

1 International Criminal Court

2 Trial Chamber I

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

4 Case against Thomas Lubanga Dyilo

5 Hearing - *(Closed Session) Reclassified as Open session.

6 Tuesday, 31 March 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. Welcome back,
11 Mr. Walley.

12 Just before the witness comes in, one or two matters left over
13 from last week.

14 Maitre Mabilille, could I inquire as to whether the Defence intend
15 to put in a response to either 1772 or 1788.

16 MS. MABILLE (interpretation): Your Honour, Thomas Lubanga has
17 not yet entered the courtroom.

18 PRESIDING JUDGE FULFORD: Quite right, Maitre Mabilille.
19 Mr. Lubanga, please.

20 (Mr. Lubanga entered court)

21 PRESIDING JUDGE FULFORD: Do come in, Mr. Lubanga. I'm sorry. I
22 hadn't seen you were still outside court. So that you can understand
23 what's happened, I've simply asked your leading counsel whether the
24 Defence intend to put in a response to 1772 and to 1788.

25 And Maitre Mabilille, if you'd like a little bit longer to think

1 about this, you're more than welcome to have it.

2 MS. MABILLE (interpretation): Your Honour, on Friday we talked
3 of only one of the two filings you talked about, so I can give a response
4 on one of the file -- on that filing, that we don't have any response to
5 give.

6 I would like to say that certain redaction requests were made.
7 We are not going to make any observations on those redaction requests,
8 but if later on we need further information, we will come before the
9 Bench at the right time. We do not have the intention of responding to
10 this filing.

11 As concerns the second filing, just give me one second. Let me
12 verify and I will come back to you.

13 (Defence counsel confer)

14 MS. MABILLE (interpretation): On the 1788 I would like to
15 verify, and I will give a response at a later time. The 1788, was it the
16 ex parte hearing that was held? You asked us what type of redaction we
17 would like to get?

18 PRESIDING JUDGE FULFORD: I'm sorry Maitre Mabilille
19 I've bowled this at you with no notice at all. 1788 is the filing by the
20 Registry on interpretation and transcription which the Prosecution are
21 going to put a -- have indicated, I think, they're going to put a
22 response in in relation to that, and it was really to inquire whether you
23 wish to respond to the Registry's filing on interpretation and
24 transcription.

25 Maitre Mabilille, why don't --

1 THE INTERPRETER: The counsel's microphone is off.

2 MS. MABILLE (interpretation): We do not have any intention of
3 responding to that submission, your Honour. So we do not -- will not
4 provide an answer to both filings.

5 PRESIDING JUDGE FULFORD: Right, (indiscernible).
6 thank you very much indeed.

7 Mr. Sachdeva, I think it would be helpful if we could have either
8 today or latest by the beginning of play tomorrow an updated list of
9 Prosecution witnesses, please. It would be useful to know in which order
10 and, at least for those towards the top of the list, approximately when.

11 MR. SACHDEVA: Certainly, Mr. President.

12 PRESIDING JUDGE FULFORD: Thank you very much. Have you managed
13 to take any further the issue of the use of names in the Democratic
14 Republic of Congo? Is there anything more -- is there anything firmer on
15 this subject?

16 MR. SACHDEVA: Mr. President, yes, there is, but may I ask
17 Ms. Samson to address it.

18 PRESIDING JUDGE FULFORD: Certainly. Thank you very much.
19 Yes, Ms. Samson.

20 MS. SAMSON: Good morning, Mr. President and your Honours.

21 PRESIDING JUDGE FULFORD: Good morning.

22 MS. SAMSON: At this time the Prosecution and the Defence had have
23 brief discussions on how to proceed and although the Defence will develop
24 their viewpoint perhaps more fully on their own, at present my
25 understanding is that they do not see the need to have an expert given

1 that the Defence does not take issue with the fact that there may be
2 multiple use of names in the Congo by an individual, but they intend to
3 challenge, on the basis of at least credibility, the fact that certain
4 witnesses have chosen to not reveal the totality of their names either to
5 OTP investigators or here before the court.

6 Insofar as the Prosecution is concerned, where there's no live
7 issue then we don't seek to have an expert opine on a matter unless the
8 Chamber finds that it's an issue on which it would be relevant, but
9 that's not the final Prosecution position yet. We're having internal
10 deliberations as to whether or not there may be other aspects that we
11 would like to have somebody opine on, and we're also determining whether
12 or not we have some witnesses on our witness list who would be in a
13 position to give information on the practice of name usage in the Congo.

14 PRESIDING JUDGE FULFORD: When do you anticipate being able to
15 give the Chamber a definite indication as to the stance that you adopt,
16 Ms. Samson?

17 MS. SAMSON: We can do so by tomorrow morning if that's not
18 inconvenient for the Chamber.

19 PRESIDING JUDGE FULFORD: Not inconvenient at all, and it would
20 be useful to know what the final position of the Prosecution is. Thank
21 you very much indeed.

22 Maitre Mabilie, it's entirely up to you whether you say anything
23 on this subject now. Ms. Samson indicates that -- the position of the
24 Defence is that expert evidence isn't necessary at this stage. Is there
25 anything else you'd like to say about it?

1 MS. MABILLE (interpretation): I told Ms. Samson that we do not
2 want to have an expert, because we do not challenge the fact that there
3 are several names used. At some point we at the Defence wanted to
4 establish that certain witnesses came and gave false identities. This is
5 the only fact on which we are going to bring proof, and it has nothing to
6 do that several names are used. We would not like to have an expert on
7 this point because it's not a point that we challenge, your Honour.

8 PRESIDING JUDGE FULFORD: Thank you very much.

9 Mr. Sachdeva, Witness 2, who is due to give evidence in the
10 relatively near future, I think is a witness for whom there is going to
11 be a not inconsiderable amount of video material played.

12 Looking back on what happened previously and the problems over
13 achieving certainty as to what is said, where relevant, when video
14 evidence is played and someone is speaking, would it be helpful if the
15 extracts on which the Prosecution rely, and those -- and by that I mean
16 the extracts where what is said is relied on, to have those provided to
17 the interpreters in advance so that they can, as it were, work on an
18 accurate transcription of what is heard, an accurate interpretation,
19 rather, of what is heard.

20 MR. SACHDEVA: Indeed, Mr. President, it would be helpful and if
21 we have them we will provide them to the interpreters.

22 PRESIDING JUDGE FULFORD: Well, if there's a way of providing
23 these in advance with the relevant sections indicated so they can easily
24 be found. I assume that the Defence have had notification of these video
25 extracts, and we make a similar invitation to the Defence, that if there

1 are any particular passages that they are going to invite the Bench to
2 listen to because what is said may be relevant to our determination of
3 some factual issue, then it would be useful to have these provided to
4 those who conduct the interpretation for this Chamber in advance so that
5 we can achieve the maximum degree of accuracy.

6 MR. SACHDEVA: Indeed, Mr. President. I understand that we do
7 have them, and they will be provided to the interpreters in advance. And
8 I also understand that the Defence does have the extracts that are
9 intended to be shown through this witness.

10 PRESIDING JUDGE FULFORD: Good. Well, we -- we just raise that as a
11 suggestion which we hope will at least reduce the extent to which there
12 are difficulties over interpretation.

13 MR. SACHDEVA: Mr. President, in -- in the same vein, there's a
14 video that I might show the present witness, and similarly, I could
15 attempt to see if there's a transcript that can be provided to the
16 interpreters in advance.

17 PRESIDING JUDGE FULFORD: Well, obviously no harm in them having
18 someone else's interpretation of what is said, but of course it's going
19 to be very much for the interpreters to give their evidence -- not
20 evidence, but their view as to what's said rather than being in any way
21 tied down to the interpretation provided by another. But that would be
22 helpful. When do you anticipate reaching that stage of the evidence,
23 Mr. Sachdeva?

24 MR. SACHDEVA: I -- I hope --

25 PRESIDING JUDGE FULFORD: Approximately.

1 MR. SACHDEVA: Either by the end of the day or tomorrow morning.

2 PRESIDING JUDGE FULFORD: Well, if it's tomorrow morning there

3 may be an opportunity of giving the sections of the video to -- to those

4 in the interpretation booths, and I'd encourage you to consider taking

5 that course.

6 MR. SACHDEVA: Yes, Mr. President.

7 PRESIDING JUDGE FULFORD: Good. Thank you very much. Finally,

8 to let everyone know, we've got three ex partes this week, one today with

9 the Defence only, one tomorrow with the Prosecution and the Victims and

10 Witness Unit, and one on Thursday with the Registry only. For each of

11 them in order to give time both for the ex parte and to move from open

12 session into ex parte, we will have to rise, I'm afraid as far as the trial

13 is concerned, at 3.45 each day.

14 Good. Can we have the witness, please.

15 Is there anything else, Maitre Mabilille before the witness comes

16 in?

17 MS. MABILILLE (interpretation): On Friday we also talked of

18 MFIs, and you asked the Defence when we will be able to give you

19 information so that we do not really have any delays in the evidence we

20 have to submit. We have looked at that problem, and I don't think that

21 we are in a position to make any proposals before the end of this

22 session, but we are going to speed up things afterwards. We will also

23 like to inform the Bench that we have decided to work differently. That

24 is, after each witness, we are going to propose a list of MFIs so that we

25 do not have any delays as was the case for the previous witnesses. The

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Closed Session)
Questioned by Mr. Sachdeva (Continued)

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1 idea is to provide you a list, say in the second week of April, that is a
2 complete list for all the witnesses we have already listened to, and in
3 future, after each witness gives his or her testimony, we are going to
4 provide the Chamber with the references that we'd like to have feature in
5 the file.

6 Does the Bench agree with this, with that dead-line?

7 PRESIDING JUDGE FULFORD: I'll discuss this with my colleagues
8 during the break, Maitre Mabilille, but at first blush that seems like an
9 extremely helpful suggestion, but we will -- if there's any problems with
10 it we'll come back to you after the break.

11 Thank you. Witness, please.

12 (The witness takes the stand)

13 WITNESS: WITNESS DRC-OTP-WWW-0017 (Resumed)

14 (Witness answered through interpreter)

15 PRESIDING JUDGE FULFORD: Open session, please.

16 Good morning, sir.

17 THE WITNESS (interpretation): Good morning.

18 COURT OFFICER: Open session.

19 (Open session at 9.44 a.m.)

20 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

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

22 Questioned by Mr. Sachdeva: (Continued)

23 Q. Good morning to you, sir.

24 A. Good morning.

25 Q. Are you feeling well?

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

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1 A. I feel well.

2 Q. Very good. Last week we finished by discussing the -- the
3 military operation in Kobu, Bambu, and Lipri. Do you recall those
4 questions?

5 A. Yes.

6 Q. You had said that during the operation the patrols had returned
7 with civilians to the bureau -- to office when the civilians had fled to
8 the neighbouring villages. My question is: Were, during that time,
9 prisoners taken by the UPC?

10 A. Yes.

11 Q. Were those prisoners civilian or military, as far as you recall?

12 A. The majority were civilians, but there were some soldiers amongst
13 them.

14 Q. Where were these prisoners kept?

15 A. They were kept in certain storerooms, because our camp was on
16 the market. So there were certain storerooms of traders which were
17 there, and so these people were placed in one of the buildings, one of
18 the storerooms there.

19 Q. Do you know who it was -- well, how -- how were -- what were the
20 circumstances in which the prisoners were placed into these storerooms?

21 A. When they were brought, since there were many of them, it was
22 difficult to control them, so they were kept in that manner in the house
23 I talked about.

24 Q. Who was it within the military that arranged this -- who arranged
25 the detention of the civilians?

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

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1 A. To clarify this point, the last time I said there was a commander
2 who came to start negotiations. That negotiation turned out to be a
3 sham, and so these people were imprisoned, and so when they were brought
4 to the camp, they were placed in the house which was used as a prison.

5 Q. Once the prisoners were placed in the house did anything happen?

6 A. There was an incident between a young officer who had grown up in
7 the region. He wished to withdraw some people from that group.

8 Q. And what happened?

9 A. After the incident there was a dialogue with the brigade
10 commander, Salumu, who ordered him to take out non-combatants
11 he recognised. That's what his order was.

12 And he took out about
13 seven individuals.

14 Q. Do you know roughly how many people were kept in these rooms?

15 A. I don't know the exact number but about 30, but no more than 50
16 or 60.

17 Q. How long were they kept in the rooms for? Do you recall?

18 A. Just during the day.

19 Q. And at the end of the day what happened to them?

20 A. Most of them who had been kept in the house that was used as a
21 prison were executed.

22 Q. How do you know that?

23 A. I didn't want to become involved. I knew this was being
24 discussed. People spoke about it, and in the evening there were soldiers
25 close to my position. They spoke about it. I also saw the bladed

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Private Session)
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1 weapons covered in blood. And on the following day when we were -- when
2 we were leaving the place, the house used as a prison was empty. So the
3 people couldn't have just been set free. That's how I found out about
4 this.

5 Q. Do you know which ethnic group the prisoners belonged to?

6 A. Most of them were Lendu.

7 Q. You said that the soldiers close to your position spoke about it.
8 At that time where was Commander Salumu?

9 A. At his place. In the house that he used. He had a house which
10 was used by him. He was there. In the market.

11 Q. Do you know if he was aware what happened, as to what happened
12 with the prisoners?

13 A. Yes, of course he was aware of it.

14 Q. And do you know if he spoke about this incident with anybody else
15 in the UPC?

16 A. When we reached Kilo in Kobu, he was in regular contact with the
17 Chief of Staff, Kisémbó, who was in Mongbwalu. He was regularly in
18 contact with him in the evening.

19 Q. And how was it you knew that, sir?

20 A. Given the lie of the ground, the market of Kobu is on a slope,
21 and he was on the lower part of the slope. It wasn't possible for him to
22 establish decent contact from there, so to establish contact he had to
23 make sure he was at the top. So that's where our position was. He had
24 to be at the top of the hill. I also had a radio on me frequently, and
25 it was possible to follow his conversations, or he would be right next

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Private Session)
Questioned by Mr. Sachdeva (Continued)

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1 to us, in fact, when he established contact and spoke to the other party.

2 Q. You said that you also had a radio. Do I take it, then, that
3 Salumu communicated with Kisembo via radio?

4 A. Yes, yes.

5 Q. And did you come to know the subject matter of those
6 communications at that time between Salumu and Kisembo?

7 A. Initially he would submit reports. The second time it was a
8 request for reinforcements. He was asking for ammunition. In the
9 evening when there were negotiations, well, the night before the
10 negotiations that led to the arrest of these individuals there was the
11 brigade commander who said that there were people who were to come from
12 Bunia, politicians who were to negotiate. All of this was said over the
13 radio. I followed that conversation as well.

14 Q. Did those people from Bunia come for negotiations?

15 A. No, they never came.

16 Q. And do you know who the negotiations were supposed to have been
17 with?

18 A. No, I don't know.

19 Q. Prior to the incident where the prisoners were executed, are you
20 aware of communication between the Chief of Staff and the brigade
21 commander?

22 A. Yes, there was such communication.

23 Q. Do you know what that communication was about?

24 A. Initially they'd provide reports on what had happened on a given
25 day, and the Chief of Staff wanted to know whether we had taken back the

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1 heavy weapons that had been taken in Lipri. That wasn't the case. He
2 insisted on seeing their commander of the battalion in control of the
3 region. His name was Kabuli. The brigade commander said that it was
4 impossible to contact him, and then they spoke about the fact that it was
5 necessary to go to Bunia, and soon afterwards the brigade commander asked
6 what could be done or what should be done with those who had been
7 arrested, and they discussed and it was said "ubatende" in Swahili.

8 Q. Can you help us with the meaning of "ubatende," please?

9 A. It's a term that was currently used in the UPC. Above all by one
10 person threatening another person. If they say "ubatende," it means that
11 he's going to have you. He'll show what he's capable of.

12 Q. And in this communication between the brigade commander and the
13 Chief of Staff, who was it that said, if you know, this word "ubatende"?

14 A. First it was the Chief of Staff and then the brigade commander
15 asked the same question, "ubatende," in order to have this confirmed,
16 let's say.

17 Q. Now, you said last week and also just a moment ago that after the
18 Kobu, Bambu, Lipri operation you went to Bunia. Do you recall when that
19 was?

20 A. February or the beginning of March I'd say, because after the
21 6th of March we fought the Ugandans in Bunia. After a certain period of
22 time, on the 6th of March we fought them there.

23 Q. And when you say you went back to Bunia, was it the -- the
24 brigade, the full brigade, or was it just components of that brigade that
25 returned to Bunia?

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1 A. I would say at least 80 per cent of the troops, of the brigade
2 staff, went to Bunia.

3 Q. Let's -- let's talk about that return to Bunia. Upon arrival in
4 Bunia, what -- what did you do?

5 A. We were billeted in the EPO camp. There was a battalion at the
6 other side of the street or road leading to the airport. That's
7 where the residence was of Tibasima. On the second day, we were to show
8 our presence there. We were in the town. We ran into town, and then we
9 spent another two days there. There was the residence of
10 Mr. Thomas Lubanga there. It was some distance away, 60 or 70 metres
11 away. Well, 60 or 70 metres away there was a camp occupied by the
12 Ugandans, and they wanted them to leave the camp because of the tension.
13 Our troops were there. We set off in the direction of the residence in
14 order to pressurise the Ugandans to leave the camp. That's what we did.
15 Apart from that, on the same day, in the morning, I was amongst those who
16 set off with our brigade commander who went to the residence of the
17 president, Thomas Lubanga.

18 Q. You said that -- let me start by asking you this: You said that
19 you were billeted in the EPO camp. During that period when you were in
20 Bunia, were you only billeted in that camp or were there other camps that
21 you stayed at?

22 A. I have said that we took over the camp that was about 70 metres
23 away from the president's residence. It was on the other side.
24 Afterwards, there was a -- there were some houses separating it. This
25 camp had been occupied by the Ugandans. We took it back. And when there

Witness: Witness DRC-OTP-WWW-0017 (Resumed) (Private Session)
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1 was the Mandro attack, we left to intervene, but our base was there. Our
2 troops were no longer there in the -- in the camp, but the unit which was
3 with Tibasima must have -- or had to stay there.

4 Q. What was the name of that camp?

5 A. It was usually called the camp occupied by Lopondo. One spoke of
6 the Lopondo camp familiarly.

7 Q. You said earlier that you -- on the second day when you were in
8 Bunia you showed your presence there. You were in the town. What do you
9 mean by that? Can you elaborate on that?

10 A. It was just a demonstration, proof there were the units. We had
11 to run into the town with our weapons and machetes. We passed down the
12 boulevard, went up to the market. Then we went up to the end of the
13 boulevard to the other camp. It was a matter of putting on a show of
14 force, of demonstrating our presence. That's what happened.

15 Q. And if you can, roughly how many soldiers are we speaking of here
16 that put on this show of force?

17 A. There are about two companies.

18 Q. That would be roughly 300 soldiers. Is that right?

19 A. Yes.

20 Q. You said that you went to the residence of Mr. Lubanga. Firstly,
21 who did you go there with?

22 A. We escorted the brigade commander, Salumu.

23 Q. Why did you go there?

24 A. I don't know for what reasons.

25 Q. How was it that you -- that you learned that you had to escort

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1 your brigade commander to the residence of Lubanga?

2 A. We were in the camp. The brigade commander is the supreme
3 commander of the camp, so he would just come and see the president and
4 say, "Escort me." The orders were given. We took the weapons and his
5 car if necessary too.

6 Q. Do you know if the brigade commander went to the residence of
7 Lubanga on his own volition or was it something that he was asked to do?

8 A. I didn't really follow that. I don't know how it happened, but
9 he came, gave the orders to follow him in that way, and we escorted him
10 as usual, as he requested in the city of Bunia. So he would go, and he
11 entered in the -- on the grounds, and then the guards protected him so
12 you couldn't get to him, and we stayed at the barrier, and he went
13 inside.

14 Q. How long did his meeting with Lubanga last for?

15 A. Well, I know it took time, because after an hour, an hour and a
16 half, I was already tired and hungry. I would left -- leave there on
17 foot to look for food, and it's only afterwards that they passed by me on
18 the road, and I would sit -- sit in the car again to leave again, but it
19 took some time.

20 Q. After the meeting did your brigade commander inform you of what
21 was discussed, and if he did, what was discussed?

22 A. No, he didn't say anything, but personally I wanted to know more.
23 I even teased the bodyguard he was with. He was close to him. They went
24 to see the president. Maybe they received money. They said, "Well, we
25 don't have any money," and Mr. Salumu answered, "Well, we weren't given

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1 money. The orders were just to take the camp."

2 Q. And when you say the orders -- when you say he said the orders
3 were just to take the camp, did you understand that to mean that Lubanga
4 had given Salumu orders?

5 A. No, I didn't understand that. What I understood is that he
6 didn't want to talk about it. He didn't want to say anything. That's
7 what I understood.

8 Q. During your time in Bunia you talked about the Lopondo camp. In addition
9 to that, did you participate in any combat in Bunia at that time?

10 A. Yes, on the 18th of March.

11 THE INTERPRETER: The interpreter corrects herself: On the 6th
12 of March.

13 MR. SACHDEVA:

14 Q. What happened on the 6th of March?

15 A. Well, we were in the camp, and Commander Salumu asked us to stay
16 on standby, and around 4.30, 5 o'clock, we were asked to move, to go and
17 attack the Dele Ugandans' position. And we fought at that place, and
18 from there I was given orders to go back to our positions. A car came to
19 get me with the arms that were there, and then I went next to the
20 VPI building. I found Commander Tango-Romeo Bosco there with one
21 of his commanders. They were
22 shooting on the airport, because you could shoot on the airport from
23 there. So our orders were to shoot at the airport. We shot at the
24 airport. And afterwards, the orders were to leave the town of Bunia.
25 So first we ended up in Mudzipela, and there I saw the Chief of Staff

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Questioned by Mr. Sachdeva (Continued)

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1 talk again with Bosco, and then again the sound of gun-shot, and we all
2 fled at that stage towards Centrale.

3 Q. Did you say that you found Tango-Romeo Bosco there? Did I
4 understand you correctly, sir?

5 A. Yes, yes.

6 Q. And Tango-Romeo, what was that? Was that his cross-sign that you
7 spoke of earlier?

8 A. It was the cross he used. The cross he used.

9 Q. When you saw Commander Bosco, was he there alone or with other
10 soldiers?

11 A. There was 6-1 Sierra, his camp aide, shooting, and almost a whole
12 platoon in the surrounding area, deployed there, and his bodyguards next
13 to him.

14 Q. Who was 6-1 Sierra?

15 A. His camp aide. Also in charge of -- under Bosco's orders, in
16 charge of heavy weapons, or when he used the heavy weapons.

17 Q. And you mentioned the bodyguards, "his bodyguards were next to
18 him." What was the age-range of his bodyguards at that time?

19 A. Some were of some age. There were also child soldiers. I think
20 I saw some.

21 Q. How many child soldiers?

22 A. Because when he left there, when he left us, we took the road
23 with his bodyguard. There were approximately two, two next to us, which
24 were on the road with us to Mudzipela that I saw other than the other
25 troops with whom he left.

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1 Q. And those two, what age were there?

2 A. Well, I can't say the exact age, but I think they were under 15.

3 Q. How were they dressed?

4 A. Well, they had civilian clothing, T-shirts. One had military
5 trousers. The other one was dressed in civilian clothes, but he had a
6 military hat, and the one with the military trousers had
7 the boots the military used. I even remember a scene when we left
8 our position, because the bombs that were shot from the airport fell
9 just next to us, we ran and the boots that little boy was wearing were
10 too big, so when he ran they fell off and were left behind.

11 Q. May I ask you, sir, you said that the boots that the military used,
12 could you describe the boots that the military used, briefly if you can?

13 A. They're plastic boots as gardeners often used. They're all in --
14 they're all plastic, about 30 centimetres high.

15 Q. Were -- these children under 15, were they carrying weapons?

16 A. Yes.

17 Q. What type?

18 A. They had Kalashnikovs.

19 Q. Were they carrying anything else?

20 A. When we left, no, they were just like that.

21 Q. After the fight in Bunia, where did you go to?

22 A. Well, the retreat was marked, so we went first towards Mongbwalu, and
23 then from Mongbwalu it was not well organised once again. So we left
24 Mongbwalu to take that road towards Baku, Mamedi, Maitulu or the Watsa road,
25 basically.

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1 Q. Sir, would you mind repeating the name of the place that you went
2 to after you left Mongbwalu to go back towards some place. Just so we
3 have it on the transcript, please.

4 A. From Mongbwalu it was chaos, total chaos. The majority of
5 soldiers that came from Jerome's went towards Aru, and some of the
6 natives of there went towards their own homes, but the first stop where I
7 saw the Chief of Staff, because he felt threatened, was in Baku. So the
8 first stop I saw him was Baku. And then after that stop we then spent
9 some time at -- we spent some time at the camp. That was in Mamedi. We
10 settled there too.

11 Q. When you saw the Chief of Staff, what was he doing?

12 A. We arrived in the evening, and that was in the morning. So he
13 assembled people. There was a small meeting because he wanted to leave,
14 and we were the troops that arrived afterwards because we were almost the
15 last ones to take the road after him. So there was a small meeting. He
16 assembled people, and he was surprised to see our unit, and he said,
17 "Well, if you're tired, rest. I will go ahead of you."

18 One of the commanders whom we were with then spoke about the fact
19 that we didn't have anything to eat and even left an animal that we
20 killed on the spot, and he continued along his way.

21 Q. Who were the people that he assembled for that meeting?

22 A. At that time in Nishtriti (phoen) there was a structure,
23 there were commanders, staff,
24 especially brigades from everywhere, even from the Chief of Staff, the
25 staff. So he just -- as the Chief of Staff spoke, and then he left very

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1 quickly.

2 Q. You said brigades from everywhere, even from the Chief of Staff.
3 Do you mean the staff that worked with Kisembo were also present, his
4 staff?

5 A. Yes. As I said, there were men from everywhere. There were some from
6 the General Staff, and the G4 Papa Romeo Charlie was there. Eric Mbavazi,
7 who was the G1, was there too.

8 Q. I'm sorry, sir, but just the same exercise with Eric Mbavazi.
9 Can you spell Mbavazi? Can you spell the surname, the second name,
10 please, of Eric?

11 A. M-b-a-v-a-z-i.

12 Q. Thank you. Now, amongst these -- amongst the brigades, amongst
13 the staff of the Chief of Staff, amongst the soldiers that were assembled
14 at that place, were there just adults or were there also children?

15 A. There were many adults, but children too.

16 Q. After that meeting what happened?

17 A. He left. We spent the day there. We even spent the night there,
18 and the next morning we followed him. The distance was not that great,
19 because he was going to carry on further on, but during that same day, in
20 the afternoon, we found the place where he had stopped, and that is where
21 we spent quite some time. We even built a camp. It was in Mamedi.

22 Q. And how -- you said you spent quite some time there. How long
23 did you spend there?

24 A. One month there, and then we moved because Ugandans
25 were still following us. So we went towards Maitulu, and then we came

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1 back to Mamedì.

2 Q. What was established in Maitulu when you went there?

3 A. Well, just in Mamedì the Chief of Staff had to call everybody up
4 to see how many of us there were, because the military we took off with,
5 many actually couldn't go through the suffering because there was no
6 food. It was difficult to find a place to sleep. Things were
7 disorganised and many actually fled. So he called everybody, all of the
8 military, even those of the commander, to set up a new structure, and
9 that is how there were G1, G2, and still new soldiers, because the -- it
10 was almost a battalion, and people were fleeing every day. So he wanted
11 to reorganise everything, have a battalion commander, set things up in --
12 set soldiers up in companies, and commanders had so many bodyguards,
13 there were no soldiers in the units. So he asked the bodyguards to leave
14 the units. That is why the young children who were bodyguards for the
15 commander found themselves in our troops or part of the troops. So it
16 was very difficult for them.

17 The Chief of Staff created the kadogo unit, we called it the
18 kadogo unit, and this unit was under his protection to make sure they
19 could have enough food at the General Staff, and the organisation had
20 been set up in Mamedì, and Maitulu. We went on with the same
21 organisation. And even on our way back, in Mamedì, the organisation, the
22 structure was still the same.

23 Q. Let's -- let's talk about this kadogo unit. To your knowledge,
24 how many persons did it comprise?

25 A. Almost a whole platoon.

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1 Q. And would be roughly 45 persons; is that right?

2 A. A bit less. Roughly less.

3 Q. And amongst the kadogos, what -- what was the age-range
4 of these kadogos?

5 A. When they were removed from the troops that were called kadogo
6 units, people knew they were kadogos. They were less than 15 years old.

7 Q. To your knowledge, what was the youngest? What age was the
8 youngest kadogo in that unit?

9 A. I would say he must have been 12, around 12.

10 Q. What were the duties of the kadogos in that unit established by
11 the Chief of Staff?

12 A. As I explained, the situation was very difficult. It was raining
13 continuously. There was no food. There were no medicine. The military
14 would steal from here and there, particularly for themselves. Now they
15 were victims and couldn't make ends meet. They had been taken out of the
16 command. They could not buy food to prepare it, so they were miserable.
17 And they could hardly ever wash, so they also had lice. Their health was
18 bad. It was getting worse. We were suffering so you can imagine that for
19 them it was twice as bad. And the Chief of Staff, whether out of goodwill
20 or what I don't know, took them back home where they could be followed,
21 taken care of. They could even wash. In groups they could eat what was
22 good for them. They could sleep. I think it was to protect them,
23 because they were very vulnerable.

24 Q. When you say that they would be taken back home, do you mean, as
25 you referred earlier, from the units to -- to Kitembo's unit? Is that

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1 right? Is my understanding correct?

2 A. I said in the beginning they were taken away of their position as
3 bodyguards and included in the troops. So it was very difficult. They
4 were brought back to the General Staff. That's why I said they went back
5 to the Chief of Staff.

6 Q. Thanks for that clarification. And apart from the problems that
7 you described, what were -- well, did the kadogo unit serve a military
8 purpose? Did the soldiers have any military duties?

9 A. During that period of time they had no special responsibility.
10 They would meet in the morning. Some people were bodyguards for the
11 Chief of Staff. These were in charge of following him around or, for
12 example, in the morning or in the evening they would run around and --
13 and they would -- these children were made to sing. But about military
14 tasks, I'm not sure that they went to patrol or to fetch water or
15 anything else they were asked to. Even when we tried to create a strip
16 at the airport, a landing strip at the airport, they were not there.

17 Q. You said that the children were made to sing, and you spoke about
18 the -- that they would meet in the morning. Who was it that was making
19 the children sing, and were these meetings organised in any way?

20 A. It was a military parade like any other military would do. I
21 remember that in the beginning there was a boy called Saba-Saba who was
22 the bodyguard of Thomas. Then there was Loringa. He was also in charge
23 of them. He made them sing and he would give them a few lessons to learn
24 how to march in a military way. I mean, he took care of them.

25 Q. At that time was Loringa part of the General Staff, part of

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1 Kisembo's General Staff?

2 A. Yes.

3 Q. What would the kadosgos sing?

4 A. Most of times they would sing military songs, those that we would
5 regularly sing, but what was surprising is that towards the end their songs
6 or whatever they did, actually, it was more like us. It was like us. I mean,
7 there -- there was hardly any food left for any of us, that was a threat to
8 us all and because we were older we could even go hunting in the woods. Some
9 went to steal food from the population, but the situation was difficult for
10 them to go and hunt or anything else. So I was wondering when a child like
11 that starts singing that he's -- he must be terribly hungry.

12 Q. What was the -- if you know, what was the purpose of these
13 military songs? Why were, as you said, yourself and the kadosgos asked to
14 sing these songs?

15 A. Often the songs were to go along with the general circumstances.
16 Some moments one could be sad. At other moments we were -- there were
17 songs like that. They were other songs after battles or songs of glory
18 after we had won over a territory. Sometimes there were sad songs. They
19 called them kitamaduni. The military let loose, would let loose
20 and release the pressure. We did that too. We would sing whenever we
21 could. It was more to forget about the suffering, and so did they, and
22 they did it to forget about their suffering as well.

23 Q. And at that time where was the General Staff?

24 A. Right there in Mamedì.

25 Q. And when, as you said, you moved to Maitulu, where was the

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1 General Staff?

2 A. The whole unit and even the population which went along with us,
3 they actually travelled towards Siro (phoen) Watsa, and some others went
4 all the way to Isiro. The population that marched with us, marched with
5 the troops. We would walk along together. We were following the
6 General Staff. Wherever the General Staff was we would follow, and the
7 population would follow.

8 Q. I just want to take you back to the kadogo unit briefly. Amongst
9 the children that you described, were there any girls?

10 A. In that particular unit in the beginning there were two girls,
11 but they were removed because I saw them later on with the commander.

12 Q. Which commander?

13 A. Actually, there were more of them when we were at the Chief of
14 Staff, but here we were in the troops, and there was one girl I remember.
15 She used to be with the Chief of Staff. In the troops there were young
16 ones who would run around. And then there was another girl who I saw at
17 Eric Mbavaze's and she was there now.

18 Q. Do you know the names of these two girls?

19 A. No. Right now I can't remember.

20 Q. Do you know if -- well, firstly, do you know the ages of these
21 two girls at that time?

22 A. I wouldn't be able to say the exact age, but more or less they
23 would be 14 or 13 years old.

24 Q. Do you know if either of them had somebody they knew in the UPC
25 at that time?

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1 A. Amongst these child soldiers?

2 Q. No. Let me ask that question again. I'm sorry, it wasn't very clear.

3 Do you know if these two girls had -- if either of them had a
4 relative in the UPC Army?

5 A. Really, to know whether they had any relatives in the army I
6 can't tell.

7 Q. How about mother or father?

8 A. I don't know. Maybe the young one, Francine, if I remember the
9 name well, I think she arrived with her father at the same time for
10 training. I think the name must have been Francine for one of the two
11 girls who were there. ...vay and Francine, I think.

12 Q. I'm -- I apologise, sir. Did you mention another name apart from Francine?

13 A. I talked about the little Mavay (as interpreted).

14 Q. When you say "the little Mavay," was that how she was known?

15 A. No, she was actually small. She was called Mavay, but there was
16 another girl who was older who was in the unit whose name was also Mavay.

17 Q. During this time where the General Staff was established, did the
18 Chief of Staff, Kitembo, have any means of communication?

19 A. I saw that there was a radio there which was used. He also had a
20 satellite phone, a Thuraya phone. He also had that, and he was using it.

21 Q. Do you know at that time with whom the Chief of Staff was
22 communicating?

23 A. I can say with certainty that I have never heard that anyone
24 communicated with President Thomas Lubanga. I must say that. But while
25 we're there, the pressure was so enormous that the only means of

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1 communication was one I talked about. So the majority used a Thuraya.
2 You know, he -- he was using a generator, and each time he tried to recharge
3 it with solar panels it would burn the appliance. So we were all very
4 depressed because of that, and I think that he was in a bad way because we
5 did not have any connection to the outside world. And so when we were able
6 to establish contact again, everyone was interested in what was said.

7 There were times when I would go to the general staff to supervise the
8 guard, because the heavy weapons were installed around his house. So we
9 were all interested in who he spoke to, about what, but
10 most of the time it was frequent that we would hear from his bodyguards
11 that he was talking sometimes with President Thomas Lubanga.

12 Q. You said that the kadogo -- the kadogos in the kadogo unit would
13 sing songs, would undertake parades. Were -- do you know if during that
14 time they were trained?

15 A. I know that amongst the bodyguards of the Chief of Staff there
16 was a boy, Nyali from -- Nyali -- that is of Nyali ethnicity. I can't
17 remember his name. He had been trained, and his way of marching and his
18 salute was different to ours. I think he had the Anglo-Saxon training, so
19 to speak. He trained them. His salute he did in the French style. It's
20 true that they must have had to train them in these things

21 because I saw them do it themselves

22 Q. Were the kadogos in that unit disciplined in any way?

23 A. At the beginning, as I said, the situation was horrible for
24 everyone. There was hunger, and since these children were usually with
25 the commanders and the commanders will send these kadogos to go and loot

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1 the property of the local community, they were often sent to go and get
2 rice, to bring bananas and loot the villagers. So when they went to the
3 general staff I know that they were followed more closely. it was difficult
4 for them to leave the camp sometimes, to take the roads leading to the
5 villages. As I said, when it came to bathing they all went together. This
6 was done to avoid such incidents. Because it was easy if they took a path to
7 end up in the villages and create further disorder.

8 THE INTERPRETER: The interpreter didn't hear the last part of
9 the witness's answer.

10 MR. SACHDEVA:

11 Q. Sir, would you mind just repeating the last part of your answer
12 just so it's recorded.

13 A. I was saying that they were monitored by the trainers who were
14 there to make sure that they did not do anything improper. We used to
15 bathe in the river. And most of
16 the time when they went to the river to bathe, for example, they were
17 monitored by their commanders to ensure that they do not run away into
18 the bush, to ensure that they do not go into the villages, because
19 sometimes a fowl would be stolen there or a goat would be stolen there.
20 They wanted to avoid that.

21 PRESIDING JUDGE FULFORD: We'll take a break now
22 Mr. Sachdeva.

23 MR. SACHDEVA: Yes, Mr. President.

24 PRESIDING JUDGE FULFORD: Sir, thank you very much. We're going
25 to have a break now for half an hour, and we'll sit again at half past

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1 11.00. We'll go into closed session, please, so the witness can
2 withdraw. Thank you very much.

3 *(Closed session at 11.00 a.m.) Reclassified as Open session.

4 COURT OFFICER: Closed session.

5 (The witness stands down)

6 PRESIDING JUDGE FULFORD: Half past 11.00.

7 Recess taken at 11.00 a.m.

8 On resuming at 11.31 a.m.

9 COURT USHER: All rise. Please be seated.

10 PRESIDING JUDGE FULFORD: Witness, please.

11 Is this a closed-session matter, open session? What,

12 Mr. Sachdeva?

13 MR. SACHDEVA: It's an open-session matter but it's extremely
14 brief, but I can -- (overlapping speakers)

15 PRESIDING JUDGE FULFORD: All right. Well, if it's -- is it
16 trivial on the Richter Scale?

17 MR. SACHDEVA: It's just simply to inform the Chamber that the
18 Prosecution has indeed provided the Court Officer on the 20th of March
19 with the excerpts, the translations of the excerpts intended for
20 Witness 2. So that's -- that's been undertaken.

21 PRESIDING JUDGE FULFORD: Right. But -- but the interpreters are also
22 going to have to have the extracts so they can listen to them and arrive
23 at their own understanding of what's said.

24 MR. SACHDEVA: Yes, Mr. President, but I understand that's done
25 via the Court Officer.

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1 PRESIDING JUDGE FULFORD: Well, I don't mind how it's done,
2 Mr. Sachdeva, as long as it's done.

3 MR. SACHDEVA: Yes.

4 PRESIDING JUDGE FULFORD: Thank you.

5 (The witness takes the stand)

6 PRESIDING JUDGE FULFORD: Open session, please.

7 (Open session at 11.34 a.m.)

8 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

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

10 Q. Sir, before we had a break, you said that the kadogo unit -- the
11 children in the kadogo unit were monitored by trainers who were there to
12 make sure that they did not do anything improper.

13 If they did do something improper, would anything happen to them?

14 MR. SACHDEVA: Mr. President, the witness's microphone is not on.

15 PRESIDING JUDGE FULFORD: Question again, followed by the answer
16 again, please, Mr. Sachdeva.

17 MR. SACHDEVA: Yes.

18 Q. Sir, my question is: If the children in the kadogo unit did
19 anything improper, would anything happen to them?

20 A. You know, in the UPC in general there was discipline, but it was
21 frequent for people to be whipped. So the person could be put in prison,
22 but very often they were whipped.

23 Q. And at that time did you -- were you aware of children in that
24 unit, the kadogo unit, being whipped?

25 A. I remember once I witnessed an incident of that nature. Because it

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1 has to be recognised that in Mamedi, the situation was so bad it was easy to
2 get depressed. There were many things that were not happening correctly.

3 Sometimes you found soldiers who would take drugs. There was cannabis
4 everywhere, and so it was easy.

5 Once I witnessed an incident. I don't know what happened, but it
6 was explained to me that young soldiers smoked cannabis and they became
7 insubordinate, and they even threatened to shoot someone, and so they
8 were arrested. That was what was explained to me. I was not there. But
9 I saw them made to lie on the ground, and they were whipped.

10 Q. Who whipped them?

11 A. As I said, they had trainers, and they were responsible for that.

12 Q. What were they whipped with?

13 A. Most of the time they were whipped with sticks, but this time
14 they were whipped with ropes, some red ropes.

15 Q. You said that a person could be put in prison. Can you describe
16 what these prisons looked like?

17 A. Well, in the areas I went to, the camps, most of the time they
18 were areas -- areas without facilities. Sometimes they were straw huts.
19 And so to create a prison, trenches were dug in the ground. A hole was
20 dug in the ground about -- the capacity of about a metre and a half,
21 sometimes a metre, so a person could not stand up within that hole. And
22 above the hole -- or, rather, the hole would be covered with logs, heavy
23 logs, so that a person would not be able to displace them. And over the logs
24 some dried grass or straw would be placed, and in certain areas they
25 would be covered with tarpaulin, and then the tarpaulin would be covered

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1 with soil. A little hole would be left open through which the prisoner
2 could be sent into the hole and taken out, and most of the time it was
3 dark within such holes.

4 Q. During the time where this General Staff was established in -- in
5 Mamedì and Maitulu - and forgive me if my pronunciation is bad - what was
6 the situation regarding weapons and ammunition?

7 A. We had heavy weapons. There was ammunition above all for the
8 so-called D2 machine-guns. There were a lot of weapons. Every soldier
9 could have a Kalashnikov, but there were cartridges for Kalashnikovs,
10 too, and not a sufficient amount.

11 Q. Was anything -- you said that the -- the cartridges for the
12 Kalashnikovs, there was not a sufficient amount. Was anything done to
13 replenish the ammunition?

14 A. As I said, as ordered by the Chief of Staff there would be an -- an
15 assembly. One would try and find airstrips for deliveries, and I think
16 this was done on two occasions.

17 Q. Just so we're clear, sir, what was it that the Chief of Staff did
18 to replenish the supply of ammunition?

19 A. After we had returned, there was intense fighting on the V12
20 bridge. After certain losses we continued with the fighting. We
21 arrived in Dhego, which was the area that the UPC had at the time. We
22 almost felt at home there, and that's where we had an airstrip, we
23 created an airstrip, and an aeroplane landed to deliver ammunition for
24 various types of weapons.

25 Q. Do you know where these weapons came from?

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1 A. Well, there was the presence of Safari there, who was accompanied by
2 two pilots who were white. I saw the same cases, the same boxes there that
3 I saw in Kanombe when we left Rwanda. These were the same cases that we
4 used when we were in the UPC for ammunition. In Mongbwalu they had the
5 identical -- these identical cases.

6 Q. And apart from the Chief of Staff and Safari, were there, to your
7 knowledge, any other high-ranking members of the UPC involved in the
8 delivery and supply of ammunition at that time?

9 A. No. But at one point in time I remember there was a G4 Papy who
10 also went to the airport in Bule to gather weapons, collect weapons.

11 That's the person whom I know, but I'm not aware of there being
12 anyone else.

13 Q. And just to go back a little bit, when the Chief of Staff would have
14 the assembly and would, as you said, talk about the airstrips, what -- what
15 exactly did he say in respect of the ammunition? Do you recall?

16 A. He spoke about the fact that we had to have these replenishments.
17 It was necessary for these landings to take place. So we had create
18 airstrips. The troops were all in the field, and they were working on
19 the airstrips. They were clearing the fields, removing debris, stones,
20 that sort of thing, and this was done on two occasions.

21 Q. Did you arrive at an understanding as to whether the Chief of Staff
22 was discussing the situation regarding the ammunition with anybody else?

23 A. As I said, we were all involved. They told us of reinforcements
24 that should come by plane, we saw them as our only way out. So our survival
25 was almost dependent on his communication. Whenever his phone rang, or we

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1 saw him speaking over the phone - he was the only one who had one - everyone
2 was curious. We asked his bodyguards who he was speaking to, what he was
3 speaking about. Sometimes they didn't know. Sometimes they would say he
4 was speaking to the president. That's what was often said. We didn't
5 know what he was speaking about, and I can't say who he was speaking to,
6 but we were all curious about this.

7 Q. And when you say president, you mean President Lubanga. Is that right?

8 A. Yes.

9 Q. After the -- after you went to Dhego, where did you go?

10 A. We went in the direction of Bunia.

11 Q. When was that?

12 A. After the Ugandans had left.

13 Q. Are you able to say the month?

14 A. I would say it was June or July.

15 Q. And the year, please?

16 A. It was in 2003.

17 Q. When you went -- you said you went in the direction of Bunia.

18 Did you eventually go to Bunia?

19 A. Yes, though the Chief of Staff with the troops who stayed in
20 Dhego, there was the G4 and the G3, Mugabo at the time, because the
21 General Staff had been reconstituted. There was Mugabo, G3, and he sent
22 off in the direction of Bunia. We stayed with the Chief of Staff because
23 there was an incident when a plane landed. Well, it was necessary to
24 stabilise the plan. The Chief of Staff had to stay there too and we who
25 accompanied him stayed there for another couple of days. Another plane

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1 came for the pilot and Safari. We stayed there for two days and then we
2 left. We followed the troops.

3 First we spent the night in Mabanga. There were a lot of UPC
4 troops who were in the region. Others came from Bunia. I remember
5 people who came from Bunia. There were a lot of troops then. They
6 preceded us. The Chief of Staff spent the night in Mabanga. There were
7 other troops in Mabanga who followed us. We went to Barriere, and then
8 after Barriere we spent the night in Centrale. And the following day, in
9 the morning, we entered the town of Bunia. The unit that preceded us was
10 practically controlling the boulevard, the market, the centre of Bunia,
11 but the town wasn't yet under their control, so we had to fight to
12 control this area with the Chief of Staff. The staff went down into the
13 town, down the boulevard.

14 Q. In your -- in your answer you said that -- you talked about an
15 incident when a plane landed, and I recall that you said that the plan
16 had to be stabilised. What did you mean by that?

17 A. I said the town of Bunia wasn't stable. The troops that were
18 there -- well, when we arrived there they weren't controlling all of the
19 town, and when we arrived there we had to help them to establish control
20 over the town, over the "cite." That's what I said. Control hadn't yet
21 been fully established, and there was disorder here and there.

22 Q. And what was the incident that you're referring to with the plane?

23 A. As the airstrip was one that we had built with our hands, it
24 wasn't really flat. And it had rained that that afternoon.

25 After the plane had been

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1 unloaded, it skidded, and hit a tree when it was trying to take off,
2 smashing the left propeller. so that was the accident that occurred at the
3 airport, on the airstrip that we had built in Bule. And therefore
4 Safari and the pilot and the Chief of Staff remained there. There was a
5 plane that came to fetch the Chief of Staff.

6 Q. When you arrived in Bunia, who -- who was -- who was there in
7 Bunia? Who was present in Bunia?

8 A. In the town there were a lot of troops because it was organised like that
9 from Centrale There were a lot of commanders in charge of certain areas,
10 but there were troops with whom the Chief of Staff was in communication,
11 those who had come with the brigade commander, Alex, and they were
12 accompanied. They came to the General Staff where we were.

13 It was Tchalignonza.

14 Q. Apart from the -- the troops of the UPC, were there troops
15 belonging to another group present in Bunia at that time?

16 A. When we were fighting in the town, well, the town was in the arms
17 of the APC -- in the hands of the APC.

18 Q. In addition to the troops of the APC, were there other troops
19 belonging to another group that you can recall?

20 A. The APC was our enemy, but there was a force from the Congolese
21 army that was there. Those who had preceded us told us what had
22 happened. Because there were bodies on the ground in the Mudzipela area,
23 even around radio Candip. They mentioned that policemen who had come from
24 Kinshasa who were part of the Congolese army. So there were even prisoners
25 who had been taken from amongst these policemen. When we entered the town

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1 there was a significant UN force there. A lot of them were there. They
2 had set up a base at the airport where there were quite a lot of refugees,
3 and we could see these policemen there, too, policemen who had come from
4 Kinshasa. And there was another base not far from our General Staff, and
5 the MONUC was still in Bunia. There were lots of refugees there, and MONUC
6 was there. And I think at the time the Uruguayans were still there.

7 Q. Have you heard of a group called Artemis?

8 A. When we took control of the town, the situation calmed down in
9 the town and in the surroundings. There were spontaneous attacks,
10 however, on the road to Lipri and in the direction of the town, of the
11 "cite," but Artemis intervened, but this was afterwards. We had already
12 taken control of the town. The UPC was present. The situation in the
13 town was calm, but Artemis arrived later. When they arrived, we were
14 still in the town.

15 Q. Where was this group called Artemis from?

16 A. Well, most of them were from France. I spoke to them. There
17 were some people from Belgium who had to monitor the situation. They
18 didn't have weapons. There were some Swedes as well, if I'm not
19 mistaken, or perhaps Germans and Englishmen who also went on patrol.

20 Q. Now, sir, just -- just to let you know, I'm -- I'm going to now
21 discuss the time that you arrived in Bunia for those days that you were
22 there and up until the time when the UPC took over Bunia.

23 When you arrived in Bunia, where did you stay?

24 A. It was on the boulevard, a building that probably belonged to the
25 state. A bank, I think. A building on the -- with some floors and on

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1 top of -- in front of the building there's the Bunia public prosecutor's
2 office. And then it wasn't far from the city centre. On the boulevard,
3 basically.

4 Q. Did you remain at that location for the entirety of your time in
5 Bunia or did you move somewhere else?

6 A. The General Staff was there, but when Artemis arrived, the day
7 before there was an attack in the morning. That's when there was --
8 that's when there was trouble. But in this -- not in this building. The
9 Chief of Staff stayed in it until we left the town.

10 Q. Sir, may I ask you, the -- if you recall when you marked the
11 location of Mr. Lubanga's residence, Kisembo's residence, and the
12 EPO camp, if you recall, when you marked those locations, would the
13 place that you've just described, would that place be on that map as
14 well?

15 A. It was on the same road but a little bit further up. It's after
16 the position that the MONUC was occupying. So it was further down in the
17 town, actually, the place I'm talking about.

18 MR. SACHDEVA: Mr. President, I'd like to see if the witness can
19 mark the location on the map.

20 PRESIDING JUDGE FULFORD: Certainly. We need therefore to get
21 the electronic copy up on the screen, and if you want the witness to mark
22 it, we'll need it on the screen immediately to the witness's left.

23 Do you have a number that you can give to the Court Officer,
24 please?

25 MR. SACHDEVA: Yes, Mr. President. It is EVD-OTP-00407.

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1 Q. Sir, what we're about to do is the same exercise. The map is
2 going to come on the screen, and I'd like you to mark the location of the
3 place where you were staying in June 2003 in Bunia.

4 PRESIDING JUDGE FULFORD: Can the usher just make sure that the
5 witness has got everything he needs, please.

6 Right. What's the question, Mr. Sachdeva? You'd like the
7 witness, therefore, to mark that spot. Is that correct?

8 MR. SACHDEVA: Yes, Mr. President. I'm just -- I don't see the
9 map on my screen.

10 I have it now. Thank you to the usher.

11 PRESIDING JUDGE FULFORD: Good. Fine.

12 MR. SACHDEVA:

13 Q. Sir, if you could then mark that location with a circle.

14 A. (Marks)

15 Q. And, sir, on top of the circle, if you can with small letters,
16 can you write "UPC HQ, June 03."

17 A. (Marks)

18 Q. And underneath the letters HQ, followed by the figures 03,
19 please.

20 A. (Marks)

21 Q. And one more. I apologise. Can you mark the -- can you write
22 down the month of June, please.

23 A. (Marks)

24 Q. Thank you.

25 PRESIDING JUDGE FULFORD: We'll need -- we'll need --

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1 (overlapping speakers)

2 MR. SACHDEVA: I've finished with this.

3 PRESIDING JUDGE FULFORD: Yes. We'll need to give this a number.

4 Thank you.

5 COURT OFFICER: This document shall carry the number

6 EVD-OTP-00408.

7 MR. SACHDEVA:

8 Q. When you were billeted at that location where was the Chief of
9 Staff?

10 A. He was in the building.

11 Q. And at the time that you were in Bunia, do you know where
12 President Lubanga was?

13 A. Well, word went around that he was back, and he was back. At one
14 stage he was billeted in Mudzipela, at the Kabazo quarters, as we called
15 them generally, because it was pretty. There were houses in a certain
16 way. We called it Kabazo. Often people called it South Africa. So he
17 was there, and then he went to town. He came back to town. It wasn't
18 too far from where the Chief of Staff stayed, lets -- where the staff
19 was, in a way.

20 Q. And at that time did you know if the Chief of Staff met with
21 President Lubanga?

22 A. Well, frequently he would leave that place to go to his place.

23 Q. And when you say "frequently he would leave," are you referring
24 to the Chief of Staff, Mr. Kisembo?

25 A. Yes.

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1 Q. How did you know that the Chief of Staff would go to the place of
2 Mr. Lubanga at that time?

3 A. Well, as I said earlier, we were the unit that was there for his
4 protection, we were in the district there, and so they were around his
5 place, and when he moved, too, he was escorted by our unit. Often behind
6 him there was our unit's car transporting heavy weapons. And so our
7 organisation had shifts. We said today this -- such and such a person is
8 responsible for the heavy weapons which are escorting the car of the
9 Chief of Staff. So that's how we knew, because we knew there was such a
10 manoeuvre taking place, so we had to escort him. We had to go to a
11 certain place, and often that was -- we stayed outside the barriers, the
12 gates, but that was at President Lubanga's place.

13 Q. When was it that you went to President Lubanga's place and, if
14 I'm correct, escorting the Chief of Staff?

15 A. That was at the time we were still in town. We escorted the Chief of
16 Staff that way. We passed by the president's residence. I don't know what
17 month, what date he entered, but that's how we escorted him. It was when
18 the UPC was in town.

19 Q. And you said that President Lubanga came to the town via
20 Mudzipela. Are you able to say after how long -- or how long after
21 Mr. Lubanga came into the town of Bunia did you go and visit with the
22 Chief of Staff his residence?

23 A. Well, there wasn't much time between it. It was less than a week
24 anyway.

25 Q. At that time how long did Mr. Kitembo meet with Mr. Lubanga? For

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1 how long did the meeting last?

2 A. I can't remember how long it took, but sometimes it could take up
3 to an hour, because we spent a while there.

4 Q. When you were at the outside of Mr. Lubanga's residence, were
5 there other people present or was it empty?

6 A. There were bodyguards guarding that area, even the avenue and
7 area around it. There were soldiers that were there, so to say.

8 Q. Can you say how many bodyguards there were?

9 A. There was one company commander there, so he had his unit with
10 him, I think.

11 Q. And by that you mean he had his company, his full company, there.
12 Is that right?

13 A. Yes, of course.

14 Q. Did you come to know what the subject matter of that meeting was
15 or what was discussed at that meeting?

16 A. No.

17 Q. Did the Chief of Staff say anything to you and other persons at
18 the headquarters about that meeting?

19 A. Well, the day that we saw, well, often we were assembled in the
20 morning, often before the sun came up. He was there. The president
21 would make speeches, but that day or the following morning he didn't say
22 anything. We went to the assembly, but he didn't say anything. He'd
23 just say, "How are you? Do you have something to eat?" He didn't talk
24 about anything related to the fact he had spoken to the president. He
25 didn't say anything on that.

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1 Q. You said that the -- that you were assembled in the morning
2 before the sun came up. He was there. The president would make
3 speeches. Did I understand you correctly? Would President Lubanga make
4 speeches, come to the headquarters and make speeches?

5 A. No, that's not what I said. I said that frequently at the assemblies
6 we had in the morning to receive the day's orders, who would work or who
7 would do what, what task for the daily tasks, often the Chief -- said --
8 of Staff would say, "Well, I have spoken to the president." He would
9 say, "I have spoken to the president." That's what he would talk about.
10 But it wasn't the president that came, no.

11 Q. Just with respect to the company commander at Lubanga's
12 residence, do you recall that person's name?

13 A. Christian Layi, alias de Gaulle. We often called him de Gaulle.

14 Q. Would you mind please spelling the last name, Layi?

15 A. L-a-y-i.

16 Q. A moment ago you spoke about the UN force, MONUC, that was
17 present in Bunia at that time. While you were at the headquarters, were
18 you aware if there was -- whether there was a visit by somebody from that
19 force?

20 A. I remember that when we wanted to take control of the town,
21 actually, where there was often shootings. I don't know if it was from
22 somebody from a Senegalese background. They came in the MONUC car, and
23 they came often within the enclosure, and often there was shootings, and
24 he was outside and he would talk to Kisémbé, the Chief of Staff, who was
25 there. So that was the person I saw. When there was an incident --

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1 actually, at some stage the soldiers had to stop a suspect. He had been
2 briefed, I don't know who by, but he came and complained that the persons
3 had done nothing. We also had to release them. The Chief of Staff actually
4 gave orders to release the people. So he frequently came.

5 Q. Amongst the soldiers at the headquarters where you said the MONUC
6 representative came, were there just adults or were there also children?

7 A. When we set ourselves up, the general staff was there, and this
8 unit that was made up of kadogos was also there. They were still there. But
9 this time Ete was there. He was in charge of them, and his unit was
10 there.

11 Q. Ete was in charge of which unit? Just for clarity, please.

12 A. He was in charge of the kadogos.

13 Q. What was the position or function of -- well, what was the
14 position of Ete?

15 A. He was the commander of a platoon of kadogos. But the staff, the
16 number of the staff went up when we came to the town. There was a child
17 soldier who saw those who were at the general staff. So, for example,
18 they were well-protected. They were authorised not to be the first to go
19 into the town. They were almost untouchable. The unit who had come along
20 with the Chief of Staff was a unit that had come from the bush, and the word
21 got around. So they had influence. Most of the child soldiers were also
22 taken there too, so the staff was almost -- the
23 number of the staff was almost 40 people, almost a whole platoon.

24 Q. When the -- when the representative of MONUC came to the staff,
25 to the H -- to the headquarters, were you present at those times?

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1 A. I don't know what his responsibilities were, but I know he would
2 come there, and I saw him two or three times. He would enter the
3 compound and we were outside, and he would come and discuss matters, but
4 I said earlier on there was the front and there were problems, and often
5 I was in charge of maintaining the arms, so I was called. The Chief of
6 Staff was next to me. He came, and I even tried to test the weapon and
7 to shoot, and he was there and he was bothered by that because this did
8 quite a bit noise. But he would come on a regular basis. He would come
9 often, as I said.

10 Q. And he -- you said that he would meet with the Chief of Staff
11 when he came. What else would he do?

12 A. I can't say what else he would do, but he came to that location to speak
13 with him. So I saw that twice he came from outside the compound. I saw
14 him from close by, and he complained about the fact that we would shoot the
15 weapons. He even complained when there had been a battle the day before the
16 Artemis force came, we lost a child soldier in the battle. And there was a
17 mortar, and the mortar shell fell in their headquarters, and that's why he
18 came to the Chief of General Staff, it had hit civilians.

19 On some other occasion I said we had a unit in position that had taken
20 civilians who were suspects or soldiers. So he came to
21 complain about these people, and these people were released, the ones
22 that had been taken. That's how I came to
23 see him quite close. But he
24 would come frequently, get out of his car and enter the compound.

25 Q. We'll discuss that incident with respect to the child soldier in

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1 a moment, but what I want to ask you is during the times that he came
2 frequently to the headquarters, was the kadogo unit present?

3 A. Yes.

4 Q. How were -- how was the -- how were the soldiers in the unit dressed?

5 Were they wearing civilian or military clothing?

6 A. In the beginning when we were there at the General Staff, they were
7 armed. They would carry out their tasks and would go from left to right in
8 the headquarters, and they had the full uniform, and very often military
9 uniform. But on some day -- one morning, the Chief of Staff at the
10 morning assembly talked about the fact that he was going to ask the
11 commander in charge of the child soldiers to disarm them. They were not
12 supposed to carry weapons or wear military uniforms. And we
13 were surprised. Even some would complain they had suffered, they had
14 walked a long way, because the word got around that they were going to be
15 sent back home and they would be -- they were going to be disarmed.
16 The UPC no longer wanted child soldiers. So there were complaints about
17 that, but the majority of them had remained at some point. They were
18 still at the headquarters, but they no longer carried weapons, and they
19 no longer wore military uniforms.

20 Q. We will discuss that in more detail in a moment, but I want to
21 concentrate on the time prior to the time that you say that they were
22 disarmed and when the MONUC representative would come, is my
23 understanding correct that prior to that time the children in the kadogo
24 unit were dressed in military uniform and had weapons?

25 A. Yes.

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1 Q. During that time, in addition to the visits by the MONUC representative,
2 do you remember whether other persons came to the headquarters, other
3 persons who were not with the UPC or other military groups?

4 A. The major problem was that there were media. It was almost
5 threatening. The media were there. I even remember that there was one
6 journalist, a woman journalist, who went to the Chief of Staff, and she
7 was allowed -- how she was given special permission to interview a
8 kadogo. So it was mostly the media who were there. And I remember one
9 female journalist who went to see the Chief of Staff, and she was given
10 the order, order to go down to the floor below with the younger brother
11 of the Chief of Staff. One child soldier was to be selected. He was
12 put in a chair, given a red beret and he held his weapon. Then the
13 interview started. That's what I saw.

14 Q. Who was this woman journalist? Do you know which organisation
15 she belonged to?

16 A. No.

17 Q. Could you perhaps describe her?

18 A. She was a European with long black hair.

19 Q. You said that she went to see the Chief of Staff, and she was
20 given the order to go down to the floor below with the younger brother of
21 the Chief of Staff. Who was it that gave the order to allow the woman to
22 go down to the floor below?

23 A. You know that when people would protect an influential person
24 like that, such as the Chief of Staff, and a location
25 like the headquarters, those who were there in charge of guarding are

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1 like bees. Not anyone can give access to a journalist, and that's why I said
2 that his "younger brother" went along with her in person, in order to avoid
3 any incidents. I mean, I don't know who the little brother gave the order
4 to, but I know that the lady must have requested an interview with the
5 Chief of Staff.

6 Q. This -- the child soldier that -- well, you said a child soldier
7 was to be selected, and he was going to wear a red beret. Did the
8 interview take place?

9 A. Yes, it did, and I even saw it on television.

10 Q. How old was this child that was interviewed?

11 A. At the most 13.

12 Q. Who was present when the interview was conducted?

13 A. Actually, our unit was located in the building
14 opposite the Chief of Staff. So that's
15 where they went. One of the soldiers in our unit
16 lent the child soldier a red beret because he didn't have one. So we
17 went to fetch a chair so that he sit down, and I myself was there. I can
18 even mention other people who were there. But it was embarrassing,
19 because the person filming the interview wanted to go around and film
20 more things, so we would avoid that, as you can understand. So I had to
21 leave. I want to leave Papy, the younger brother of the Chief of Staff
22 called Papy, I left him there, and there was somebody else who was there
23 as well who was a higher-ranking official but who was part of our unit,
24 and he was there next to the child soldier.

25 Q. How long did the interview last for?

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1 A. I don't know when it ended, but I remember I was almost -- at the
2 entrance of the compound, next to the fence, and I saw the interpreter,
3 because this lady did not speak French, and I saw the interpreter walk
4 by. So that was after 30 or 45 minutes that I saw the interpreter walk by.

5 Q. Did you come to know what kinds of questions were asked of the
6 child soldier during the interview?

7 A. I don't know all the questions that were asked to the child, but
8 I -- I found out through the person in the unit who attended the
9 interview that the lady wanted even to ask the child the question about
10 "How do you get your weapons?" "Have you already shot somebody, killed
11 somebody?" And it was embarrassing. They did not want the child to
12 answer such questions. That is what I was told, but I don't know about
13 other questions that might have been asked.

14 Q. And at the time that this interview was taking place were there
15 other members of the kadogo unit at the headquarters?

16 A. As I explained, our building was opposite his house, and the unit
17 of kadogo soldiers was in the same building. They were on the first
18 floor of the same building where the Chief of Staff was. He was just
19 on the floor above, and they were on the first floor.

20 Q. Did you come to know or develop an understanding as to why the
21 soldiers did not want the child -- or did not want the child to answer
22 those questions that you just spoke about?

23 A. I think that it was out of great curiosity, and this no longer
24 protected the interests of the UPC, I mean, to know where we got our arms
25 supply from. We were familiar with the media, and I thought this went

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1 beyond what they should ask. So that's why they didn't want these
2 questions to be answered.

3 Q. Well, how about the questions that you told us about, "Have you
4 shot somebody?" "Have you shot somebody, killed somebody?" Did you come
5 to know why the soldiers didn't want those specific questions answered?

6 A. Personally, I don't know why, but it is often -- I mean,
7 once a soldier always a soldiers. Very often young people like that would
8 like to boast, so they would say just about anything. But I don't know
9 whether they didn't want this young soldier to answer the questions.

10 MR. SACHDEVA: Mr. President, might I have one moment?

11 PRESIDING JUDGE FULFORD: You may, certainly, Mr. Sachdeva.

12 (Prosecution counsel confer)

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

14 Q. Witness, can I just ask you this question: The -- the interview
15 that you described, did it take place prior to the incident whereby the
16 child soldiers were disarmed or after?

17 A. It took place before they were disarmed.

18 Q. And with respect to the media presence that you spoke about, you
19 said that the media presence was threatening. What do you mean by that?

20 A. Well, you know, since these events started, such media presence
21 was almost unknown for the UPC. Sometimes a vehicle would
22 pass. You will find somebody with a camera who was trying to film you..
23 He tries to get behind the camp. Photographs
24 were being taken, especially where child soldiers were moving around with
25 weapons. And sometimes they would try to focus on the area where heavy

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1 weapons were located, and this was disturbing. This was embarrassing,
2 because this was going to take on a different dimension. A lot was
3 already being said about child soldiers, that it is --was not a good thing.
4 Almost everyone was aware of that at that time. And so that is why I say
5 their presence was threatening, because they would pass by at any time. And
6 they would pass by the boulevard all the time, and you know, the boulevard
7 led to the city, because MONUC was on the boulevard or in the town. They
8 were afraid of going to other areas, for example towards Mudzipela or into
9 town. the only major road they could take was from the MONUC towards the
10 airport. When the Unit was stationed in the city centre they could see that
11 a car could pass up to 10 times a day, slowly, to take photos and to film.
12 That's why I said their presence was threatening.

13 Q. After the interview with the child soldier and after the -- the
14 visits by the MONUC representative, you -- well, you spoke about this
15 incident where the child soldiers were disarmed. Can you briefly just
16 take us through the circumstances in which that occurred?

17 A. I said that the gentleman who came from MONUC was always there. Even
18 after the child soldiers had been disarmed. I don't know what it depended
19 on, but he was there. What is true is that one morning, during an assembly,
20 the Chief of Staff gave the order to the person responsible for the child
21 soldiers that they should be disarmed, and that they should not wear
22 military uniforms any more. But they were there at the military headquarters
23 because there they had meals cooked for them. There were some people who
24 were complaining and said that they could be manipulated and even exploited.
25 And some of them were quite headstrong. Some of them were already smoking

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1 cannabis, and when they smoked cannabis they became impolite and
2 insubordinate. And if you sent them on an errand they would refuse. They
3 would tell you, "I'm a soldier like you. Particularly those who had reached
4 a certain grade. It wasn't good. And so some people were afraid of them when
5 it came to disarming them, because they could respond quite violently. But
6 when they were disarmed they felt too small Some of them even ran away after
7 this incident, and some of them even left the city to go to other places
8 where they could continue to serve as soldiers or get another position.
9 Also, when there was talk of the fact that they had to be
10 disarmed, that they had to go home, I think two or three young boys who
11 came from MONUC, I don't know who was in charge of them, they were clean,
12 they were well dressed, and they had nice trainers. So they -- these
13 children would come and influence them and tell them, "You have to leave.
14 You will be demobilised like us." And there were some of them who didn't
15 have anywhere to go to and so they complained more than the others.

16 Q. And at the assembly of the army staff, who was it that said that
17 the child soldiers should be disarmed?

18 A. It was the Chief of Staff. He told the commanders, them, "I don't
19 want to see child soldiers any more wearing military uniforms or carrying
20 weapons." He said, "I don't want to see them in uniform any more." That's
21 what he said.

22 Q. And let me ask you, did that take place? Did -- were they disarmed, and
23 did they cease to wear military uniform?

24 A. Yes, at that time. Now, when there was the attack which followed
25 the arrival of Artemis, the enemy attacked the town of Bunia and there

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1 was fighting for the rest of the day. And those who remained at military
2 headquarters were provided with weapons again.

3 Q. And in fact, I was just going to ask you that question. You had
4 said earlier on that they remained at headquarters. Is that the case
5 that once they had been disarmed and once they ceased wearing military
6 uniform they remained at the headquarters?

7 A. There was a major difference between the majority of those with whom we
8 came from Mamedi right up to the town. So they were -- they remained there,
9 because they felt tied to the place and to the Chief of Staff. They stayed.
10 So this increased the number of those who were in the kadogo unit at the
11 Chief of Staff's place. You know, for example, some of them would go at
12 night to go and loot, and so you could easily find a kadogo who had a
13 motorcycle or had a television set. So everyone knew that if you
14 disarmed them, then they would take up looting. So those who joined later
15 on, did not feel tied to or protected by the general staff. They ran away to
16 join other commanders. Some went to Mudzipela, some went to Centrale, we
17 saw them there, and they joined the units there, because in those units they
18 could still use their weapons, because that way they were far away from the
19 Chief of Staff. But those with whom we arrived, the majority of them stayed
20 at headquarters, and they were there when the fighting started at the time
21 Artemis arrived, and they were provided with weapons again.

22 Q. And we'll come to that -- that topic in a moment, when they were provided
23 with weapons again, but I want to ask you this: Do you know after how long
24 -- well, how long after the journalist had conducted that
25 interview did the order come for the children to be disarmed?

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1 A. I don't know how long. It was about a week or maybe close to a month.

2 THE INTERPRETER: Interpreter's correction: It was about a week or less.

3 MR. SACHDEVA:

4 Q. Now, you said that at the time Artemis arrived they were provided
5 with weapons again, and my question is, how long after the children were
6 disarmed were they re-armed?

7 A. In any case, it wasn't more than ten days. Not more than ten days.

8 Q. And how was it that they came to be re-armed?

9 A. You know, there was a surprise attack
10 on the eve of the day of arrival
11 of Artemis. Afterwards, another unit positioned itself behind MONUC. While
12 we were in town there was a unit that was even in the EPO camp, a UPC unit,
13 and they were chased away. The enemy even entered the surroundings of our
14 camp where I saw the Chief of Staff. There was disorder. The people who
15 returned to the city of Bunia started fleeing. They even attacked the
16 town. And I remember that the Chief of Staff actually packed his property. He
17 wanted to leave, and the attack was so strong that we were thinking of
18 leaving Bunia. And so we fought back very seriously in order to regain
19 control, and it was under those circumstances that they were re-armed.

20 Q. Who was it that arranged for the children to be re-armed?

21 A. The only person who could do that was the Chief of Staff.

22 Q. Some time ago you spoke about -- well, let me get the exact --
23 the exact answer.

24 MR. SACHDEVA: Mr. President, may have one second, please?

25 PRESIDING JUDGE FULFORD: You certainly can, Mr. Sachdeva.

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1 Are you moving on to another subject?

2 MR. SACHDEVA: I just have one more question.

3 PRESIDING JUDGE FULFORD: Yes, certainly. Well do, absolutely.

4 (Prosecution counsel confer)

5 MR. SACHDEVA:

6 Q. Sir, a moment ago you had spoken about a child soldier that had
7 been lost when there was fighting with the Artemis force. Can you
8 describe briefly what happened?

9 A. I did not say that this happened during the fighting against Artemis. I
10 said it happened the day before Artemis arrived, when the enemy attacked,
11 when the APC attacked. It was during that fighting that he died.

12 PRESIDING JUDGE FULFORD: I think the witness has said,
13 Mr. Sachdeva, that the night -- the day before Artemis arrived
14 there was trouble.

15 MR. SACHDEVA: Yes indeed.

16 PRESIDING JUDGE FULFORD: Shall we pick it up after lunch, or do
17 you want to deal with -- is there something you'd like to --

18 MR. SACHDEVA: One last question.

19 PRESIDING JUDGE FULFORD: You certainly can, Mr. Sachdeva.

20 MR. SACHDEVA:

21 Q. The child soldier - excuse me - that was lost, was this a soldier
22 that had been disarmed and re-armed, or was it another soldier?

23 A. He was a member of the unit that was at the Chief of Staff's. In other
24 words, he was disarmed and then re-armed.

25 MR. SACHDEVA: Mr. President, we can take lunch.

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1 PRESIDING JUDGE FULFORD: Good. Thank you. If the witness would
2 forgive us for a moment, remaining where he is, there's a short matter
3 that I want to raise just so some thought can go into this over -- over
4 lunch. So I'm -- apart from one question I'm going to put to you,
5 Mr. Sachdeva, I'm not asking for an answer to this now. I'm just
6 raising the issue generally. The question for you, Mr. Sachdeva,
7 is this: It's a little bit like asking the length of a
8 piece of string, but I think on current progress we are likely,
9 I think, to reach the conclusion of the Prosecution case sometime in June,
10 at the worst, I would have thought,
11 early July. Now, you may even want to think about that, but do you have
12 an instant response to that suggestion?

13 MR. SACHDEVA: Of course tentatively speaking, we had anticipated
14 middle to late June, yes.

15 PRESIDING JUDGE FULFORD: All right. Good. Well, that's correct.
16 Maitre Mabilie, if that's right, not only for the -- the good and efficient
17 progress of this trial but also so that we can take into account the needs
18 of Trial Chamber II, who have set a date for the commencement of the Katanga
19 trial for the end of September, it's necessary for us to look at in a
20 general sense what is likely to happen as regards time.

21 If the Prosecution, on the slightly more pessimistic estimate,
22 concludes its case sometime within the first week or two of July, that
23 brings us to the beginning of the court vacation, and it would be of
24 obvious benefit to the Chamber to know, really, how the land lies as far
25 as the Defence is concerned at that stage. In particular, is there going

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1 to be, in your estimation, any kind of a request at that stage for time?
2 I want to make it clear that we are not encouraging such an application.
3 We are neutrally inquiring. So this is not to be taken as any kind of
4 indication. It is quite genuinely raised in a neutral spirit of inquiry.

5 People have got to plan their diaries. Trial Chamber II needs to
6 know what is going to happen as far as courtroom availability is
7 concerned, and generally speaking, from an efficient presentation of the
8 case, it would be very useful to know what you in a general sense
9 anticipate at that stage.

10 Now, as I said at the outset, we are most certainly not expecting
11 any kind of indication from you now, but if you felt able to assist the
12 Chamber either later today or sometime later this week, we leave it
13 entirely to you, it would be obviously of help.

14 Good. The last thing I wanted to raise was, without in any sense
15 looking at anyone or mentioning any names, on a couple of occasions one
16 or two people in court have given a very good imitation of chewing gum.
17 I would ask, please, that they do not continue to give such a good
18 imitation.

19 Closed session, please, and we will sit again at 2.45 -- sorry.
20 Maitre Mabilille.

21 MS. MABILLE (interpretation): Your Honour, this is not to
22 respond to the question which you put to me which requires some
23 reflection. I just want to tell you that I did not take the floor this
24 morning on the issue of transcripts, English transcript and French
25 transcript, because I would have had to stand up all the time, and this

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1 was going to disrupt the proceedings. However, it remains a very serious
2 problem. That's what I have to say.

3 PRESIDING JUDGE FULFORD: Maitre Mabilille, are you referring to
4 what has happened in court today? Yes. Thank you. All right.

5 Closed session, please.

6 *(Closed session at 1.01 p.m.) Reclassified as Open session.

7 COURT OFFICER: Closed session.

8 PRESIDING JUDGE FULFORD: Yes. Could the witness be taken for
9 lunch please.

10 (The witness stands down)

11 PRESIDING JUDGE FULFORD: 2.45.

12 Luncheon recess taken at 1.02 p.m.

13 On resuming at 2.48 p.m.

14 COURT USHER: All rise. Please be seated.

15 PRESIDING JUDGE FULFORD: Witness, please.

16 So, Mr. Sachdeva, regrettably, could you please remember that at
17 a quarter to 4.00 we're going to have to rise so that the Chamber can
18 move from public session into ex parte.

19 MR. SACHDEVA: Yes, Mr. President.

20 PRESIDING JUDGE FULFORD: Thank you very much.

21 (The witness takes the stand)

22 PRESIDING JUDGE FULFORD: Good afternoon.

23 THE WITNESS (interpretation): Good afternoon.

24 PRESIDING JUDGE FULFORD: Public session, please.

25 (Open session at 2.50 p.m.)

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1 COURT OFFICER (interpretation): Public session.

2 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

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

4 Q. Good afternoon, sir.

5 A. Good afternoon.

6 Q. Before lunch we were talking about the incident in Bunia when the
7 children were disarmed and re-armed some days later. In your time with
8 the UPC were there other instances or occasions where children were
9 disarmed in the manner that you have just described before lunch?

10 A. When we were in Kilo, in the state of Kilo, there were a lot of
11 cars that were leaving Bunia. These young child soldiers they were
12 leaving Bunia to go to Mongbwalu, Buve (phoen). They were following
13 their commander. Because the Chief of Staff was there, there were a lot
14 of commanders who were based in Mongbwalu. Others weren't following
15 their commander, but they were often stopped or arrested at the
16 check-point as they were circulating without authorisation, and they
17 would explain that they no longer wanted child soldiers in Bunia. That's
18 why they were taking refuge in the interior. That's what I noted when we
19 were in Kilo, but to disarm child soldiers like that, no, I didn't see
20 that apart from on the occasion when the Chief of Staff was in Bunia.

21 Q. Given your -- your last answer and given your experience in the
22 UPC military, did you -- to your knowledge, was there a relation between
23 the visits of the MONUC representative and the interview by the
24 journalist with the decision to disarm the children at headquarters in
25 Bunia at that time?

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1 A. As far as I'm concerned, what I can say is during that period of time,
2 during the period of the UPC, well, at the time of the AFDL, at the time of
3 Kabila there were child soldiers. When the UPC had them, well, it wasn't
4 felt to be a crime, but when the media arrived, this was disseminated, there
5 was a pressure that was exerted. It had more to do with crime, killings in
6 Ituri, but apparently they weren't that interested in everything. They were
7 interested more in the child soldiers. There was a sort of a concern. Why
8 these child soldiers? Well, the answer was that it was a crime. I think
9 it was more the influence of the media which meant that this decision was
10 therefore taken, but throughout that period of time, I lived there, I saw
11 the child soldiers, and they had never been concerned.

12 PRESIDING JUDGE FULFORD: Pause, Mr. Sachdeva. The English
13 transcript is frozen. All right, Mr. Sachdeva, continue, but we won't
14 have a transcript for two or three minutes.

15 MR. SACHDEVA: Yes, Mr. President. Thank you.

16 Q. After the -- well, when the children were re-armed and you had
17 this incident with the lost child, where did -- where did you and the
18 kadogo unit go after that?

19 A. When Artemis arrived, about a week later an order was issued to leave
20 Bunia and the General Staff, the Chief of Staff himself left the town taking
21 the road to Centrale and that's where the kadogo unit and the troops
22 under him based themselves. But the heavy weapons unit first established
23 a base on the road to Mandro, and after about a week this unit was
24 repatriated and sent close to where he was on the road to Centrale.

25 Q. You have already mentioned the United Nations protection --

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1 United Nations force MONUC. At that time and even after you left and the
2 Chief of Staff left Bunia, did you become aware of another department of
3 the United Nations or another United Nations organisation that was
4 operating in the region?

5 A. When we left the town of Bunia, Artemis was present. I think Artemis
6 asked for us to leave Bunia. They were the most powerful. MONUC was limited.
7 It had restrictions. It didn't have troops. They imposed themselves. There
8 was this incident with a clash between the troops that were there, at Myala,
9 where the General Staff is, between them and Artemis. MONUC
10 wasn't very numerous and didn't launch attacks against the UPC.

11 Q. Did you ever hear of an organisation called UNICEF?

12 A. When we left Bunia, this area remained empty. MONUC and Artemis couldn't
13 patrol all the neighbourhoods, so the majority of soldiers, and there were
14 child soldiers among them, were hanging around the town. Initially they had
15 perhaps money, and goods from pillaging. Initially they sold them and they
16 had certain possibilities, and often these people, in fact, remained in the
17 neighbourhood. Most of them took advantage of the situation at night and
18 would steal. Many of these young soldiers were regrouped in houses in
19 certain neighbourhoods. In one neighbourhood they had a house with a
20 gentleman who was somewhat older. They formed groups that would do pretty
21 much anything, which was a nuisance to the neighbourhood. That's when I
22 noticed the UNICEF presence. There was Caritas there, too. They were also
23 present, and they looked for people there. I was known by the people from
24 Caritas, for example, who asked me to ask these children whether they
25 might join the organisations. There they would be protected. They would be

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1 educated. So there were such activities, and this developed rapidly
2 when the NGOs set up in town. So these organisations were looking for
3 these children, these child soldiers.

4 MR. SACHDEVA: Mr. President, may I ask to move into closed
5 session for one moment.

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

7 *(Private session at 3.04 p.m.) Reclassified as Open session.

8 COURT OFFICER (interpretation): We're now in private session.

9 MR. SACHDEVA:

10 Q. Sir, did you know anyone that worked for a non-governmental
11 organisation involved in working with children at that time?

12 A. (Redacted) called (Redacted). He worked for the
13 time for (Redacted). Thanks to her, I went to see the place where the child
14 soldiers were, child soldiers who had already been demobilised, and she
15 asked for my assistance because there were many of them. It was
16 impossible to know where they had been trained. At one point in time,
17 well, anyone could be armed in Bunia. So to control these people it was
18 necessary to be familiar with them first because there were violent
19 incidents. They could open fire on strangers. So sometimes it was
20 necessary to do everything through commanders or people they knew to ask
21 them to go to the NGOs. So this woman came to see me and said that there
22 were such children who lived near the bridge, on the way to the near the
23 "cite," near the town. There were six or seven of them. They were armed.
24 They lived together and they did whatever they wanted to do. They were very
25 very impolite, it has to be said. And one was asked to assist but

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1 this didn't work out. She came to see me and she explained the
2 situation. I said you could expect the
3 worst from these children. That's what I said. That was my response.

4 MR. SACHDEVA: Mr. President, we can move back into open session.

5 PRESIDING JUDGE FULFORD: Thank you. Open session, please.

6 (Open session at 3.05 p.m.)

7 COURT OFFICER (interpretation): Public session.

8 PRESIDING JUDGE FULFORD: Mr. Sachdeva.

9 MR. SACHDEVA:

10 Q. Sir, without mentioning any names, when was it that you went to that
11 place, that organisation that you've just described?

12 A. Well, just after the incident, because with the incident between
13 Artemis and the UPC, the Chief of Staff left the place where he was in
14 Myala and went to settle in Katoto, and there the situation wasn't very
15 good because there was still a famine. You had to spend the night outside.
16 And that's where the majority of soldiers and also the child soldiers came
17 back to this town of Bunia. And it's at that town, I was in the town, too

18 Q. I just want to push you on this a bit. Do you -- do you know the
19 month, roughly, of year that this -- where you went to visit that person
20 in the -- in the non-governmental organisation?

21 A. I would say August.

22 Q. And just to be clear, that's 2003. Is that right?

23 A. Yes, we were still in 2003.

24 Q. So at the early stages of your
25 evidence we were discussing the

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1 camps, the UPC military camps, and you spoke about a visit, a passing
2 visit that you made to Bule. Do you remember that?

3 A. Yes.

4 Q. And you said that you had gone there after the UPC had left
5 Bunia, after the Artemis operation. And again my question is the same:
6 Do you recall roughly which month in 2003 did you make that visit to
7 Bule?

8 A. I would like to talk about this in closed session to make
9 everything clear.

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

11 *(Private session at 3.09 p.m.) Reclassified as Open session.

12 COURT OFFICER (interpretation): Private session.

13 PRESIDING JUDGE FULFORD: Yes, sir.

14 THE WITNESS (interpretation): After that incident with Artemis and UPC the
15 UPC wanted to restructure itself, but I had stayed there in Bunia town. I
16 stayed because I wasn't well. I wasn't in good health. And with the arrival
17 of Artemis, I understood that it was the end of that movement. I understood,
18 because the aim that I had was more to bring back order and security, to
19 put an end to the attacks on villages here and there. So at that time to
20 stay with weapons in Bunia was dangerous, too, because you could be
21 arrested and put in jail. So I said that it would be good to leave Bunia
22 and actually go all the way to Kinshasa, but I had to pass by Uganda and go
23 to Goma to catch the plane. Because in Bunia it was difficult. We had our -
24 - our G2 in town, and at the time
25 Kisembo had come back to -- to town. So it was difficult to leave

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1 Bunia. So I decided to leave the road slowly. I went to (Redacted),
2 while Bosco had gone back to Katoto, to Lokpa -- Katoto to Lopa. He was in
3 Lokpa and (Redacted), and that's how I moved onwards. In (Redacted) there
4 was more training. I didn't go to the training centre because my friend
5 (Redacted) was there. That's the person I went to see in the camp who
6 was there. We discussed things and he advised me to stay in the region, and
7 I thought it was good to leave. I thought it would be good to leave because
8 I had a vision of where I would go. I said I'm going to (Redacted). I promised
9 to come back from (Redacted), and I went until (Redacted)(phoen) which is
10 alongside the lake, and there were lots of commanders over there and I
11 discussed things with them and convinced them that I would go on the other
12 side and that I would go to the other side because my wife was on the other
13 side. They accepted, and I took the advantage of that situation to go to
14 Uganda, and from there I went into Kampala, and from Kampala I took a bus
15 until Kigali. And from Kigali I went to Goma, and from there I went to
16 Kinshasa. So I went there. It was right at the end. I think it was in
17 November. I can say that because I had already left Ituri.

18 MR. SACHDEVA:

19 Q. Thank you. So am I right in understanding that it was around
20 November 2003 when you went -- when you passed by (Redacted) camp? Is that
21 right?

22 A. Yes.

23 PRESIDING JUDGE FULFORD: Sir, are you happy for us to return to
24 public session now?

25 THE WITNESS (interpretation): Yes.

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1 PRESIDING JUDGE FULFORD: Thank you. You want to ask something
2 in private session.

3 MR. SACHDEVA: I just wanted to get the name of his friend.

4 PRESIDING JUDGE FULFORD: Certainly.

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

6 Q. Sir, would you mind repeating the name of your friend that you
7 saw at the camp and then spelling the name, please?

8 A. The same person I was talking about before, (Redacted).

9 MR. SACHDEVA: Thank you.

10 PRESIDING JUDGE FULFORD: Open session, please.

11 (Open session at 3.14 p.m.)

12 COURT OFFICER (interpretation): Public session.

13 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

14 MR. SACHDEVA:

15 Q. We have spoken earlier about some of the punishments that were handed
16 down when you were in the UPC. We spoke about whipping. We spoke about the
17 prisons. And I want to ask you this: While you were in the UPC, what
18 conduct was considered to be the most serious violation of UPC
19 regulations or orders?

20 A. Well, often the punishment depended on the superior or the person
21 present at the time of the facts, and I would even say that there were
22 cases in which the decisions were taken on people's fate came from the higher
23 -- hierarchy. For instance, Didier Arijio (phoen) that is David Pigwa was
24 arrested and went to Mandro, and that was actually the General Staff. And
25 Linganga was arrested from the General Staff, went to Mandro. And another

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1 boy, I was in Kilo when we found out about this, and that boy was shot in
2 public in Mongbwalu, and it was the T1 staff present there from the sector
3 that was stationed in Mongbwalu. And I don't know how they took the
4 decision, but in the field often there was a battalion commander, a company
5 commander, and often it was those people who took decisions on people's
6 fate. That's often what happened.

7 Q. The boy who was shot in public in Mongbwalu, what was it that he did?

8 A. At the time I remember it was the height of the UPC, everything was
9 working well in Mongbwalu so the population had returned. The shops had
10 opened again, and so the soldiers there had easy access to money because the
11 shops were there, and it was all the officers, and it happened sometimes that
12 the soldiers carried out acts of violence, tortured the population and did
13 things with the population that were illegal. Let's say that they weren't in
14 the structure. That boy had probably shot after drinking alcohol. That's
15 the information we had in Kilo. He probably shot and that shot hit a
16 civilian, and the person probably died, and so the population felt they were
17 a victim of the UPC. They complained, so they used him as an example. We
18 were -- they tried to show him as an example to the other soldiers of what
19 would happen to people who committed such actions.

20 Q. Do you know who shot the boy?

21 A. Well, often for public executions it was always accompanied by
22 rituals. So the person wouldn't be identified to say it was so-and-so
23 who killed on so -- who shot on so-and-so. So the ceremonies before to
24 shoot, often you would select the whole section to carry out the deed.
25 They were often dressed up or covered in clothes, in -- made up and with

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1 banana leaves and so that you couldn't see -- say who it was or say such
2 and such a group had shot at the person.

3 Q. Typically who was it that would select the section to carry out
4 the deed?

5 A. I don't know how they decided, but I said often it was the people
6 at the highest levels that took such decisions, but in our training, because
7 I was in Kilo, we were told about the fact that the orders, the ceremony,
8 everything was directed by the T3. That, at the time, was Mr. Kasangaki.

9 Q. T3 being the brigade staff operations. Is that right?

10 A. Yes.

11 Q. Now, you said that this boy was shot because he probably hit a
12 civilian, and concentrating on the conduct as opposed to the punishment,
13 what other types of conduct in the army were considered serious that
14 would merit punishment?

15 A. Well, generally, normally where I went the UPC -- well, first, as
16 I said, it depended on the commander, and it depended on the place, the
17 environment. Often the victim -- often, for instance, it was difficult
18 to attack a man from a population that was from a Hema ethnic group,
19 because maybe the person knew the commander or could speak to the
20 commander directly. So that would expose you. But if a person who --
21 because there were lots of isolated acts, you have to realise that.

22 If they attacked a Lendu, they took something from a Lendu or another
23 tribe, Nyali, as was the case with us in Kilo it's difficult for the person
24 to complain, because they would fear reprisals themselves of what
25 would happen afterwards. So it would depend also on the victims, and

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1 within the army itself there was also respect for a higher-ranking
2 person. They knew that was also compulsory. If you didn't do something
3 you could easily end up going to jail or being whipped or -- the same
4 would happen if you lost heavy weapons on the battle-field or you sold a
5 weapon that belonged to the UPC or even stole a weapon, then things would
6 end badly. So the person -- under the authority of the person there,
7 that was a person who would decide of your life. He could have you whipped
8 for twenty four hours or have you locked up for 48 hours. It depended.

9 Q. You spoke about the respect in the army for a high-ranking
10 person. Do you recall, or are you aware of a -- of an incident -- of an
11 incident that involved somebody that you knew in the -- in the UPC -- let
12 me rephrase that question.

13 Do you know of an incident where a UPC soldier or commander was
14 found to have not respected the higher ranks in the army?

15 A. Well, you know, the people who had rankings in the UPC didn't
16 wear them for the whole time we were there to know the person was high
17 ranking. If it wasn't directly the bodyguards behind them or if you
18 didn't see they had a radio in their hands, that's -- those were the
19 signs that enabled you to make a difference, but the majority in most
20 cases where people might be

21 higher ranking, but they didn't have
22 was frequent. It happened easily. There were little
23 incidents like that. For instance, if the person was new in your unit or
24 had just arrived in your area after -- that's when often incidents would
25 occur. That was quite frequent.

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1 Q. How about a refusal to carry out an order? Are you aware of a --
2 of an incident where a soldier or a commander refused to carry out an
3 order of his superior?

4 A. Well, what was salient, was noticeable, was when we were
5 preparing the operation on Kobu. The commander of the 1st Battalion, 1st
6 American Battalion, had just got married, and he actually did not respect
7 the order to go to Kobu, and the brigade commander was furious. He had
8 to have him arrested. This is one incident of an officer that I saw
9 refuse the direct order of his superior.

10 Q. The commander of the 1st Battalion being Commander American. Is
11 that correct?

12 A. Yes.

13 Q. And given your evidence, is it also right that this took place
14 sometime before February 2003?

15 A. Yes.

16 Q. I want to move on to communications in the UPC. You -- at the commencement
17 of your evidence you spoke about Motorolas. You've already -- you've also
18 spoken about satellite telephones, and you also mentioned radio phonie,
19 if I'm right, and it's on that last mechanism of communication that I
20 want to concentrate. What was a radio phonie?

21 A. In a nutshell, this apparatus is a large size and requires a good
22 antenna to be put up, often with large batteries. It's a cumbersome
23 apparatus which was often used in the region for communications.

24 Q. You said it was a large size. Do you know how much it weighed
25 typically?

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1 A. The -- the radio could weigh somewhere between ten and 5 kilos for
2 the newest models, but the batteries were very heavy. They could weigh
3 20 kilos. I mean, it all depended on the size, of course.

4 Q. And how did this apparatus, how did this contraption function?
5 How did it work? Can you describe to the Court?

6 A. Well, in most cases where there was a camp I would see these
7 radios. I saw these radio phonies. And there were people. For example,
8 the person who I saw use this contraption, he told me that he had been
9 trained by the UPC. There were people who would train you to use this
10 type of communication apparatus.

11 Q. The people who were trained to use this communication apparatus,
12 were they referred to by a particular term or name?

13 A. They were called Signora.

14 Q. And to your knowledge and in your experience, how did the radio
15 phonie operate? How was it used to relay information within the army?

16 A. The one I often followed was the one in our camp in Kilo. They
17 used codes to transmit messages, so they used alphanumeric codes, and the
18 name -- the same letters could be either mentioned two or three times.
19 So they used codes like this one, and after having typed the codes they
20 were transcribed, transcribed after that to turn them into normal
21 sentences.

22 Q. Where would these codes be -- on what would these codes be typed?
23 How was the information recorded?

24 A. Actually, they would use books in which they would write. And
25 actually, to transcribe the coded messages I saw them use smaller

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1 booklets. They used smaller booklets in which they wrote the coded
2 sentences. The initial codes were written in larger books, notebooks.

3 THE INTERPRETER: Correction of the interpreter: We're talking
4 about communication logs.

5 MR. SACHDEVA:

6 Q. Could you please describe the larger logbooks. What did they
7 look like? What kind of covers did they have, if they had covers? What
8 was inside of these logbooks?

9 A. The logbook I saw was roughly 15 centimetres wide, and it could
10 be up to 25 centimetres. Like a ruler, for example, up to the size of a
11 ruler, and it had more than 200 pages. It was quite a large logbook
12 and -- in which the sentences, full sentences, were transcribed.

13 Q. How would the -- well, the one that you saw, what did the front
14 cover and back cover look like?

15 A. Made of cardboard. It was harder than the sheets of paper
16 inside, of course, and it made your fingers dirty if you touched it. It
17 was made of cardboard, hardcover.

18 Q. During your time with the UPC, how many Signoras or how many
19 persons were there that were trained in operating the radio telephony?

20 A. I couldn't tell you the number of people, but the person who was
21 using it said that there were 20 or so in his promotion. So they were
22 deployed like that into different units.

23 Q. And when you say they were deployed into different units, were
24 they within a battalion? Were they within a company or a brigade? Just
25 help us with that. Did each brigade have one? Did each battalion have

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1 one?

2 A. Well, I don't know how they were deployed, but I know there were
3 quite a few of them, because very often I would turn to this person to
4 overhear what was going on. So I would move closer to the person, and
5 one could hear that there were people communicating from Aru, Mongbwalu,
6 Bunia, Mahagi. It all depended, but there were many ongoing
7 communications.

8 Q. And to your knowledge and experience, were the recordings of the
9 information -- were they done contemporaneously, or were they done
10 sometime after the information was heard?

11 A. There were hours which were more favourable, and when we had
12 our morning assembly he said he couldn't come because he had to record
13 messages, and then there was a quiet time and you would see that he was
14 not doing anything. He would walk around. And in the afternoon, the
15 radio operator would get back to his -- his radio, and he would do
16 nothing but transcribe for a while.

17 Q. Incidentally, what was the colour of the cover of the logbook
18 that you saw?

19 A. Blue, like a dirty blue, because whenever you would touch it the
20 cover got dirty, and the cover was kind of turning to brown.

21 Q. To your knowledge, were these communication devices used during
22 operations, military operations?

23 A. The first time is when we joined Salumu's troops in Lalu Lalo, and
24 there were -- there were some there. And we got to Mongbwalu, and then with
25 Commander Salumu we left with the radio. We went on from Lalu Lalo going

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1 on to Kilo, and I don't know where those who found the

2 radio found it, but we had to install or set up another radio.

3 So we called another Signora to work there And when we went to Mamedi

4 with the Chief of Staff there was also a radio phonie there. I don't know

5 how these radio devices were used in other units, but it was common in

6 ours. Wherever the staff was set up there was a radio phonie.

7 MR. SACHDEVA: Mr. President, may I move into private session for
8 one question, please.

9 PRESIDING JUDGE FULFORD: Certainly.

10 *(Private session at 3.39 p.m.) Reclassified as Open session.

11 PRESIDING JUDGE FULFORD: Yes, Mr. Sachdeva.

12 COURT OFFICER (interpretation): We're in closed (as interpreted)
13 session.

14 MR. SACHDEVA: Thank you.

15 Q. Sir, do you remember the name of the person that you knew worked
16 as a Signora, in other words, recorded messages from the radio telephony?

17 A. The person who was with us in Kilo was called (Redacted).

18 MR. SACHDEVA: Mr. President, I -- at this stage I would want to
19 go through an exhibit which -- well, perhaps I can -- I can start that
20 for a couple of minutes.

21 PRESIDING JUDGE FULFORD: I think we can.

22 MR. SACHDEVA: The only possible hitch is that I -- I need to
23 show the witness the original exhibit from the vault, which is kept by
24 the Registrar.

25 PRESIDING JUDGE FULFORD: Well, perhaps there's a lesson here,

1 Mr. Sachdeva. We need to have teed this up in advance, don't we.

2 MR. SACHDEVA: That's correct. I had advised the Court Officer,
3 but I did not know I would get to this stage at this point. I apologise.

4 PRESIDING JUDGE FULFORD: Well, it only means losing two or three
5 minutes and in fact there's a question I want to raise with you anyway,
6 Mr. Sachdeva. We've spent about 20 minutes on the appearance of the
7 logbooks and including the colour at the front. Does something turn on
8 this?

9 MR. SACHDEVA: In my submission it does, Mr. President. I -- I
10 felt that I had to establish a foundation with this witness prior to me
11 showing the next exhibit.

12 PRESIDING JUDGE FULFORD: Oh, I see. All right. I'm moving
13 slightly too swiftly then, Mr. Sachdeva.

14 Fine. We will adjourn here then.

15 Sir, I'm sorry that your evidence is taking quite a few days.
16 Part of it is because there are various things that the Court has got to
17 deal with this week in order to enable the trial generally to progress,
18 and although ordinarily we would have sat for another hour this
19 afternoon, we've got to break now so that we can have a closed-session
20 hearing with the Defence.

21 Thank you, once again, very much for your cooperation. And we
22 will look forward to seeing you again at half past 9.00 tomorrow morning.

23 We will need to go into closed session so that the witness can
24 withdraw. Before we do, can we -- I'm not being critical, Mr. Sachdeva,
25 can we try and make sure that in future any original exhibits are

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1 definitely in the court, and if you're unsure as to whether or not you're
2 going to reach it, bring them anyway.

3 MR. SACHDEVA: Yes, Mr. President.

4 PRESIDING JUDGE FULFORD: Thank you very much. Closed session
5 then, please.

6 *(Closed session at 3.43 p.m.) Reclassified as Open session.

7 COURT OFFICER: Closed session.

8 PRESIDING JUDGE FULFORD: Can the witness withdraw,
9 Maitre Mabilille.

10 MS. MABILLE (interpretation): My observation bore on this
11 witness's statements, and I will develop it tomorrow morning. But I have
12 a slight concern to raise about this logbook that you're presenting,
13 Mr. Prosecutor, since this is an evidence that the witness said he did
14 not know and he said so very clearly in the transcript. So what I'm
15 saying is that tomorrow we might have to discuss this document or
16 presentation.

17 PRESIDING JUDGE FULFORD: Well, could the parties discuss this at
18 some stage later this afternoon to see whether agreement can be reached.
19 Failing that, we'll have to deal with this in the morning.

20 Thank you very much, sir. Please withdraw.

21 (The witness stands down)

22 PRESIDING JUDGE FULFORD: Maitre Mabilille, we'll sit ex parte as
23 soon as the court has been reconfigured, and we've asked a representative
24 from the Registry to be present in the hopes that -- well, really just in
25 case they can help with the matters that you raise.

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1 Thank you. We look forward to seeing everyone else at half past
2 9.00 tomorrow morning. We'll rise until the court's ready.

3 The hearing ends at 3.45 p.m.

4 RECLASSIFICATION REPORT

5 Pursuant to Trial Chamber I's email instruction dated 17 January 2012, the
6 transcript is reclassified as public after the indicated redactions have
7 been implemented as ordered by the Chamber. All private and closed sessions
8(*) are now available to the public with the exception of the portions of the
9 transcript that have been redacted.