene during the giving of
5 testimony. So we encourage the meeting but with the one very significant
6 caveat, that both Witness 46 and the representative must be told in no
7 uncertain terms that they are not to discuss any part of the evidence
8 that is to be given, save to the extent that there may be some overlap in
9 terms of identifying areas where security issues are going to arise. Of
10 course it would be unrealistic for there to be a discussion about
11 security without referring to some topics or headings that may come up.
12 What mustn't be discussed is the detail or the terms in which Witness 46
13 is going to give her evidence so that it trespasses into what we have
14 prohibited, which is witness proofing.

15 MS. SAMSON: Yes. Thank you, your Honour. And perhaps a point
16 that is very obvious but we are permitted to provide this information
17 beyond the confidential confines of this Chamber?

18 PRESIDING JUDGE FULFORD: Yes, otherwise I'm afraid the meeting
19 couldn't take place, yes, but you're right to raise it, Ms. Samson. The
20 witness and the representative of course can be told -- it may be
21 convenient to have the relevant part of the transcript, what I've just
22 said, copied for their benefit. Thank you very much.

23 Finally, before I ask the witness to come back there have been
24 applications by Mr. Diakiese and Mr. Keta to ask questions of Witness 46.
25 The Defence may not yet have had an opportunity of considering them. I

1 suspect not. It would be helpful, Maitre Mabilie, if we could just be
2 told yes or no on Thursday morning whether or not there are likely to be
3 objections. We don't ask for a substantive response, but simply an
4 indication as to what the attitude of the Defence is. Good. Thank you
5 very much.

6 Ms. Samson.

7 MS. SAMSON: Your Honour, if I may, I would like to provide an
8 update to the Chamber on a request that had been raised by the Bench
9 earlier today in relation to the availability of Mr. Johnson, the UN's
10 representative who will be assisting Witness 46. We have been able to
11 establish contact, and what I can advise the Chamber is that in the
12 morning of Monday, 6 July, Mr. Johnson has a prior commitment that had
13 been scheduled for some time and that -- which cannot be, unfortunately,
14 changed. In the afternoon he has the professional commitment of teaching
15 in Utrecht, and that is why he is unavailable that day.

16 PRESIDING JUDGE FULFORD: All right. Thank you, Ms. Samson.
17 We'll deal with this as well tomorrow morning. Thank you very much
18 indeed. Thursday morning.

19 Closed session, please.

20 I seem to be determined that we'll sit tomorrow morning.

21 *(Closed session at 3.48 p.m.) Reclassified as Open session

22 COURT OFFICER: Closed session.

23 (The witness takes the stand).

24 PRESIDING JUDGE FULFORD: Sir, I'm extremely sorry. We've
25 developed a very bad habit of keeping you waiting and we're grateful to

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1 you for your patience and tolerance.

2 Public or private session, Ms. Samson?

3 MS. SAMSON: Your Honour, if I may, I seek leave to ask several
4 questions in private session.

5 PRESIDING JUDGE FULFORD: Private session then, please.

6 *(Private session at 3.50 p.m.) Reclassified as Open session

7 COURT OFFICER: Private session.

8 PRESIDING JUDGE FULFORD: Yes, Ms. Samson.

9 MS. SAMSON: Thank you.

10 I must return, your Honour, to one document only for one
11 follow-up question.

12 Q. Sir, if I may ask you, please, to turn to tab 8 of the binder of
13 documents in front of you. For the record, the registration number of
14 this document is DRC-OTP-0140-0510.

15 Sir, could you please turn to the very last page of this
16 document, and you will see in the third column a list of ages of the
17 children listed here. Could you please assist us in telling us when the
18 ages -- what the ages correspond to. Are these ages reflecting the year
19 2004 in which the dates were recorded?

20 A. Yes, yes. These ages correspond to the year 2004.

21 Q. Thank you. I have no further questions on this document.

22 I wanted now to go back briefly to an area that you discussed
23 with the Court on Friday, and this was visits to UPC camps (Redacted)
24 (Redacted). On Friday you had mentioned (Redacted)
25 (Redacted) the Rwampara camp (Redacted) camps

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1 at Mandro, Nizi, Katoto, and Iga-Barriere. And I wanted to clarify
2 whether all of these camps were UPC camps at the time of the visit or
3 not.

4 A. All of those camps were UPC camps. In the north they were UPC
5 camps. All of those camps are in the north and so they were UPC camps.

6 Q. And you had indicated on Friday that the visit to Rwampara and to
7 Mandro took place in the second half of 2003, that is, in June, July, or
8 August. Could you please tell us if the visits to Nizi, Katoto, and
9 Iga-Barriere took place at that same time or at a different period?

10 A. Madam, all of those visits took place during that period (Redacted)
11 (Redacted)
12 (Redacted)

13 Q. And on Friday you told the Court that there were child soldiers
14 aged 12 to 16 and some being 9 or 10 years old. And I would like to
15 clarify whether children of those ages were at the Rwampara camp only or
16 were they also at the other camps that were visited.

17 A. Thank you, Madam. The children -- well, there were children in
18 Rwampara but in all the camps (Redacted). (Redacted)
19 (Redacted). But -- and all of the visits did not
20 take place only unilaterally with (Redacted) and -- but there was also the
21 Chief of Staff of the UPC there, the people in charge. And there were
22 children who were 12 to 15 but there were also children who were 9 and
23 10.

24 Q. Who was the UPC Chief of Staff?

25 A. The UPC Chief of Staff was Mr. Bosco Ntaganda.

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1 Q. Was he present at the visit to the Rwampara camp?

2 A. Certainly, he was there.

3 Q. (Redacted)?

4 A. (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 Q. And what did Bosco or Kisémbu or the other UPC officials say
10 (Redacted)?

11 A. The message was expressed about the demobilisation of children,
12 about the presence of children in these camps, and the reaction was to
13 liberate the children but they couldn't make a decision without speaking
14 to the president of their movement.

15 Q. How did you assess the age of the children that you saw at the
16 Rwampara camp?

17 A. There's one aspect that I already explained when you asked me
18 about this before. There are normative -- there's a normative framework
19 regarding the protection of children and you can see on the basis of
20 their size, their appearance, you can see whether they're carrying
21 weapons, whether they're wearing uniforms, or whether they're wearing
22 boots that are bigger than their size. Those [were the things that I
23 saw, the fact that they were carrying weapons and all the other aspects
24 that I just mentioned.

25 Q. What were these children doing (Redacted) at the

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1 Rwampara camp?

2 A. There were children who were doing sentry duty. When we went to
3 the camp some were lined up because there was a parade organised by those
4 in charge so that the visitors could walk by. So they were lined up in
5 the group of soldiers, in the militia.

6 Q. And you mentioned (Redacted) children who were 9 or 10 and 12 to
7 16. How many approximately of the children (Redacted) were 9 or 10, 11 or
8 12?

9 A. Thank you, Madam. Well, first of all, I can tell you that
10 amongst the ranks (Redacted)
11 (Redacted), there were always a number
12 of children. If you have ten soldiers, four of them would be children.
13 Out of ten you would have four children, and the children correspond to
14 under 18 down to those ages. Those are the ones that we noticed. So the
15 ones I'm referring to are included in the category of children, that is,
16 the four out of ten.

17 MS. SAMSON: Your Honour, if I could request that that passage be
18 carefully listened to in French in the edited version of this transcript.

19 PRESIDING JUDGE FULFORD: Noted and we make that request, that
20 for the perfected version of the transcript in French and English the
21 original must be listened to with care.

22 MS. SAMSON: Thank you. And if I may ask for the Court's
23 indulgence, I am going to now refer to -- consult the French transcript
24 for a moment.

25 (Prosecution counsel confer)

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1 MS. SAMSON:

2 Q. Sir, just now you were referring to having seen child soldiers
3 with -- at various places with UPC officials. Were you referring to
4 having seen these children with officials at the camps that we're
5 referring to now or at other locations?

6 A. Thank you, Madam. Well, there were the camps that I've just
7 mentioned, but there were also children on guard duty in the residences
8 of those in charge of the UPC and they also marched through the town of
9 Bunia.

10 Q. And, sir, earlier in your testimony you had started to tell the
11 Court that: "... someone used to pass very often with children in front
12 of my office." I had stopped you at the point where you had started to
13 discuss that. Subsequently we did discuss that Mr. Lola Lapi passed in
14 front of your office, often with children. Were you referring to
15 Mr. Lola Lapi or were you referring to somebody else?

16 A. Well, it wasn't just Lola Lapi. There were other persons in
17 charge of the UPC. We were watching to see how they walked around with
18 children. I mentioned Lola Lapi but it -- there was the president
19 himself and there were others. There was Daniel Litsha who could be seen
20 with children.

21 THE INTERPRETER: Another name the interpreter did not catch --

22 THE WITNESS (interpretation): Walked with children and there
23 were many persons in charge of the UPC including in front of the offices
24 of those persons in charge. You could see children doing sentry duty in
25 front of Kisémbé's office. There were many children who were guarding

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1 the office.

2 MS. SAMSON:

3 Q. Thank you, sir. The passage was a bit fast so the interpreters
4 had difficulty with some of the names that you mentioned. You mentioned
5 Mr. Daniel Litsha and you mentioned Mr. Kisémbó. Did you mention anybody
6 else?

7 PRESIDING JUDGE FULFORD: Mr. Lola Lapi.

8 MS. SAMSON:

9 Q. And Mr. Lola Lapi. Did you mention anybody else?

10 A. I also mentioned Lonema. I mentioned Kisémbó.

11 Q. Thank you. And just to be clear, the age-range of the children
12 that you saw with these officials, could you help us, please.

13 A. I told you that the age-range was 12 to 16, but you could also
14 see lower ages, from 9 and 10 years of age.

15 MS. SAMSON: Your Honour, I have only a few last questions which
16 could be done in private session with your leave.

17 PRESIDING JUDGE FULFORD: I think we are in private session.

18 MS. SAMSON: I'm sorry, I meant public.

19 PRESIDING JUDGE FULFORD: Public session, please.

20 (Open session at 4.06 p.m.)

21 COURT OFFICER: Open session.

22 PRESIDING JUDGE FULFORD: Yes, Ms. Samson.

23 MS. SAMSON: Thank you.

24 Q. And, sir, on the first day that you were in the court providing
25 testimony you mentioned that it was "easy to use children to commit any

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1 crime." Could you please explain why you say that, what you mean.

2 A. Madam, thank you for this question. Those words are correct
3 because based on our experience with the children and when we prepared
4 our documentation, the files, and even on site children made mistakes,
5 they killed, they participated in crimes, they raped. These children
6 participated in abductions. They were part. Sometimes they would go
7 ahead as scouts to find out what was going on and to establish a
8 so-called black list, and we heard all of this. These are things the
9 children declared to us and we were able to record that. And we also
10 attended, we were present when certain of these acts were committed by
11 the children.

12 MS. SAMSON: Your Honour, may I have your indulgence for a
13 moment.

14 (Prosecution counsel confer)

15 MS. SAMSON: Thank you, your Honour.

16 Q. And, sir, could you please explain what you mean when you say
17 that you were -- that "we were present when certain of these acts were
18 committed by the children."

19 A. Well, I didn't say we were present when they were in the various
20 groups when they committed those acts. We were in Bunia when the events
21 took place. (Redacted). (Redacted)
22 they described these situations. And let me give you an example, one
23 example of a child who (Redacted). (Redacted) at the age of 12
24 had to rape a woman of 60 and this child (Redacted), a child
25 of 12 who had been made to rape a mature woman, a child who was sent to

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1 abduct someone, for example. These were situations that occurred in
2 Bunia.

3 Q. And do you recall to which armed group this child belonged?

4 A. The child was part of the UPC group. I'm talking about children
5 in the UPC. (Redacted)

6 (Redacted)

7 (Redacted).

8 PRESIDING JUDGE FULFORD: There's been no interpretation. I
9 think somebody may have forgotten to press a button.

10 THE INTERPRETER: The interpreter apologises. The witness stated
11 that all these children were members --

12 PRESIDING JUDGE FULFORD: There's still no interpretation.

13 THE INTERPRETER: There appears to be a technical problem. We
14 will switch consoles.

15 PRESIDING JUDGE FULFORD: Thank you.

16 Would it be possible for the interpreter to interpret the last
17 answer given by the witness.

18 THE INTERPRETER: Of course, your Honour.

19 THE WITNESS (interpretation): The child was part of the UPC
20 group. All these children that I am discussing here were members of the
21 UPC. (Redacted)

22 (Redacted)

23 (Redacted).

24 PRESIDING JUDGE FULFORD: Anything else, Ms. Samson?

25 MS. SAMSON: No, your Honour, I have no further questions.

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1 PRESIDING JUDGE FULFORD: Thank you very much indeed.

2 Now, Mr. Suprun, in public or in private?

3 MR. SUPRUN (interpretation): Thank you, your Honour. It could
4 be in open session but very rapidly it will be necessary to move into
5 private session.

6 Questioned by Mr. Suprun:

7 Q. (Interpretation) Good day, Witness.

8 A. Good day.

9 Q. My name is Dmytro Suprun. I represent certain victims who are
10 participating in the proceedings before this Chamber and I am going to
11 put a number of questions to you with regard to the victims that I
12 represent, if you have nothing against that.

13 MR. SUPRUN (interpretation): Your Honour, with regard to the
14 protective measures that have been adopted for the witness and given the
15 fact that the victims that I represent have all been admitted into the
16 Court's protection programme, I believe that many of the questions I will
17 be putting or even all my questions will have to be put in private
18 session.

19 PRESIDING JUDGE FULFORD: Private session, please.

20 Now, Mr. Suprun, we're going to be a French questioner to a
21 French witness, so can we keep an eye on speed, please. Thank you very
22 much.

23 *(Private session at 4.14 p.m.) Reclassified as Open session

24 MR. SUPRUN (interpretation): Thank you, your Honour.

25 Q. Sir, in the course of your testimony last week you stated that

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1 the assistance that was provided (Redacted) was assistance for
2 children between 9 and 16 and (Redacted) had a database which contained,
3 amongst other things, information on the recruitment of children into
4 armed groups. (Redacted)
5 (Redacted)
6 (Redacted)

7 My question is as follows: Do you remember the names of the
8 child soldiers or do you remember some of their names, some of the names
9 of the children (Redacted)?

10 A. Yes, I can remember some of the names.

11 Q. Very well. Witness, do you remember someone called
12 (Redacted)?

13 A. Yes, (Redacted), I know the person. (Redacted).

14 Q. Very well. Are you in a position to inform the Chamber of how
15 this person was demobilised, information about his demobilisation, you
16 can say yes or no.

17 A. Well, it would be necessary to go and have a look at the files.
18 There are files there so they should be consulted.

19 Q. But generally speaking, do you remember anything about this
20 person?

21 A. Yes, I do remember certain things about this child.

22 Q. Very well. Sir, do you remember a person called (Redacted)?

23 A. Yes, I do, he was (Redacted) brother.

24 Q. And same question: Can you provide any information about the
25 demobilisation of this person?

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1 A. It would be necessary to have a look at the child's file, but it
2 is a child (Redacted).

3 Q. Do you remember a person whose name is (Redacted)?

4 A. Yes.

5 Q. Are you in any position to provide any information about the
6 demobilisation of this child?

7 A. It would be necessary to consult the child's file.

8 Q. Sir, do you remember anything about the circumstances under which
9 you met these three individuals for the very first time?

10 A. These three individuals must have been (Redacted)
11 (Redacted).

12 Q. Have I understood your testimony correctly, these individuals
13 were taken (Redacted), is that your testimony?

14 A. Yes.

15 Q. Sir, in the course of your testimony last week you stated that
16 over -- about 168 former child soldiers passed (Redacted) and
17 that 80 per cent approximately of these child soldiers had been recruited
18 by the UPC. (Redacted)
19 (Redacted)
20 (Redacted)

21 My question is as follows: Were you in close contact with the
22 three individuals that we have been discussing?

23 A. Yes, I'll take the case of (Redacted). (Redacted) is a
24 child who hallucinated a lot, and occasionally he'd be given food and he
25 would fall asleep to the time we would wake him up and then he would say

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1 at one point in time he remembers having killed a girl. He remembers
2 having killed a girl because his commander had asked him to go and look
3 for the girl and to bring her so that she would become his concubine. He
4 then received the order to kill her. I remember this story that the
5 child told me.

6 Q. Were you in close contact with (Redacted)?

7 A. Yes, (Redacted), I've just discussed (Redacted) situation. I've
8 been discussing (Redacted) situation.

9 Q. I apologise. Were you in close contact with (Redacted)
10 (Redacted)?

11 A. (Redacted), I was frequently with him
12 in the centre and with all the other children as well.

13 Q. And as far as (Redacted) is concerned?

14 A. (Redacted) was there in the centre whenever I had contact with the
15 children -- well, I could meet the children, they were all there in the
16 centre.

17 Q. Witness, are you in a position to provide any details about the
18 physical and psychological conditions with regard to (Redacted) and
19 (Redacted)?

20 A. These children had been traumatised. They were too timid -- they
21 were very timid, they were afraid, and when we asked them why they said
22 it had to do with the events they'd experienced. They had been at the
23 front line. They had been fighting against the enemy there.

24 Q. In whose ranks were they fighting?

25 A. They were fighting in the ranks of the UPC.

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1 Q. Thank you. Sir, do you remember anything about the physical
2 condition that these three individuals were in?

3 A. I remember (Redacted), for example. (Redacted), he had scars, he
4 had certain scars. He was also a little unbalanced.

5 Q. Were these three individuals individuals who needed psychological
6 and medical treatment of any kind during their stay (Redacted)?

7 A. Yes, certainly.

8 Q. Could you provide details about the care they needed?

9 A. Thank you. With regard to the psychological condition they were
10 in, well, there was psycho-social support, there was contact with
11 (Redacted) centre that had this as its speciality. (Redacted)
12 (Redacted)
13 (Redacted)
14 (Redacted). It was necessary to

15 have recourse to the medical centre (Redacted) for these children
16 and there was a big medical centre in (Redacted) (as interpreted).

17 THE INTERPRETER: If the interpreter heard the witness correctly.

18 MR. SUPRUN (interpretation):

19 Q. Witness, you mentioned a name. Could you perhaps spell it. You
20 mentioned (Redacted) or perhaps I'm mistaken. Could you spell the
21 name, please.

22 A. I mentioned (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted). There were

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1 specialists from that place (Redacted).

2 Q. Witness, you have also mentioned the name of a medical centre,
3 you said it was called (Redacted), could you spell that, please.

4 A. (Redacted)

5 Q. Thank you. Sir, do you know what the origin of the physical and
6 psychological problems was, the problems that you have mentioned that
7 these three individuals suffered from, the problems these three
8 individuals suffered from?

9 A. The origin of the problems had to do with the manner in which
10 they had been used in their armed groups by the commanders, by the group
11 leaders.

12 Q. Witness, on the basis of your experience in the field of the
13 demobilisation of child soldiers, do you think that the physical and
14 psychological damage inflicted on these three individuals was a result of
15 their recruitment in UPC armed groups?

16 A. That's what I have just said. I said that it was the result of
17 their experiences when they were recruited into these UPC armed groups.

18 Q. Could you provide more detail on the nature of the harm inflicted
19 on these three individuals.

20 A. The harm caused had several aspects. First of all, the child had
21 been dispossessed or deprived of his or her childhood. The child had
22 left his or her parents and gone to the group. So the child didn't have
23 any parental affection. Secondly, the fact that they were involved in a
24 war, that they had such an experience, that they had to stand guard all
25 night without sleeping, the fact that they would kill. All these things

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1 caused them harm. (Redacted) and the other one wanted to study. They had
2 to interrupt their education and this also caused them harm. And on the
3 other hand, they were maltreated in the UPC group.

4 Q. Witness, these three individuals we are discussing, were they
5 aged between 9 and 16?

6 A. Yes, that's their age, between 12 and 16.

7 Q. Could you say whether these individuals were also aged 15?

8 A. Yes.

9 Q. Do you know their age?

10 A. (Redacted) could have been 12 or 13 years
11 old.

12 Q. And (Redacted)?

13 A. The situation is identical.

14 Q. Witness, do you remember anything about the amount of interaction
15 you had with these three individuals?

16 A. I haven't really followed your question.

17 Q. I'll rephrase that. I apologise. How frequently did you
18 interact with these three individuals and what was the nature of your
19 interaction?

20 A. Thank you. First of all I'll say that initially there were a
21 certain number of children, not just these three individuals. But since
22 you're talking about these three children, well, the convention on
23 children's rights gives us a certain criteria. We have the interests of
24 children, for example, and there's protection, there's also
25 non-discrimination. So these three children couldn't be treated

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1 differently from other children. They had to be treated just as the
2 other children were treated, but in a specific case you could give them
3 more affection so that you could alleviate their traumatic experiences.
4 This could be done through education, for example. (Redacted) to
5 enroll role them in school, to enroll them in school and to take care of
6 their education.

7 Q. Now, did these three children need any special support, that is,
8 as compared to other former child soldiers to your knowledge?

9 A. Certainly, certainly. I just talked about the case of (Redacted)
10 who could not eat well, who could not play because he was plunged in
11 these bad memories of having killed, especially the manner in which he
12 killed this girl, he killed her under really inhuman conditions so he
13 needed special support.

14 Q. And what about (Redacted)?

15 A. They were in the same situation almost, same conditions, and
16 (Redacted) had a problem with his foot, I remember, and this affected him
17 and he needed a special assistance to help him recover.

18 Q. What was the cause of this problem, the problem that (Redacted)
19 had with his foot?

20 A. I think this was due to the explosion of an explosive device. He
21 was not treated and (Redacted) for assistance to have him
22 healed of the wound or the injury on his leg.

23 Q. Witness, you said that these three children (Redacted)
24 (Redacted). Do you remember, do you know the type of
25 assistance that was given by this NGO to the three children?

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1 A. (Redacted)

2 (Redacted)

3 (Redacted). And the type of assistance, the assistance in general was the
4 care provided at the level of (Redacted), that's one; the assistance was
5 the placement of these children in host families so that the children can
6 get family affection; three, there was medical care which started at the
7 level (Redacted) and then the child can be sent to an infirmary, to a
8 health centre or an appropriate centre for medical care. There was also
9 psycho-social care which was provided and assistance education support.
10 They were enrolled in school. (Redacted), would pay their
11 school fees. Even after they had been reunited with their families,
12 (Redacted) continued to provide them with education support.

13 Q. Witness, during your testimony last week you said that (Redacted)
14 (Redacted) hoped to implement or carry out certain measures in order to
15 ensure that former child soldiers are reunited with their families. Now,
16 (Redacted) take similar measures with respect to the reunification
17 of these three children?

18 A. Yes, measures were taken because there is a stage that is the
19 stage of the search for the families of these children. (Redacted)
20 (Redacted). The other families, the
21 families of (Redacted), that is, on the basis of
22 the sketch drawn by their children, their families were supposed to be in
23 (Redacted). And every time (Redacted) social workers there, they would find
24 that the families had moved, they had relocated to go to (Redacted)
25 (Redacted). So they had to go look for the families in order to ensure

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1 that the children are reunified with their families. (Redacted)

2 (Redacted)

3 (Redacted)

4 Q. Now, were these measures successful? (Redacted)

5 (Redacted)

6 A. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted) and

10 after that (Redacted) continued with these measures and I'm sure those
11 measures were successful.

12 Q. Witness, do you remember how much time these three individuals
13 spent (Redacted) before they were placed with a host family?

14 A. Before they were placed with host families or before they located
15 their natural families?

16 Q. Before they were placed with host families.

17 A. I cannot remember how much time they spent, but they were lodged
18 in the centre and at some point they were placed with a host family.

19 (Redacted) I think he spent about three

20 months, before he was reunified with his family.

21 Q. Witness, what were the living conditions of these three
22 individuals in (Redacted) prior to their placement with a host family?

23 A. (Redacted) the conditions were good because (Redacted)

24 (Redacted). Even when

25 they were placed with host families, in the host families they lived well

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1 because there was assistance provided, there was food assistance which
2 was provided with the help of (Redacted). So
3 regularly (Redacted) provide host families with a kit for the child and a
4 kit for the family. So they were living in good conditions when they
5 lived with the host families.

6 Q. Witness, in the course of your testimony last week you talked
7 about a process used for the selection of host families for former child
8 soldiers. Do you remember the selection criteria for host families,
9 especially with respect to these three individuals?

10 A. The criteria for the posting or placement of these three
11 individuals -- well, first of all, (Redacted) a family, family
12 that was willing to support them and that had the capacity to educate
13 these children, to provide them with enough affection to ensure that they
14 are harmonically reintegrated with their families at the right time.
15 Again, these families were -- well, their awareness was raised. They
16 were sensitised to the fact that they have to treat these children as
17 their own children considering the psychological and physical condition
18 they found themselves.

19 I give an example. (Redacted)
20 (Redacted)
21 (Redacted)
22 (Redacted)

23 Q. Did these three persons make any particular requests with respect
24 to the selection of their host families?

25 A. Several requests were made, several requests were made. They

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1 were looking for a family that would consider them first and foremost as
2 the natural children of the family, and with regard to their needs they
3 also made certain requests, and I think that you will find this in the
4 monitoring register.

5 Q. Do you remember anything about these requests that were made?
6 Can you give us any details?

7 A. Well, I think you have to look into their private or their
8 individual records to understand that. (Redacted)
9 (Redacted)
10 (Redacted). So in order not to have the
11 child suffer more from further trauma, the child had to be enrolled in
12 school. And that is what was also done with (Redacted).

13 Q. And were these requests taken to account, were they granted?

14 A. Well, these requests were granted, (Redacted).
15 And especially (Redacted) because these children spent time with armed
16 groups, armed groups which had deprived them of their childhood.

17 MR. SUPRUN (interpretation): Your Honour, for my final questions
18 I think we will have to move into open session.

19 PRESIDING JUDGE FULFORD: Public session, please.

20 (Open session at 4.42 p.m.)

21 COURT OFFICER (interpretation): Open session.

22 MR. SUPRUN (interpretation):

23 Q. Witness, in the course of your testimony last week you explained,
24 I quote, that: "A child can only live best in his or her biological
25 family."

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1 What exactly did you mean by that?

2 A. Yes. A child can only live best in his biological family. What
3 I mean is the place -- the child's place is not within an armed group and
4 since the child's place is not within an armed group, a child has to live
5 in a society and the provisional host family is not the ideal place for
6 the child. It's only with his or her parents that a child can be most
7 comfortable. And so (Redacted) locate the family of the child so
8 that the child can live comfortably, so that that child's family would be
9 able to raise him or her, ensure his or her security and ensure her or
10 his intellectual, physical, and mental development.

11 Q. Witness, now, given your experience on child demobilisation, can
12 you tell the Chamber about the types of harm that can be suffered by the
13 child -- by a child who is separated from his or her biological family.

14 A. There are several types of harm. You know, the biological family
15 gives a lot of affection to the child and the biological family thinks
16 about the future of the child, but when the child is separated from his
17 or her family and if he or she has nobody to take care of him or her, he
18 will live -- become idle, may become delinquent and may drop out of
19 school and may take up a life of crime. That's what I can say in
20 response to your question. When a child is separated from his family he
21 becomes very vulnerable. He becomes like someone who is dead, so to
22 speak, because that child will never be comfortable.

23 Q. Witness, thank you.

24 MR. SUPRUN (interpretation): Your Honour, I don't have any other
25 questions.

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1 PRESIDING JUDGE FULFORD: Thank you very much, Mr. Suprun.

2 Mr. Diakiese, in your filing of the 29th of June, I think I'm
3 right in saying you'd really identified two particular areas that you
4 wished to address, the second of which is the circumstances of
5 reintegration together with the role of foster families for former child
6 soldiers. Now, given the questions put by Mr. Suprun this afternoon, are
7 there additional matters that you want to raise on that second subject or
8 not?

9 MR. DIAKIESE (interpretation): Thank you, your Honour. We have
10 another manner of putting certain procedural questions, and I would like
11 to say that our learned colleague Suprun has done a good job of putting
12 those questions and so I don't think we are going to go -- put some of
13 them again.

14 PRESIDING JUDGE FULFORD: Thank you very much.

15 Maitre Mabilille, I think it's right to say that Mr. Diakiese has
16 fairly considerably limited the area that he wishes to deal with on
17 behalf of some of the victims he represents. The second area I've just
18 referred to. The first area really relates on the potentially complex
19 nature of the familial, societal, and economic circumstances in which
20 children became child soldiers. And as I understand the point, although
21 that is a matter of general interest, Mr. Diakiese submits that it is of
22 particular interest to certain of the victims that he represents.

23 Now, do you oppose either or both of the lines of questions which
24 Mr. Diakiese wishes to pursue?

25 MS. MABILLE (interpretation): On the first point, your Honour, I

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1 am not totally convinced because I find that we do not find the
2 relevance, the direct relevance, of questions here. Maybe if our learned
3 colleague had been more precise on the questions he's going to put to the
4 witness I would have adopted a different position.

5 Now, as concerns the second point, your Honour, I think that you
6 made the right observation, namely, that that topic has already been
7 dealt with by the first legal representative of victims. I understand
8 the relevance of that point, but I have the feeling that the same
9 questions should not be put with respect to an area that has already been
10 dealt with by the previous speaker, that's the other legal
11 representative. Thank you, your Honour.

12 (Trial Chamber confers)

13 PRESIDING JUDGE FULFORD: On the 29th of June, in document 2009
14 Mr. Diakiese provided helpful further information to substantiate his
15 request to put certain questions to the present witness. Maitre Mabilie
16 has opposed this application in relation to one area on the basis that
17 the questions have been insufficiently identified and in relation to the
18 second matter, that the ground has already in essence been covered by
19 Mr. Suprun. In our judgement, this witness may be able to assist on the
20 complex nature of the familial, societal, and economic circumstances in
21 which children became soldiers. In our judgement, although this is an
22 issue of general interest, it also affects directly the position of
23 victims represented by Mr. Diakiese.

24 Turning to the second area and for similar reasons, in our view
25 this judgement -- this witness may be able to assist on the circumstances

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1 of reintegration of children into their community and the role of foster
2 families. Mr. Diakiese has already identified that Mr. Suprun has
3 covered at least part of this second area and we know that he will not
4 repeat areas already dealt with, but he has our leave to deal with any
5 additional matters that haven't thus far adequately been covered by
6 Mr. Suprun.

7 So, Mr. Diakiese, you have leave to ask questions on both of the
8 areas that you have identified, and you have five or six minutes left
9 this afternoon to make a start.

10 MR. DIAKIESE (interpretation): Thank you, your Honour. We are
11 not used to asking questions to the Chamber, but I'm not sure we can deal
12 with all of the various matters in the next five minutes but I'm assuming
13 we could continue the next day.

14 PRESIDING JUDGE FULFORD: Of course. I'm just asking you to make
15 a start now and at 5.00, I'm afraid, because the tapes will run out,
16 we'll have to break off and then we'll carry on on Thursday. But if you
17 don't mind just asking the first question or two this afternoon, then
18 we'll carry on on Thursday morning.

19 MR. DIAKIESE (interpretation): Thank you, your Honour.

20 Questioned by Mr. Diakiese:

21 Q. (Interpretation) Good afternoon, Witness.

22 A. Thank you.

23 Q. My name is Herve Diakiese. I represent a number of victims in
24 this case. I have obtained the permission from the Chamber to question
25 you on a number of matters because the victims that I represent, for

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1 obvious reasons, could have lived through circumstances similar to those
2 of the children (Redacted). I'm going to be
3 dealing with three aspects in my questions. The first relates to the
4 social and economic context of the children who were enlisted; secondly,
5 precise questions regarding children who were to be reintegrated into
6 foster homes or reunited with their biological families; and the last set
7 of questions will relate to the specific matter of the reintegration of
8 girls who were with the armed groups.

9 If I understood you correctly in your statement made here before
10 the Chamber in answering the questions of the Prosecutor, you mentioned
11 that there were certain Hema businessmen who developed awareness of the
12 families, suggesting that they contribute to the war effort either by
13 providing a child or by giving a payment in some manner or form; is that
14 correct?

15 A. Yes.

16 THE INTERPRETER: There's overlapping between the two speakers,
17 your Honour.

18 MR. DIAKIESE (interpretation):

19 Q. If you -- could you please explain in more precise detail the
20 kind of compensation that was provided, and if it was money, how much?

21 A. Well, thank you for that -- for your concern. (Redacted)
22 (Redacted) the children described their
23 family situation, and each family was to send a child as a contribution.
24 And the family -- a family that didn't have children had to send *either a
25 cow or a certain amount of money which the children

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1 did not specify to us; however it had to give a certain
2 number of cows if it did not give a
3 child.

4 -- but there was -- the first
5 obligation was to send a child.

6 MR. DIAKIESE (interpretation):

7 Q. You said that you were supposed to provide a person or an
8 institution or was the -- was it a child that was to be contributed?

9 A. The UPC was organised -- as you know, there was -- there were
10 Hema elite members and they had a council and you were supposed to bring
11 the child to this council, and once the child was there, it would -- the
12 child would be sent to a centre, a training centre, a training camp to
13 receive military training. If the family resisted then the family would
14 become vulnerable, they could be attacked.

15 PRESIDING JUDGE FULFORD: I think that may be a convenient
16 moment, Mr. Diakiese, if that's all right with you. Thank you very much
17 indeed.

18 Sir, thank you very much for your assistance again today and for
19 the very considerable patience that you are showing. I'm sorry this
20 process is taking so long, but I'm sure you can understand that these
21 matters need to be very carefully investigated as part of the evidence in
22 this case. Tomorrow is a public holiday as far as the Court is
23 concerned, and so I'm afraid we're not going to be able to sit again
24 until 9.30 on Thursday morning.

25 Closed session, please.

1 *(Closed session at 4.58 p.m.) Reclassified as Open session

2 COURT OFFICER: Closed session.

3 (The witness stands down)

4 PRESIDING JUDGE FULFORD: Two short matters. Mr. Diakiese, could
5 I ask you on Thursday to have very much in mind that there is a strong
6 temptation for two French speakers to speak one immediately after the
7 other, and certainly on one particular occasion during your few questions
8 this afternoon I think the interpreters did have a real problem. So can
9 you try and build in a gap between each question and answer. I'd be
10 grateful.

11 MR. DIAKIESE (interpretation): Your Honour, I shall do my best
12 not to give in to that temptation.

13 PRESIDING JUDGE FULFORD: Thank you very much.

14 And, Mr. Suprun, during the course of some excellent questions,
15 will you forgive an old Judge for saying that you nearly caused
16 Maitre Mabilie to stand up when you suggested an age-range for the
17 children rather than simply asking the witness to give their ages. I
18 think on an issue of that sensitivity it would have been better rather
19 than leading the witness towards an answer to have let him say, as it
20 were, freely for himself what the ages were. But this is only a
21 crotchety old Judge rather than anything that's meant critically. Thank
22 you very much.

23 MR. SUPRUN (interpretation): Your Honour, thank you very much
24 for that comment.

25 PRESIDING JUDGE FULFORD: Good. Thank you all very much indeed.

1 And unless there's anything else, we'll sit again at half past 9.00 on
2 Thursday morning.

3 COURT USHER: All rise.

4 The hearing ends at 5.00 p.m.

5 RECLASSIFICATION REPORT

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